

GENERAL LAWS
OF THE
STATE OF IDAHO



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

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BEN YSURSA
Secretary of State
Boise, Idaho

CHAPTER 234
(S.B. No. 1418)

AN ACT

REDUCING THE APPROPRIATION TO THE PUBLIC SCHOOL INCOME FUND FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE PUBLIC SCHOOL INCOME FUND FOR FISCAL YEAR 2010; REDUCING THE APPROPRIATION TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2010; STATING FUND SOURCES FOR THE APPROPRIATION FOR PUBLIC SCHOOLS FOR FISCAL YEAR 2011; APPROPRIATING MONEYS FOR THE TRANSFER TO THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF ADMINISTRATORS FOR FISCAL YEAR 2011; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF TEACHERS FOR FISCAL YEAR 2011; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF OPERATIONS FOR FISCAL YEAR 2011; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF CHILDREN'S PROGRAMS FOR FISCAL YEAR 2011; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF FACILITIES FOR FISCAL YEAR 2011; TRANSFERRING \$14,400,000 FROM THE GENERAL FUND TO THE BOND LEVY EQUALIZATION FUND; LIMITING THE AMOUNT OF REVENUE DISTRIBUTED TO THE GENERAL FUND; APPROPRIATING MONEYS TO THE EDUCATIONAL SUPPORT PROGRAM/DIVISION OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND FOR FISCAL YEAR 2011; EXPRESSING LEGISLATIVE INTENT THAT CERTAIN STATE FUNDED BENEFITS BE PAID; EXPRESSING LEGISLATIVE INTENT RELATING TO UNEMPLOYMENT INSURANCE; AMENDING SECTION 33-1004E, IDAHO CODE, TO PROVIDE FOR DECREASES IN BASE SALARIES, MINIMUM SALARY AND MASTER TEACHER AWARDS; DIRECTING THAT \$754,300 BE DISTRIBUTED FOR THE REPLACEMENT OF CERTAIN LEVY FUNDS; PROVIDING THAT THE FUNDS FROM THE SCHOOL DISTRICT BUILDING ACCOUNT BE USED AS DISCRETIONARY FUNDS; PROVIDING THAT \$7,481,400 OF TOBACCO, CIGARETTE AND LOTTERY INCOME TAX FUNDS AND \$3,300,000 OF DRIVER'S TRAINING FUNDS BE USED AS DISCRETIONARY FUNDS; PROVIDING THAT NO MONEYS BE APPROPRIATED DIRECTLY FOR THE EXPECTANT OR DELIVERED MOTHERS PROGRAM; PROVIDING AN ESTIMATE OF DISCRETIONARY FUNDS PER SUPPORT UNIT AND PLACING RESTRICTIONS ON THE USE OF DISCRETIONARY FUNDS; PROVIDING FOR A TEN PERCENT REDUCTION IN TRANSPORTATION COSTS; DIRECTING THE USE OF \$318,600 OF TOBACCO, CIGARETTE AND LOTTERY INCOME TAX MONEYS; DIRECTING THE USE OF SAFE AND DRUG-FREE SCHOOLS MONEYS; DIRECTING THE USE OF \$9,400,000 FOR CHILDREN'S PROGRAMS AND TECHNOLOGY INITIATIVES; DIRECTING THE USE OF \$4,000,000 FOR LIMITED ENGLISH PROFICIENCY PROGRAMS; DIRECTING THE USE OF \$5,000,000 FOR THE IDAHO DIGITAL LEARNING ACADEMY; GRANTING THE AUTHORITY TO TRANSFER FUNDS AMONG FIVE DIVISIONS OF THE EDUCATIONAL SUPPORT PROGRAM; RELIEVING THE STATE OF THE REQUIREMENT TO PROVIDE SCHOOL MAINTENANCE MATCHING FUNDS; GRANTING THE AUTHORITY TO DEPOSIT FUNDS INTO CERTAIN RESERVE ACCOUNTS; AMENDING SECTION 33-1004A, IDAHO CODE, RESTRICTING MOVEMENT FOR EXPERIENCE AND EDUCATION ON THE MULTIPLIER TABLE; AMENDING SECTION 33-1006, IDAHO CODE, TO REVISE SPECIFIC TRANSPORTATION COSTS AS NONREIMBURSABLE; DECLARING THAT CERTAIN PROVISIONS OF SECTION 33-522, IDAHO CODE, ARE MET FOR ALL SCHOOL DISTRICTS; PROVIDING THAT THE CONDITIONS OF SECTION 33-522, IDAHO CODE, SATISFY THE CONDITIONS OF SECTION 33-515(3), IDAHO CODE; DIRECTING THE USE OF CERTAIN FISCAL YEAR 2010 APPROPRIATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the amount appropriated and transferred to the Public School Income Fund in Section 2, Chapter 272, Laws of 2009, is hereby reduced by the following amount from the listed fund for the period July 1, 2009, through June 30, 2010:

FROM:
General Fund \$82,771,300

SECTION 2. In addition to the amount appropriated and transferred to the Public School Income Fund in Section 2, Chapter 272, Laws of 2009, there is hereby appropriated and transferred the following amount from the listed fund for the period July 1, 2009, through June 30, 2010:

FROM:
Public Education Stabilization Fund \$49,255,500

SECTION 3. Notwithstanding any other provision of law to the contrary, the amount appropriated to the Educational Support Program/Division of Operations in Section 3, Chapter 272, Laws of 2009, is hereby reduced by the following amount from the listed fund for the period July 1, 2009, through June 30, 2010:

FROM:
Public School Income Fund \$33,515,800

SECTION 4. In addition to the appropriation made in Section 3, Chapter 272, Laws of 2009, there is hereby appropriated to the Educational Support Program/Division of Operations the following amount to be expended from the listed fund for the period July 1, 2009, through June 30, 2010:

FROM:
American Reinvestment Fund \$33,515,800

SECTION 5. The following amount shall be expended from state sources for the Educational Support Program for the period July 1, 2010, through June 30, 2011:

FROM:

General Fund	\$1,214,280,400
Bond Levy Equalization Fund	3,500,000
School District Building Fund	17,125,000
Driver's Training Fund	3,300,000
American Reinvestment Fund	7,406,300
Miscellaneous Revenue	184,200
Public Schools Other Income	5,000,000
School for the Deaf and the Blind Endowment	98,800
Cigarette, Tobacco and Lottery Income Taxes	7,800,000
Public Education Stabilization Fund	754,300
Public School Endowment Earnings Reserve Fund Transfer	53,292,400
Federal Grant	<u>269,587,100</u>
TOTAL	\$1,582,328,500

SECTION 6. Notwithstanding the provisions of Sections 33-907, 33-1018, 33-1018A and 33-1018B, Idaho Code, there is hereby appropriated the following amounts to be transferred to the Public School Income Fund for the period July 1, 2010, through June 30, 2011:

FROM:

General Fund	\$1,199,880,400
Public Education Stabilization Fund	<u>754,300</u>
TOTAL	\$1,200,634,700

SECTION 7. There is hereby appropriated to the Educational Support Program/Division of Administrators, pursuant to law and the provisions of this act, the following amount to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

Public School Income Fund	\$76,138,900
American Reinvestment Fund	<u>434,500</u>
TOTAL	\$76,573,400

SECTION 8. There is hereby appropriated to the Educational Support Program/Division of Teachers, pursuant to law and the provisions of this act, the following amount to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

Public School Income Fund	\$684,694,100
American Reinvestment Fund	3,921,800
Federal Grant Fund	<u>30,000,000</u>
TOTAL	\$718,615,900

SECTION 9. There is hereby appropriated to the Educational Support Program/Division of Operations, pursuant to law and the provisions of this act, the following amount to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

Public School Income Fund	\$473,112,500
School District Building Fund	17,125,000
Driver's Training Fund	3,300,000
American Reinvestment Fund	3,050,000
Federal Grant Fund	<u>8,000,000</u>
TOTAL	\$504,587,500

SECTION 10. There is hereby appropriated to the Educational Support Program/Division of Children's Programs pursuant to law and the provisions of this act, the following amount to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

Public School Income Fund	\$25,702,900
Federal Grant Fund	<u>231,383,000</u>
TOTAL	\$257,085,900

SECTION 11. There is hereby appropriated to the Educational Support Program/Division of Facilities, pursuant to law and the provisions of this act, the following amount to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

General Fund	\$14,400,000
Bond Levy Equalization Fund	<u>3,500,000</u>
TOTAL	\$17,900,000

SECTION 12. Of the General Fund moneys appropriated in Section 11 of this act to support the provisions of Section 33-906, Idaho Code, \$14,400,000 is hereby transferred from the General Fund to the Bond Levy Equalization Fund.

SECTION 13. The provisions of subsection (4) of Section 63-2520, Idaho Code, notwithstanding, the amount of revenue distributed to the General Fund shall be \$14,400,000 for the period July 1, 2010, through June 30, 2011.

SECTION 14. There is hereby appropriated to the Educational Support Program/Educational Services for the Deaf and the Blind, pursuant to law

and the provisions of this act, the following amount to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

Public School Income Fund	\$7,078,700
Miscellaneous Revenue	184,200
School for the Deaf and the Blind Endowment	98,800
Federal Grant Fund	<u>204,100</u>
TOTAL	\$7,565,800

SECTION 15. It is legislative intent that public school employee benefits paid by the state, pursuant to Section 33-1004F, Idaho Code, be paid for all eligible employees that a school district or charter school actually employs with its salary-based apportionment allotment, regardless of whether such employees are categorized as administrative, instructional or classified staff.

SECTION 16. Of the moneys appropriated in Section 8 of this act, the amount necessary for the Unemployment Insurance Program shall be expended according to Section 72-1349A, Idaho Code, for the period July 1, 2010, through June 30, 2011.

SECTION 17. That Section 33-1004E, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004E. DISTRICT'S SALARY-BASED APPORTIONMENT. Each district shall be entitled to a salary-based apportionment calculated as provided in this section.

1. To determine the apportionment for instructional staff, first determine the district average experience and education index by placing all eligible district certificated instructional employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the 1994-95 school year, and shall receive their actual index but not more than the state average plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district instructional staff index shall be multiplied by the instructional base salary of ~~\$24,567~~23,565. The amount so determined shall be multiplied by the district staff allowance for instructional staff determined as provided in section 33-1004(2), Idaho Code. The instructional salary allocation shall be further increased by the amount necessary for each full-time equivalent instructional staff member placed on the experience and education index to be allocated at least the minimum salary mandated by this section. Full-time instructional staff salaries shall be determined from a salary schedule developed by each district and submitted to the state department of education. No full-time instructional staff member shall be paid less than ~~\$30,915~~29,655. If an instructional staff member has been certified by the national board for professional teaching standards, the staff member shall be designated as a master teacher and receive \$2,000 per year for five (5) years. The instructional salary shall be increased by \$2,000 for each master teacher provided however, that no such awards shall be paid for the period July 1, 2010, through June 30, 2011, nor shall any liabilities accrue or payments be made pursuant to this section in the future to any individuals who would have otherwise qualified for a payment during this stated time period. The resulting amount is the district's salary-based apportionment for instructional staff. For purposes of this section, teachers qualifying for the salary increase as master teacher shall be those who have been recognized as national board certified teachers as of July 1 of each year.

2. To determine the apportionment for district administrative staff, first determine the district average experience and education index by placing all eligible certificated administrative employees on the statewide index provided in section 33-1004A, Idaho Code. The resulting average is the district index. Districts with an index above the state average index shall receive their actual index but not more than the state average plus .03 for the school year 1994-95, and shall receive their actual index but not more than the state average index plus .06 for the 1995-96 school year, and thereafter shall receive their actual district index. The district administrative staff index shall be multiplied by the base salary of ~~\$34,705~~\$32,441. The amount so determined shall be multiplied by the district staff allowance for administrative staff determined as provided in section 33-1004(3), Idaho Code. The resulting amount is the district's salary-based apportionment for administrative staff.

3. To determine the apportionment for classified staff, multiply ~~\$19,840~~\$19,041 by the district classified staff allowance determined as provided in section 33-1004(4), Idaho Code. The amount so determined is the district's apportionment for classified staff.

4. The district's salary-based apportionment shall be the sum of the apportionments calculated in subsections 1., 2. and 3., of this section, plus the benefit apportionment as provided in section 33-1004F, Idaho Code.

SECTION 18. Of the moneys appropriated in Section 9 of this act, the Superintendent of Public Instruction shall distribute \$754,300 to school districts, allocated according to the same proportions as the moneys distributed in fiscal year 2007, pursuant to Section 63-3638(10), Idaho Code, for the replacement of school maintenance and operation levy funds.

SECTION 19. Notwithstanding the provisions of Sections 33-905 and 33-1019, Idaho Code, for the period July 1, 2010, through June 30, 2011, all moneys appropriated from the School District Building Account shall be distributed as discretionary funds and school districts and charter schools are hereby relieved of any restrictions on the use of such funds, apart from restrictions that apply to the use of discretionary funds.

SECTION 20. Notwithstanding the provisions of any law to the contrary, of the moneys appropriated in Section 9 of this act, up to \$7,481,400 from funds determined by available Tobacco, Cigarette and Lottery income tax revenues accruing pursuant to Sections 63-2506, 63-2552A and 67-7439, Idaho Code, and \$3,300,000 from revenues accruing to the Driver's Training Fund pursuant to Sections 49-306(8)(g) and (i) and 49-307, Idaho Code, for the period July 1, 2010, through June 30, 2011, shall be distributed as discretionary funds, and school districts and charter schools are hereby relieved of any restrictions on the use of such funds, apart from restrictions that apply to the use of discretionary funds.

SECTION 21. No moneys shall be distributed for programs for expectant or delivered mothers for the period July 1, 2010, through June 30, 2011, the provisions of Sections 33-1002, 33-2006 and 33-2007, Idaho Code, notwithstanding.

SECTION 22. Pursuant to the provisions of Section 33-1018, Idaho Code, it is estimated that the appropriation of state funds to the Educational Support Program/Division of Operations will result in total discretionary funds of \$21,795 per support unit. Notwithstanding the provisions of any law to the contrary, for the period July 1, 2010, through June 30, 2011, discretionary funds shall not be used to augment an employee's salary or wages above those which were received during the previous year at the same school district or charter school. School districts shall report to the Superintendent of Public Instruction as to how state appropriated

discretionary funds were expended during the period July 1, 2010, through June 30, 2011, in a format prescribed by the Superintendent of Public Instruction. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee and the House and Senate Education Committees by no later than February 1, 2012, on school district uses of state appropriated discretionary funds.

SECTION 23. Notwithstanding the provisions of Section 33-1006, Idaho Code, for the period July 1, 2010, through June 30, 2011, the total moneys paid to school districts for eligible transportation costs shall be reduced by ten percent (10%).

SECTION 24. Of the moneys appropriated in Section 10 of this act, \$318,600 from funds determined by available revenues accruing pursuant to Sections 63-2506 and 63-2552A, Idaho Code, and other such moneys that may become available pursuant to Idaho laws, for the period July 1, 2010, through June 30, 2011, shall be distributed as follows: the provisions of Section 63-2552A(3), Idaho Code, notwithstanding, \$200,000 shall be remitted to the Idaho State Police; \$40,000 may be utilized by the Superintendent of Public Instruction for program administration, technical assistance and evaluation; and up to \$78,600 in grants may be authorized to the Commission on Hispanic Affairs.

SECTION 25. It is legislative intent that school districts continuing to use discretionary funds for safe and drug-free purposes may include the following:

(1) Prevention programs, student assistance programs that address early identification and referral, and aftercare.

(2) An advisory board to assist each district in making decisions relating to their program.

SECTION 26. Of the moneys appropriated in Section 10 of this act, \$9,400,000 shall be used for literacy programs, as outlined in Sections 33-1207A(2), 33-1614 and 33-1615, Idaho Code, remedial coursework for students failing to achieve proficiency in the Idaho Standards Achievement Test and to fund computerized remediation services to schools, and math initiative efforts, in dollar amounts determined by the Superintendent of Public Instruction. Of this amount, up to \$120,000 may be expended by the Superintendent of Public Instruction for staff support related to the implementation and coordination of technology initiatives in public schools, including the state's longitudinal data project. It is legislative intent that the State Board of Education and State Department of Education coordinate federally funded literacy programs with state literacy programs, resulting in well-coordinated, complementary literacy efforts. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee and the House and Senate Education Committees, by no later than February 1, 2012, on the uses of funds and effectiveness of the programs and efforts.

SECTION 27. Of the moneys appropriated in Section 10 of this act, \$4,000,000 shall be distributed for support of programs for students with non-English or limited English proficiency, as follows:

(1) The State Department of Education shall distribute \$3,500,000 to school districts pro rata, based upon the population of limited English proficient students under criteria established by the department.

(2) The State Department of Education shall use \$500,000 to continue the competitive grant program for school districts in which the population of English language learners failed to meet Adequate Yearly Progress (AYP) in math or reading, as defined in federal law. Of this amount, \$450,000 shall be distributed annually to school districts in three (3) year grant cycles,

in which the recipients will receive full grant awards each of the three (3) years, contingent on appropriation. The remaining \$50,000 will be used for evaluation and administration of the program.

(3) The department shall develop the program elements governing the use of these funds, modeled on the training, intervention and remediation elements of the literacy program described in Section 26 of this act. The purpose of these funds is to improve the English language skills of English language learners, to enable such students to better access the educational opportunities offered in public schools. The Superintendent of Public Instruction shall report to the Joint Finance-Appropriations Committee and the House and Senate Education Committees by no later than February 1, 2012, on the program design, uses of funds and effectiveness of the program.

SECTION 28. Notwithstanding Section 33-1020, Idaho Code, the Idaho Digital Learning Academy (IDLA), created pursuant to Chapter 55, Title 33, Idaho Code, shall utilize state appropriated funds not to exceed \$5,000,000 for the period July 1, 2010, through June 30, 2011, to achieve the following:

(1) Tuition charged by IDLA to Idaho students shall not increase by more than \$50.00 per enrollment.

(2) Provide remedial coursework for students failing to achieve proficiency in one (1) or more areas of the Idaho Standards Achievement Test.

(3) Pursuant to the fiscal impact statement for the State Board of Education rule, IDAPA 08.02.03, Docket Number 08-0203-0605, provide advanced learning opportunities for students.

(4) Pursuant to State Board of Education rule, IDAPA 08.02.03, Docket Number 08-0203-0605, work with institutions of higher education to provide dual credit coursework. The preceding list shall not be construed as excluding other instruction and training that may be provided by the Idaho Digital Learning Academy.

SECTION 29. The State Department of Education is hereby granted the authority to transfer funds between the Administrators, Teachers, Operations, Children's Programs, and Facilities divisions of the Educational Support Program budget, in any amount necessary, to comply with the public school funding provisions of appropriations and the Idaho Code.

SECTION 30. The provisions of Sections 33-1018B and 33-1019, Idaho Code, notwithstanding, for the period July 1, 2010, through June 30, 2011, only, the state is hereby temporarily relieved from the requirement to provide its portion of the school maintenance matching funds normally required by such sections, nor shall school districts be required to make up such portion that would otherwise be provided by the state.

SECTION 31. The Idaho Bureau of Educational Services for the Deaf and the Blind may deposit General Funds appropriated in Section 1, Chapter 204, Laws of 2009, into a contingency reserve fund created pursuant to Section 33-3409, Idaho Code. If such deposit of funds exceeds the amount that may be deposited in the contingency fund, pursuant to the provisions of Section 33-3409, then those funds shall be deposited into the Public Education Stabilization Fund.

SECTION 32. That Section 33-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004A. EXPERIENCE AND EDUCATION MULTIPLIER. Each instructional and administrative staff position shall be assigned an appropriate multiplier based upon the following table:

EXPERIENCE AND EDUCATION

Years	MA						
	BA	BA + 12	BA + 24	BA + 36	BA + 48	BA + 60	ES/DR
0	1.00000	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730
1	1.03750	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410
2	1.07640	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260
3	1.11680	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290
4	1.15870	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510
5	1.20220	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930
6	1.24730	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550
7	1.29410	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380
8	1.34260	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430
9	1.39290	1.44510	1.49930	1.55550	1.61380	1.67430	1.73710
10	1.39290	1.49930	1.55550	1.61380	1.67430	1.73710	1.80220
11	1.39290	1.49930	1.55550	1.61380	1.73710	1.80220	1.86980
12	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	1.93990
13 or more	1.39290	1.49930	1.55550	1.61380	1.73710	1.86980	2.01260

In determining the experience factor, the actual years of teaching or administrative service in a public school, in an accredited private or parochial school, or beginning in the 2005-06 school year and thereafter in an accredited college or university shall be credited, minus ~~one~~ two (12); provided however, that the experience factor cannot be less than zero (0).

In determining the education factor, only credits earned after initial certification, based upon a transcript on file with the teacher certification office of the state department of education, earned at an institution of higher education accredited by the state board of education or a regional accrediting association, shall be allowed. Instructional staff whose initial certificate is an occupational specialist certificate shall be treated as BA degree prepared instructional staff. Credits earned by such occupational specialist instructional staff after initial certification shall be credited toward the education factor. For the time period July 1, 2010, through June 30, 2011, instructional and administrative staff shall not advance on the education portion of the multiplier table.

In determining the statewide average multiplier for instructional staff, no multiplier in excess of 1.59092 shall be used. If the actual statewide average multiplier for instructional staff, as determined by this section, exceeds 1.59092, then each school district's instructional staff multiplier shall be multiplied by the result of 1.59092 divided by the actual statewide average multiplier for instructional staff.

In determining the statewide average multiplier for administrative staff, no multiplier in excess of 1.86643 shall be used. If the actual statewide average multiplier for administrative staff, as determined by this section, exceeds 1.86643, then each school district's administrative staff multiplier shall be multiplied by the result of 1.86643 divided by the actual statewide average multiplier for administrative staff.

SECTION 33. That Section 33-1006, Idaho Code, be, and the same is hereby amended to read as follows:

33-1006. TRANSPORTATION SUPPORT PROGRAM. (1) The state board of education shall determine what costs of transporting pupils, including maintenance, operation and depreciation of basic vehicles, insurance,

payments under contract with other public transportation providers whose vehicles used to transport pupils comply with federal transit administration regulations, "bus testing," 49 C.F.R. part 665, and any revision thereto, as provided in subsection (4) (d) of this section, or other state department of education approved private transportation providers, salaries of drivers, and any other costs, shall be allowable in computing the transportation support program of school districts. Provided however, that the only miles for which costs may be reimbursed, shall be those directly associated with transporting students for the purposes of regular school attendance during regular days and hours, ~~or for approved school activities as provided in subsection (4) of this section.~~

(2) Any costs associated with the addition of vehicle features that are not part of the basic vehicle shall not be allowable in computing the transportation support program of school districts. A basic vehicle is hereby defined as the cost of the vehicle without optional features, plus the addition of essential safety features and features necessary for the transportation of pupils with disabilities.

(3) Each school district shall maintain records and make reports as are required for the purposes of this section.

(4) The transportation support program of a school district shall be based upon the allowable costs of:

(a) Transporting public school pupils one and one-half (1 1/2) miles or more to school;

(b) Transporting pupils less than one and one-half (1 1/2) miles as provided in section 33-1501, Idaho Code, when approved by the state board of education;

(c) The costs of payments when transportation is not furnished, as provided in section 33-1503, Idaho Code;

(d) The transportation program for grades six (6) through twelve (12), upon the costs of payments pursuant to a contract with other public or private transportation providers entered into as provided in section 33-1510, Idaho Code, if the school district establishes that the reimbursable costs of transportation under the contract are equal to or less than the costs for school buses;

~~(e) The costs of providing transportation to and from approved school activities as may be approved by rules of the state board of education;~~

~~(f) The employer's share of contributions to the public employee retirement system and to social security.~~

(5) The state's share of the transportation support program shall be fifty percent (50%) of reimbursable transportation costs of the district incurred during the immediately preceding state fiscal year, except for the cost of state department of education training and fee assessments and bus depreciation and maintenance, for which the state's share shall be eighty-five percent (85%) of such costs. For school districts that contract for pupil transportation services, the state's share shall be the average state share of costs for district-run operations, based on the statewide total of such costs. Provided however, that the reimbursable costs for any school district shall not exceed one hundred three percent (103%) of the statewide average reimbursable cost per mile or the state average reimbursable cost per student rider, whichever is more advantageous to the school district. If a school district's costs exceed the one hundred three percent (103%) limit when computed by the more advantageous of the two (2) methods, that school district shall be reimbursed at the appropriate percentage designated by this subsection, multiplied by the maximum limit for whichever method is more favorable to the school district. A school district may appeal the application of the one hundred three percent (103%) limit on reimbursable costs to the state board of education, which may establish for that district a new percentile limit for reimbursable costs compared to the statewide average, which is higher than one hundred three percent (103%).

In doing so, the state board of education may set a new limit that is greater than one hundred three percent (103%), but is less than the percentile limit requested by the school district. However, the percentage increase in the one hundred three percent (103%) cap shall not exceed the percentage of the district's bus runs that qualify as a hardship bus run, pursuant to this subsection. Any costs above the new level established by the state board of education shall not be reimbursed. Such a change shall only be granted by the state board of education for hardship bus runs. To qualify as a hardship bus run, such bus run shall meet at least two (2) of the following criteria:

- (a) The number of student riders per mile is less than fifty percent (50%) of the statewide average number of student riders per mile;
- (b) Less than a majority of the miles on the bus run are by paved surface, concrete or asphalt, road;
- (c) Over ten percent (10%) of the miles driven on the bus run are a five percent (5%) slope or greater.

The legislative audits section of the legislative services office shall review cap increases granted by the state board of education pursuant to this section, and shall include findings in the board's regular audit report for any instances in which such increases failed to meet the standards set forth in this subsection.

(6) Beginning on July 1, 2005, any eligible home-based public virtual school may claim transportation reimbursement for the prior fiscal year's cost of providing educational services to students. In order to be eligible, such a school shall have at least one (1) average daily attendance divisor, pursuant to section 33-1002, Idaho Code, that is greater than the median divisor shown for any category of pupils, among the actual divisors listed. For the purposes of paragraphs (a), (b) and (c) of this subsection (6), "education provider" means the home-based public virtual school or an entity that has legally contracted with the home-based public virtual school to supply education services. Reimbursable costs shall be limited to the costs of:

- (a) Providing an internet connection service between the student and the education provider, not including the cost of telephone service;
- (b) Providing electronic and computer equipment used by the student to transmit educational material between the student and the education provider;
- (c) Providing a toll-free telephone service for students to communicate with the education provider;
- (d) Providing education-related, face-to-face visits by representatives of the home-based public virtual school, with such reimbursements limited to the mileage costs set for state employee travel by the state board of examiners; and
- (e) Any actual pupil transportation costs that would be reimbursable if claimed by a school district.

The total reimbursement for such home-based public virtual schools shall be exempt from the statewide average cost per mile limitations of this section. The state's share of reimbursable costs shall be eighty-five percent (85%), subject to the statewide cost per student rider provisions of this section. For the purposes of such home-based public virtual school, the number of student riders shall be the same as the number of pupils in average daily attendance.

(7) The state department of education shall calculate the amount of state funds lost in fiscal year 2010 by each school district as a result of the decrease in the state reimbursement from eighty-five percent (85%) to fifty percent (50%) of certain eligible costs, including the reduction calculated for districts that contract for pupil transportation services, and excluding any reductions made due to the limitation on reimbursable expenses, all pursuant to subsection (5) of this section. The amount so calculated shall be distributed to each school district in fiscal year 2010.

For each fiscal year thereafter, the amount distributed pursuant to this subsection (7) for each school district shall be determined as follows:

- (a) Divide the amount distributed to the district pursuant to this subsection (7) in fiscal year 2010 by the district's support units for fiscal year 2010;
- (b) Multiply the result of the calculation found in subsection (7) (a) of this section by the number of support units in the current fiscal year;
- (c) Determine the percentage change in statewide transportation reimbursements as provided for in subsection (5) of this section since fiscal year 2010;
- (d) Determine the percentage change in statewide student enrollment since fiscal year 2010;
- (e) Subtract the result of the calculation found in subsection (7) (d) of this section from the result of the calculation found in subsection (7) (c) of this section;
- (f) Adjust the result of the calculation found in subsection (7) (b) of this section by the percentage result from subsection (7) (e) of this section.

For school districts divided after fiscal year 2010, the calculation in subsection (7) (a) of this section shall still be based on the fiscal year 2010 figures for the formerly consolidated district. For public charter schools beginning operations on or after July 1, 2009, all calculations in this subsection (7) that are based on fiscal year 2010 shall instead be based on the public charter school's first fiscal year of operations. For the purposes of this subsection (7), the support units used shall be the number used for calculating salary-based apportionment. Funds distributed pursuant to this subsection (7) shall be used to defray the cost of pupil transportation. If the amount distributed is in excess of a school district's actual pupil transportation costs, less any state reimbursements provided by subsection (5) of this section, the excess funds may be used at the school district's discretion.

SECTION 34. The Idaho Legislature declares that the conditions and intent of subsection (2), paragraphs (a), (b) and (c), Section 33-522, Idaho Code, are met for all Idaho school districts for the contract year 2010-2011, and therefore, notwithstanding the provisions of Section 33-522(2) (f), Idaho Code, financial emergency status is declared for all school districts for the purposes of reopening the salary and benefits compensation aspects of the negotiated agreement, including the length of the certificated employee contracts and the amount of compensation and benefits; and if the parties to the negotiated agreement mutually agree, reopen other matters contained within the negotiated agreement directly affecting the financial circumstances in the school district in accordance with subsections (3), (4), (5) and (6) of Section 33-522, Idaho Code.

SECTION 35. The Idaho Legislature declares that the financial emergency declared in Section 34 shall be interpreted to satisfy the conditions of Section 33-515(3), Idaho Code.

SECTION 36. The provisions of Sections 6 and 7, Chapter 271, Sections 4 and 6, Chapter 272, and Sections 4, 5 and 6, Chapter 273, Laws of 2009, notwithstanding, any moneys received by the various school districts or charter schools for the purposes specified in those sections that remain unspent or unobligated at the end of fiscal year 2010, may be used for the period July 1, 2010, through June 30, 2011, at the discretion of the various school districts or charters schools according to guidance in the fiscal year 2011 Public Schools appropriation.

SECTION 37. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4, 34 and 35 of this act shall be in full force and effect on and after passage and approval.

Approved March 31, 2010.

CHAPTER 235
(S.B. No. 1330, As Amended)

AN ACT

RELATING TO ARCHAIC STATUTORY LANGUAGE; AMENDING SECTION 5-334, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 9-205, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 9-340C, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 10-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 15-5-401, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 15-5-407, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 18-6101, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 20-225, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-508, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 32-106, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-124, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-403A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1007, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-1404, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CITATION; AMENDING SECTION 33-2001, IDAHO CODE, TO ALPHABETIZE TERMS, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-4407, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-4604, IDAHO CODE, TO REVISE A CITATION, TO DELETE REFERENCE TO AN ACT AND TO REVISE TERMINOLOGY; AMENDING SECTION 34-1108, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 34-2427, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 38-1601, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1202, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1301, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1402, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4602, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4604, IDAHO CODE, TO ALPHABETIZE TERMS, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-4803, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-5008, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-5102, IDAHO CODE, TO ALPHABETIZE TERMS AND TO REVISE TERMINOLOGY; AMENDING SECTION 40-1335, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 41-2139, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 41-2203, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3436, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 49-114, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 50-460, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-903, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-935, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-1841, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-3401, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 56-101, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-108, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION

56-113, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-203, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-218A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-255, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING THE HEADING FOR CHAPTER 7, TITLE 56, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-701, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-701A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 56-702, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-703, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-707, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-802, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-1004A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 63-701, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-329, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-401, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-402, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-408, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 67-2319, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6530, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6531, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6532, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6901, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6902, IDAHO CODE, TO ALPHABETIZE TERMS AND TO REVISE TERMINOLOGY; AMENDING SECTION 67-6903, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 68-1301, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 68-1405, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 71-241, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 72-430, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 72-1316A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 73-114, IDAHO CODE, TO ALPHABETIZE TERMS, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 1, TITLE 73, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 73-114A, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT ON RESPECTFUL LANGUAGE.

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

SECTION 1. That Section 5-334, Idaho Code, be, and the same is hereby amended to read as follows:

5-334. ACT OR OMISSION PREVENTING ABORTION NOT ACTIONABLE. (1) A cause of action shall not arise, and damages shall not be awarded, on behalf of any person, based on the claim that but for the act or omission of another, a person would not have been permitted to have been born alive but would have been aborted.

(2) The provisions of this section shall not preclude causes of action based on claims that, but for a wrongful act or omission, fertilization would not have occurred, maternal death would not have occurred or ~~handicap~~ disability, disease, defect or deficiency of an individual prior to birth would have been prevented, cured or ameliorated in a manner that preserved the health and life of the affected individual.

SECTION 2. That Section 9-205, Idaho Code, be, and the same is hereby amended to read as follows:

9-205. INTERPRETERS. In any civil or criminal action in which any witness or a party does not understand or speak the English language, or who has a physical ~~handicap~~ disability which prevents him from fully hearing or speaking the English language, then the court shall appoint a qualified interpreter to interpret the proceedings to and the testimony of such witness or party. Upon appointment of such interpreter, the court shall cause

to have the interpreter served with a subpoena as other witnesses, and such interpreter shall be sworn to accurately and fully interpret the testimony given at the hearing or trial to the best of his ability before assuming his duties as an interpreter. The court shall determine a reasonable fee for all such interpreter services which shall be paid out of the district court fund.

SECTION 3. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(4) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records; and

(f) Military records as described in and pursuant to section 65-301, Idaho Code.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for ~~the people who are~~ elderly, indigent, or have ~~mentally or physically handicapped~~ disabilities, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3) (a), (3) (b) or (3) (d) of section 9-342, Idaho Code. Notwithstanding the provisions of section 9-342, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section and in chapter 13, title 72, Idaho Code, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections 37-2726 and 37-2730A,

Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.

(17) Records of the Idaho state police or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

(18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records as soon as the facility in question has received the report, and no later than the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.

(19) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

(a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

(b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;

(c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

(21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order.

(22) Records of the Idaho state bar lawyer assistance program pursuant to chapter 49, title 54, Idaho Code, unless a participant in the program authorizes the release pursuant to subsection (4) of section 54-4901, Idaho Code.

(23) Records and information contained in the trauma registry created by chapter 20, title 57, Idaho Code, together with any reports, analyses and compilations created from such information and records.

(24) Records contained in the court files, or other records prepared as part of proceedings for judicial authorization of sterilization procedures pursuant to chapter 39, title 39, Idaho Code.

(25) The physical voter registration card on file in the county clerk's office; however, a redacted copy of said card shall be made available consistent with the requirements of this section. Information from the voter registration card maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

(26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, Idaho Code, are confidential and shall not be disclosed to any person other than to the person who executed the health care directive or the revocation thereof and that person's legal representatives, to the person who registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

- (a) If requested by a law enforcement agency, to the law enforcement agency; or
- (b) If directed by a court order, to a person identified in the order.

SECTION 4. That Section 10-1204, Idaho Code, be, and the same is hereby amended to read as follows:

10-1204. REPRESENTATIVES AND PERSONS BENEFICIALLY INTERESTED -- RIGHT TO DECLARATION. Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, ~~lunatic~~ a person with a mental disability or insolvent, may have a declaration of rights or legal relations in respect thereto;

- (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or other; or
- (b) To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
- (c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

SECTION 5. That Section 15-5-401, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-401. PROTECTIVE PROCEEDINGS. Upon petition and after notice and hearing in accordance with the provisions of this Part, the court may appoint a conservator or make other protective order for cause as follows:

(a) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection which cannot otherwise be provided, has or may have business affairs which may be jeopardized or prevented by his minority, or that funds are needed for his support and education and that protection is necessary or desirable to obtain or provide funds.

(b) Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines that (1) the person is unable to manage his property and affairs effectively for reasons such as mental illness, mental ~~deficiency~~ disability, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance; and (2) the person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by him and that protection is necessary or desirable to obtain or provide funds.

SECTION 6. That Section 15-5-407, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-407. PROCEDURE CONCERNING HEARING AND ORDER ON ORIGINAL PETITION. (a) Upon receipt of a petition for appointment of a conservator or other protective order because of minority, the court shall set a date for hearing on the matters alleged in the petition. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it must appoint an attorney to represent the minor, giving consideration to the choice of the minor if fourteen (14) years of age or older. A lawyer appointed by the court to represent a minor has the powers and duties of a guardian ad litem.

(b) Upon receipt of a petition for appointment of a conservator or other protective order for reasons other than minority, the court shall set a date for hearing.

Unless the person to be protected has counsel of his own choice, the court may appoint a lawyer to represent him who then has the powers and duties of a guardian ad litem. If the alleged disability is mental illness, mental ~~deficiency~~ disability, physical illness or disability, advanced age, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician designated by the court, preferably a physician who is not connected with any institution in which the person is a patient or is detained. The court may send a visitor to interview the person to be protected. The visitor may be a guardian ad litem or an officer or employee of the court.

(c) After hearing, upon finding that a basis of the appointment of a conservator or other protective order has been established, the court shall make an appointment or other appropriate order.

SECTION 7. That Section 18-6101, Idaho Code, be, and the same is hereby amended to read as follows:

18-6101. RAPE DEFINED. Rape is defined as the penetration, however slight, of the oral, anal or vaginal opening with the perpetrator's penis accomplished with a female under any one (1) of the following circumstances:

1. Where the female is under the age of eighteen (18) years.
2. Where she is incapable, through any unsoundness of mind, due to any cause including, but not limited to, mental illness, mental ~~deficiency~~ disability or developmental disability, whether temporary or permanent, of giving legal consent.
3. Where she resists but her resistance is overcome by force or violence.
4. Where she is prevented from resistance by the infliction, attempted infliction, or threatened infliction of bodily harm, accompanied by apparent power of execution; or is unable to resist due to any intoxicating, narcotic, or anaesthetic substance.
5. Where she is at the time unconscious of the nature of the act. As used in this section, "unconscious of the nature of the act" means incapable of resisting because the victim meets one (1) of the following conditions:
 - (a) Was unconscious or asleep;
 - (b) Was not aware, knowing, perceiving, or cognizant that the act occurred.
6. Where she submits under the belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.
7. Where she submits under the belief, instilled by the actor, that if she does not submit, the actor will cause physical harm to some person in the future; or cause damage to property; or engage in other conduct constituting a crime; or accuse any person of a crime or cause criminal charges to be instituted against her; or expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule.

SECTION 8. That Section 20-225, Idaho Code, be, and the same is hereby amended to read as follows:

20-225. PAYMENT FOR COST OF SUPERVISION. Any person under state probation or parole supervision shall be required to contribute not more than fifty dollars (\$50.00) per month as determined by the board of correction. Costs of supervision are the direct and indirect costs incurred by the department of correction to supervise probationers and parolees, including tests to determine drug and alcohol use, books and written materials to support rehabilitation efforts, and monitoring of physical location through the use of technology. Any failure to pay such contribution shall constitute grounds for the revocation of probation by the court or the revocation of parole by the commission for pardons and parole. The division of probation and parole in the department of correction may exempt a person from the payment of all or any part of the foregoing contribution if it finds any of the following factors to exist:

(1) The offender has diligently attempted but been unable to obtain employment.

(2) The offender has ~~an~~ a disability affecting employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to the division of probation and parole.

Money collected as a fee for services will be placed in the probation and parole receipts revenue fund, which is hereby created in the dedicated fund in the state treasury, and utilized to provide supervision for clients. Moneys in the probation and parole receipts revenue fund may be expended only after appropriation by the legislature.

SECTION 9. That Section 20-508, Idaho Code, be, and the same is hereby amended to read as follows:

20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After the filing of a petition and after full investigation and hearing, the court may waive jurisdiction under the juvenile corrections act over the juvenile and order that the juvenile be held for adult criminal proceedings when:

(a) A juvenile is alleged to have committed any of the crimes enumerated in section 20-509, Idaho Code; or

(b) A juvenile is alleged to have committed an act other than those enumerated in section 20-509, Idaho Code, after the child became fourteen (14) years of age which would be a crime if committed by an adult; or

(c) An adult at the time of the filing of the petition is alleged to have committed an act prior to his having become eighteen (18) years of age which would be a felony if committed by an adult, and the court finds that the adult is not committable to an institution for ~~the mentally deficient~~ people with intellectual disabilities or mentally illness, is not treatable in any available institution or facility available to the state designed for the care and treatment of juveniles, or that the safety of the community requires the adult continue under restraint; or

(d) An adult already under the jurisdiction of the court is alleged to have committed a crime while an adult.

(2) A motion to waive jurisdiction under the juvenile corrections act and prosecute a juvenile under the criminal law may be made by the prosecuting attorney, the juvenile, or by motion of the court upon its own initiative. The motion shall be in writing and contain the grounds and reasons in support thereof.

(3) Upon the filing of a motion to waive jurisdiction under the juvenile corrections act, the court shall enter an order setting the motion for hearing at a time and date certain and shall order a full and complete investigation of the circumstances of the alleged offense to be conducted by county probation, or such other agency or investigation officer designated by the court.

(4) Upon setting the time for the hearing upon the motion to waive jurisdiction, the court shall give written notice of said hearing to the juvenile, and the parents, guardian or custodian of the juvenile, and the prosecuting attorney, at least ten (10) days before the date of the hearing, or a lesser period stipulated by the parties, and such notice shall inform the juvenile and the parents, guardian or custodian of the juvenile of their right to court appointed counsel. Service of the notice shall be made in the manner prescribed for service of a summons under section 20-512, Idaho Code.

(5) The hearing upon the motion to waive jurisdiction shall be held in the same manner as an evidentiary hearing upon the original petition and shall be made part of the record.

(6) If as a result of the hearing on the motion to waive jurisdiction the court shall determine that jurisdiction should not be waived, the petition shall be processed in the customary manner as a juvenile corrections act proceeding. However, in the event the court determines, as a result of the hearing, that juvenile corrections act jurisdiction should be waived and the juvenile should be prosecuted under the criminal laws of the state of Idaho, the court shall enter findings of fact and conclusions of law upon which it bases such decision together with a decree waiving juvenile corrections act jurisdiction and binding the juvenile over to the authorities for prosecution under the criminal laws of the state of Idaho.

(7) No motion to waive juvenile corrections act jurisdiction shall be recognized, considered, or heard by the court in the same case once the court has entered an order or decree in that case that said juvenile has come within the purview of the juvenile corrections act, and all subsequent proceedings

after the decree finding the juvenile within the purview of the act must be under and pursuant to the act and not as a criminal proceeding.

(8) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(a) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

(b) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(c) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(d) The maturity of the juvenile as determined by considerations of his home, environment, emotional attitude, and pattern of living;

(e) The juvenile's record and previous history of contacts with the juvenile corrections system;

(f) The likelihood that the juvenile will develop competency and life skills to become a contributing member of the community by use of facilities and resources available to the court;

(g) The amount of weight to be given to each of the factors listed in subsection (8) of this section is discretionary with the court, and a determination that the juvenile is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one (1) or a combination of the factors set forth above, which shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a juvenile or adult held for criminal proceedings, the court in a county other than the juvenile's or adult's home county, after entering a decree that the juvenile or adult is within the purview of this chapter, may certify the case for sentencing to the court of the county in which the juvenile or adult resides upon being notified that the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the juvenile or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

(10) Upon conviction of a juvenile held for adult criminal proceedings under this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence or withhold judgment pursuant to section 19-2601, Idaho Code, and commit the defendant to the custody of the department of juvenile corrections for an indeterminate period of time in accordance with section 20-520(1)(r), Idaho Code. The court, in its discretion, may order that the suspended sentence or withheld judgment be conditioned upon the convicted person's full compliance with all reasonable program requirements of the department of juvenile corrections. Such a sentence may also set terms of probation, which may be served under the supervision of county juvenile probation. However, in no event may the total of the actual time spent by the convicted person in the custody of the department plus any adult sentence imposed by the court exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(c) If a convicted person is given a suspended sentence or withheld judgment conditioned upon the convicted person's compliance with all reasonable program requirements of the department pursuant to paragraph (b) of this subsection, and if the department reasonably believes that the convicted person is failing to comply with all reasonable

program requirements, the department may petition the sentencing court to revoke the commitment to the department and transfer the convicted person to the county jail or to the custody of the state board of correction for the remainder of the sentence.

SECTION 10. That Section 32-106, Idaho Code, be, and the same is hereby amended to read as follows:

32-106. ~~CONTRACTS OF IDIOTS~~ PERSONS WITHOUT UNDERSTANDING. A person entirely without understanding has no power to make a contract of any kind, but he is liable for the reasonable value of things furnished to him necessary for his support or the support of his family.

SECTION 11. That Section 33-124, Idaho Code, be, and the same is hereby amended to read as follows:

33-124. SPECIAL VOCATIONAL EDUCATION PROGRAMS. Any school district, or combination of school districts, within the state of Idaho, including charter districts, may submit to the state board of education a plan for the operation of a program providing instruction and training for ~~handicapped~~ students with disabilities under the age of twenty-two (22) years in vocational education. The state board of education may approve or disapprove such a plan. However, should the state board approve such a plan, then the program operated under such a plan shall be entitled to all considerations and benefits which by law are available to the educational programs of the school districts.

SECTION 12. That Section 33-403A, Idaho Code, be, and the same is hereby amended to read as follows:

33-403A. ASSISTANCE TO VOTER. ~~a-(1)~~ If any elector is unable, due to physical ~~disability~~ or other ~~handicap~~ disability, to enter the polling place, he may be handed a ballot outside the polling place but within forty (40) feet thereof by one (1) of the election clerks, and in his presence, but in a secret manner, mark and return the same to such election officer who shall proceed to deposit the ballot as provided by law.

~~b-(2)~~ If any elector, who is unable by reason of physical ~~disability~~ or other ~~handicap~~ disability to record his vote by personally marking his ballot and who desires to vote, then and in that case such elector shall be given assistance by the person of his choice or by one (1) of the election clerks. Such clerk or selected person shall mark the ballot in the manner directed by the elector and fold it properly and present it to the elector before leaving the voting compartment or area provided for such purpose. The elector shall then present it to the judge of election who shall deposit the ballot as provided by law.

SECTION 13. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. EDUCATIONAL SUPPORT PROGRAM. The educational support program is calculated as follows:

(1) State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

(2) From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

(a) Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

(b) Transportation support program as provided in section 33-1006, Idaho Code;

- (c) Feasibility studies allowance as provided in section 33-1007A, Idaho Code;
- (d) The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;
- (e) The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;
- (f) Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;
- (g) Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;
- (h) Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;
- (i) For expenditure as provided by the public school technology program;
- (j) For employee severance payments as provided in section 33-521, Idaho Code;
- (k) For distributions to the Idaho digital learning academy as provided in section 33-1020, Idaho Code;
- (l) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of \$300 per support unit; and
- (m) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the total educational support distribution funds.

(3) Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

(4) Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Units Allowed
41 or more	40.....	1 or more as computed
31 - 40.99 ADA....	-.....	1
26 - 30.99 ADA....	-.....	.85
21 - 25.99 ADA....	-.....	.75
16 - 20.99 ADA....	-.....	.6
8 - 15.99 ADA....	-.....	.5
1 - 7.99 ADA....	-.....	count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....	.....	.. 15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97 and each year thereafter.	
160 to 299.99 ADA...	20	8.4
110 to 159.99 ADA...	19	6.8
71.1 to 109.99 ADA...	16	4.7
51.7 to 71.0 ADA...	15	4.0
33.6 to 51.6 ADA...	13	2.8
16.6 to 33.5 ADA...	12	1.4
1.0 to 16.5 ADA...	n/a	1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
750 or more	18.5	47
400 - 749.99 ADA....	16	28
300 - 399.99 ADA....	14.5	22
200 - 299.99 ADA....	13.5	17
100 - 199.99 ADA....	12	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12	.....	8
Grades 9-12	.....	6
Grades 7- 9	.....	1 per 14 ADA
Grades 7- 8	.....	1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily Attendance	Attendance Divisor	Minimum Units Allowed
14 or more	14.5	1 or more as computed
12 - 13.99....	-	1
8 - 11.99....	- .....	.75
4 - 7.99....	- .....	.5
1 - 3.99....	- .....	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units Allowed
12 or more.....	12	1 or more as computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it

had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2) of this section, by the total state support units to secure the state distribution factor per support unit.

(6) District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(ii) Divide the combined totals of the average daily attendance of all preschool, ~~handicapped~~, kindergarten, elementary, secondary, ~~and~~ and juvenile detention center students and students with disabilities approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(iii) The total number of support units of the district shall be the sum of the total support units for regular students, subsection (6) (a) (i) of this section, and the support units allowance for the approved exceptional child program, subsection (6) (a) (ii) of this section.

(b) Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection (2) of this section to secure the district's total allowance for the educational support program.

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, subsection (6) (b) of this section.

(d) Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection (6) (c) of this section.

(7) Property Tax Computation Ratio. In order to receive state funds pursuant to this section a charter district shall utilize a school maintenance and operation property tax computation ratio for the purpose of calculating its maintenance and operation levy, that is no greater than that which it utilized in tax year 1994, less four-tenths of one percent (.4%). As used herein, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and

operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31, 1993. Such maintenance and operation levy shall be based on the property tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

SECTION 14. That Section 33-1007, Idaho Code, be, and the same is hereby amended to read as follows:

33-1007. EXCEPTIONAL EDUCATION PROGRAM REPORT. The state department of education shall report annually to the legislature the status of the exceptional education support program. The report shall include, but not be limited to, data concerning the number of persons students with disabilities and gifted students served, ~~both handicapped and gifted~~, the districts which operate programs and the nature of the program, the money distributed pursuant to the provisions of the exceptional education support program, and estimated number of persons, both handicapped students with disabilities and gifted students, requiring but not receiving services. The report shall be filed not later than the fifteenth day of the legislative session and may include recommendations of the board relating to administrations of the program.

SECTION 15. That Section 33-1404, Idaho Code, be, and the same is hereby amended to read as follows:

33-1404. DISTRICTS TO RECEIVE PUPILS. Every school district shall receive and admit pupils transferred thereto, where payment of their tuition is to be paid by the home district, or waived by the receiving district, except when any such transfer would work a hardship on the receiving district. Each receiving school district shall be governed by written policy guidelines, adopted by the board of trustees, which define hardship impact upon the district or upon an individual school within the district. The policy shall provide specific standards for acceptance and rejection of applications for accepting out of district pupils. Standards may include the capacity of a program, class, grade level or school building. Standards may not include previous academic achievement, athletic or other extracurricular ability, ~~handicapping~~ disabling conditions, or proficiency in the English language.

Nonresident pupils who are placed by court order under provisions of the Idaho juvenile corrections or child protective acts and reside in licensed homes, agencies and institutions shall be received and admitted by the school district in which the facility is located without payment of tuition.

Homeless children and youth as defined by the ~~Stewart B. McKinney homeless assistance act (P.L. 100-77)~~ McKinney-Vento homeless assistance act 42 U.S.C. section 11301 et seq., may attend any school district or school within a district without payment of tuition when it is determined to be in the best interest of that child.

SECTION 16. That Section 33-2001, Idaho Code, be, and the same is hereby amended to read as follows:

33-2001. DEFINITIONS. ~~(1-)~~ "Ancillary personnel" means those persons who render special services to exceptional children in regular or in addition to regular or special class instruction as defined by the state board of education.

(2) "Children with disabilities" means those children with cognitive impairments, hearing impairments, deafness, speech or language impairments, visual impairments, blindness, deaf-blindness, serious emotional disturbance, orthopedic impairments, severe or multiple disabilities,

autism, traumatic brain injury, developmental delay or specific learning disabilities, and who by reason of the qualifying disability require special education and related services.

~~2-(3)~~ "Exceptional children" means both children with disabilities and gifted/talented children with regard to funding for school districts.

~~3. "Children with disabilities" mean those children with mental retardation, hearing impairments, deafness, speech or language impairments, visual impairments, blindness, deaf blindness, serious emotional disturbance, orthopedic impairments, severe or multiple disabilities, autism, traumatic brain injury, developmental delay or specific learning disabilities, and who by reason of the qualifying disability requires special education and related services.~~

~~(4-)~~ "Gifted/talented children" means those students who are identified as possessing demonstrated or potential abilities that give evidence of high performing capabilities in intellectual, creative, specific academic or leadership areas, or ability in the performing or visual arts and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

~~(5-)~~ "Special education" or "special instructional service" means specially designed instruction or a related service, at no cost to the parents, to meet the unique needs of an exceptional child.

SECTION 17. That Section 33-4407, Idaho Code, be, and the same is hereby amended to read as follows:

33-4407. ELIGIBLE TYPES OF EMPLOYMENT. Students may be employed either on-campus or off-campus at eligible accredited institutions of higher education, subject to the limitations expressed in this chapter. Employing organizations and agencies must be responsible and must have professional supervision. Discrimination by employers on the bases of sex, race, color, age, religion, ~~natural~~ national origin, marital status, or ~~handicap~~ disability is prohibited.

Generally, employment which is allowable under the federal college work study program is also allowable under the Idaho program. This applies to both on-campus and off-campus employment, except that off-campus jobs for the program must be within Idaho. Likewise, employment which is not allowable under federal regulations is not eligible under the Idaho program.

Opinions from federal officials as to the legitimacy of a particular job under the federal college work study program may be assumed to be applicable to the Idaho program. However, approval to use Idaho program funds for particular jobs should not be construed as permission to institutions to use federal work-study funds to employ students in such jobs.

The financial aid office at the institution is responsible for ensuring that disbursements are made only for work performed in accordance with the written job description, with adequate supervision, and with proper documentation for the hours worked.

SECTION 18. That Section 33-4604, Idaho Code, be, and the same is hereby amended to read as follows:

33-4604. DEFINITIONS. As used in this chapter:

(1) "At-risk person" means any Idaho resident who meets three (3) or more of the following five (5) criteria:

(a) Is a potential first-generation college student;

(b) Is ~~handicapped~~ an individual with a disability as defined in ~~section 504 of the rehabilitation act,~~ 29 U.S.C. section 79405;

(c) Is a migrant farmworker or other seasonal farmworker or a dependent of a migrant farmworker or other seasonal farmworker;

(d) Is a minority person as defined in this chapter; or

(e) Has financial need as defined in this chapter.

(2) "Board" means the state board of education and the board of regents of the university of Idaho.

(3) "Eligible student" means any graduate of an accredited Idaho secondary school who is an at-risk person as defined in this chapter and who declares his intention to matriculate in an eligible postsecondary institution in the state of Idaho during the education year immediately following application for an award under this program.

(4) "Farmwork" means any agricultural activity, performed for either wages or personal subsistence, on a farm, ranch or similar establishment.

(5) "Financial need" means the extent of a person's inability to meet the institutionally defined cost of education at an eligible postsecondary institution through parent, family and/or personal resources as determined under rules to be established by the state board of education.

(6) "Migrant farmworker" means a seasonal farmworker whose employment required travel that precluded the farmworker from returning to his permanent place of residence within the same day.

(7) "Minority person" means any Idaho resident who is a member of an ethnic group whose members historically have participated in postsecondary education at a rate lower than their occurrence in the population of the United States including, but not limited to, persons of native American, ~~Afro-American~~ African-American, and Hispanic-American descent.

(8) "Potential first-generation college student" means a person neither of whose parents received a bachelor's degree.

(9) "Seasonal farmworker" means a person who, within the past twenty-four (24) months, was employed for at least seventy-five (75) days in farmwork, and whose primary employment was in farmwork on a temporary or seasonal basis (that is, not as a constant year-round activity).

All terms not specifically defined in this chapter shall be defined as in sections 33-4303 through 33-4315, Idaho Code, governing the state of Idaho scholarship program.

SECTION 19. That Section 34-1108, Idaho Code, be, and the same is hereby amended to read as follows:

34-1108. ASSISTANCE TO VOTER. (1) If any registered elector is unable, due to physical ~~disability~~ or other ~~handicap~~ disability, to enter the polling place, he may be handed a ballot outside the polling place but within forty (40) feet thereof by one (1) of the election clerks, and in his presence but in a secret manner, mark and return the same to such election officer who shall proceed as provided by law to record the ballot.

(2) If any registered elector, who is unable by reason of physical ~~disability~~ or other ~~handicap~~ disability to record his vote by personally marking his ballot and who desires to vote, then and in that case such elector shall be given assistance by the person of his choice or by one (1) of the election clerks. Such clerk or selected person shall mark the ballot in the manner directed by the elector and fold it properly and present it to the elector before leaving the voting compartment or area provided for such purpose. The elector shall then present it to the judge of election in the manner provided above.

SECTION 20. That Section 34-2427, Idaho Code, be, and the same is hereby amended to read as follows:

34-2427. ~~PHYSICALLY DISABLED~~ PHYSICALLY OR OTHER DISABILITY. (1) The election board clerks shall instruct electors on how to record their votes on the voting machine or vote tally system, and shall give assistance to any elector who declares that he is unable by reason of physical ~~disability~~ or other ~~handicap~~ disability to record his vote on the machine or

vote tally system, and on request by the elector after he has entered the voting booth, shall give him the necessary information to enable him to record his vote.

(2) Any elector who, because of blindness, physical ~~disability~~ or other handicap disability, is unable to mark his ballot shall, upon request, receive the assistance of the election board clerks or some other person chosen by the elector in the marking thereof. Such clerks or person shall ascertain the wishes of the elector and mark his ballot in accordance therewith, and shall thereafter give no information regarding such marking. The election board judge may require a declaration of disability to be made by the elector under oath. Whenever an elector receives assistance in this manner, a clerk shall make a notation thereof in the combination election record and poll book following the name of the elector.

(3) If any elector, after entering the voting booth, asks for information regarding the operation of the voting machine or marking device, the election board clerks shall give him the necessary information.

SECTION 21. That Section 38-1601, Idaho Code, be, and the same is hereby amended to read as follows:

38-1601. INTERSTATE INMATE FIREFIGHTER COMPACT. The "Interstate Inmate Firefighter Compact" is hereby enacted into law and entered into by this state with any other states legally joining therein in the form substantially as follows:

INTERSTATE FOREST FIRE SUPPRESSION COMPACT

ARTICLE I--Purpose and Policy

The purpose of this compact is to provide for the development and execution of programs to facilitate the use of offenders in the forest fire suppression efforts of the party states for the ultimate protection of life, property and natural resources in the party states. The purpose of this compact is also, in emergent situations, to allow a sending state to cross state lines with an inmate when, due to weather or road conditions, it is necessary to cross state lines to facilitate the transport of an inmate.

ARTICLE II--Definitions

As used in this compact, unless the context clearly requires otherwise:

(1) "Fire suppression unit" means a group of inmates selected by the sending states, corrections personnel, and any other persons deemed necessary for the transportation, supervision, care, security and discipline of inmates to be used in forest fire suppression efforts in the receiving state.

(2) "Forest fire" means any fire burning in any land designated by a party state or federal land management agencies as forest land.

(3) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(4) "Institution" means any prison, reformatory, honor camp, or other correctional facility, except facilities for ~~the people with mentally ill~~ mentally ill or mentally handicapped intellectual disabilities, in which inmates may lawfully be confined.

(5) "Receiving state" means a state party to this compact to which a fire suppression unit is traveling.

(6) "Sending state" means a state party to this compact from which a fire suppression unit is traveling.

ARTICLE III--Contracts

(1) Each party state may make one or more contracts with any one or more of the other party states for the assistance of one or more fire suppression units in forest fire suppression efforts. Any such contract shall provide, for matters as may be necessary and appropriate, to fix the obligations, responsibilities and rights of the sending and receiving state.

(2) The terms and provisions of this compact shall be part of any contract entered into by the authority of, or pursuant to, this compact. Nothing in any such contract may be inconsistent with this compact.

ARTICLE IV--Procedures and Rights

(1) Each party state shall appoint a liaison for the coordination and deployment of the fire suppression units of each party state.

(2) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, that has entered into a contract pursuant to this compact, decides that the assistance of a fire suppression unit of a party state is required for forest fire suppression efforts, such authorities may request the assistance of one or more fire suppression units of any state party to this compact through an appointed liaison.

(3) Inmates who are members of a fire suppression unit shall at all times be subject to the jurisdiction of the sending state, and at all times shall be under the ultimate custody of corrections officers duly accredited by the sending state.

(4) The receiving state shall make adequate arrangements for the confinement of inmates who are members of a fire suppression unit of a sending state in the event corrections officers duly accredited by the sending state make a discretionary determination that an inmate requires institutional confinement.

(5) Cooperative efforts shall be made by corrections officers and personnel of the receiving state, located at a fire camp, with the corrections officers and other personnel of the sending state in the establishment and maintenance of fire suppression unit base camps.

(6) All inmates who are members of a fire suppression unit of a sending state shall be cared for and treated equally with such similar inmates of the receiving state, as may be members of a fire suppression unit of the receiving state.

(7) Further, in emergent situations, a sending state shall be granted authority and all the protections of any compact under this chapter to cross state lines with an inmate when, due to weather or road conditions, it is necessary to facilitate the transport of an inmate.

ARTICLE V--Acts Not Reviewable in Receiving State; Extradition

(1) If, while located within the territory of a receiving state, there occurs against the inmate within such state any criminal charge or if the inmate is suspected of committing, within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(2) An inmate member of a fire suppression unit of the sending state who is deemed to have escaped by a duly accredited corrections officer of a sending state shall be under the jurisdiction of both the sending state and the receiving state. Nothing contained in any compact shall be construed to prevent or affect the activities of officers and guards of any jurisdiction di-

rected toward the apprehension and return of an escapee.

ARTICLE VI--Entry into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by Idaho and any other state.

ARTICLE VII--Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it has enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states.

ARTICLE VIII--Other Arrangements Unaffected

Nothing contained in this compact may be construed to abrogate or impair any agreement or other agreement that a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE IX--Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of such compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 22. That Section 39-1202, Idaho Code, be, and the same is hereby amended to read as follows:

39-1202. DEFINITIONS. For the purposes of this chapter:

- (1) "Board" means the Idaho board of health and welfare.
- (2) "Child care" means that care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.
- (3) "Child" means an individual less than eighteen (18) years of age who is not enrolled in an institution of higher education.
- (4) "Children's agency" means a person who operates a business for the placement of children in foster homes or for adoption in a permanent home and who does not provide child care as part of that business. Children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements.
- (5) "Children's camp" means a program of child care at a location away from the child's home which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child.
- (6) "Children's institution" means a person who operates a residential facility for children not related to that person if that person is an individual, for the purpose of providing child care. Children's institutions

include, but are not limited to, foster homes, maternity homes, children's therapeutic outdoor programs, or any facilities providing treatment, therapy or rehabilitation for children. Children's institutions do not include: (a) facilities which provide only ~~day care~~ daycare as defined in chapter 11, title 39, Idaho Code; (b) facilities and agencies including hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for ~~the mentally retarded~~ people with intellectual disabilities licensed pursuant to chapter 13, title 39, Idaho Code; (c) day schools; (d) individuals acting in an advisory capacity, counseling a child in a religious context, and providing no child care associated with the advice; (e) the occasional or irregular care of a neighbor's, relative's or friend's child or children by a person not ordinarily engaged in child care.

(7) "Children's residential care facility" means a children's institution, excluding:

- (a) Foster homes;
- (b) Residential schools;
- (c) Children's camps.

No facility expressly excluded from the definition of a children's institution is included within the definition of a children's residential care facility.

(8) "Children's therapeutic outdoor program" is a program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting. This does not include children's camps, church camps, or other outdoor programs primarily designed to be educational or recreational, such as Boy Scouts, Girl Scouts, 4-H or sports camps.

(9) "Continued care" means the ongoing placement of an individual in a foster home, children's residential care facility, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age.

(10) "Day school" means a public, private, parochial or secular facility offering an educational program in which the children leave the facility each day at the conclusion of the academic, vocational or school supervised activities.

(11) "Department" means the state department of health and welfare.

(12) "Director" means the director of the department of health and welfare.

(13) "Foster care" means child care by a person not related to the child, in lieu of parental care, in a foster home.

(14) "Foster home" means a home which accepts, for any period of time, with or without compensation, one (1) or more children who are not related to the foster parent as members of the household for the purpose of providing substitute parental care.

(15) "Group care" means foster care of a number of children for whom child care in a family setting is not available or appropriate, in a dormitory or cottage type setting, characterized by activities and discipline of a more regimented and less formal nature than found in a family setting.

(16) "Juvenile detention" is as defined in section 20-502(6), Idaho Code, of the juvenile corrections act.

(17) "Juvenile detention center" means a facility established pursuant to sections 20-517 and 20-518, Idaho Code.

(18) "Person" includes any individual, group of individuals, association, partnership, limited liability company or corporation.

(19) "Placement" means finding a suitable licensed foster home or suitable adoptive home for a child and completing the arrangements for a child to be accepted into and adjusted to such home.

(20) "Representative" means an employee of the state department of health and welfare.

(21) "Residential facility" means any facility where child care is provided, as defined in this section, and which provides day and night accommodation.

(22) "Residential school" means a residential facility for children which:

(a) Provides a planned, scheduled, regular, academic or vocational school program for students in the elementary, middle or secondary grades as defined in section 33-1001, Idaho Code; and

(b) Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and

(c) Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or ~~mental retardation~~ intellectual disability; and

(d) Is not:

(i) A college or university; or

(ii) A children's camp as defined in this section; or

(iii) A public or private day school in which the children leave the facility each day at the conclusion of the academic, vocational and school supervised activities.

(23) "Transitional living" means living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation.

SECTION 23. That Section 39-1204, Idaho Code, be, and the same is hereby amended to read as follows:

39-1204. FORM FOR DISCLOSURE REPORT. (1) The department shall design a form for the initial disclosure report which shall contain only the following information:

(a) The name, address and telephone number(s) for each children's agency or children's institution.

(b) The name(s), address and telephone number(s) of the individual(s) in charge at each children's agency or children's institution.

(c) The number of children that can be accommodated for child care at each children's institution and a description of such accommodations.

(d) Whether and how the children's institution seeks, receives or enrolls students for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, ~~mental retardation~~ intellectual disability, or students who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision.

(e) A complete description of the child care services to be provided at each children's institution.

(f) Whether and how the children's institution expects to receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or ~~mental retardation~~ intellectual disability.

(g) Whether and how the children's institution represents to the payor of the child care services provided by the children's institution that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services.

(h) A description of the educational programs provided at each children's institution and their accreditation status.

(2) The department shall design a form for the annual update disclosure report which shall reference the information provided in the initial disclo-

sure report and shall request identification of any changes in the information provided on the initial report or the previous annual update disclosure report.

SECTION 24. That Section 39-1301, Idaho Code, be, and the same is hereby amended to read as follows:

39-1301. DEFINITIONS. For purposes of this chapter the following definitions will apply:

(a) "Hospital" means a facility which:

(1) Is primarily engaged in providing, by or under the supervision of physicians,

(a) concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; and

(b) diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; and

(c) rehabilitation services for injured, disabled, or sick persons; and

(d) obstetrical care.

(2) Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours.

(3) Is staffed to provide professional nursing care on a twenty-four (24) hour basis.

(b) "Nursing facility" (nursing home) means a facility whose design and function shall provide area, space and equipment to meet the health needs of two (2) or more individuals who, at a minimum, require inpatient care and services for twenty-four (24) or more consecutive hours for unstable chronic health problems requiring daily professional nursing supervision and licensed nursing care on a twenty-four (24) hour basis, restorative, rehabilitative care, and assistance in meeting daily living needs. Medical supervision is necessary on a regular, but not daily, basis.

(c) "Intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities (ICFMR/ID)" means a nonnursing home facility, designed and operated to meet the unique educational, training, habilitative and medical needs of the developmentally disabled through the provision of active treatment.

(d) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(e) "Government unit" means the state, or any county, municipality, or other political subdivision, or any department, division, board or other agency thereof.

(f) "Licensing agency" means the department of health and welfare.

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

(h) "Physician" means an individual licensed to practice medicine and surgery by the Idaho state board of medicine or the Idaho state board of podiatry.

(i) "Authorized provider" means an individual who is a nurse practitioner or clinical nurse specialist, licensed to practice in Idaho in accordance with the Idaho nurse practice act; or a physician's assistant, licensed by the Idaho state board of medicine.

SECTION 25. That Section 39-1402, Idaho Code, be, and the same is hereby amended to read as follows:

39-1402. DEFINITIONS. As used in this act:

(a) "Agency" means the department of health and welfare;

(b) "The federal act" shall mean, when applicable, either (1) Public Law 725 of the 79th Congress, approved August 13, 1946, entitled the Hospital Survey and Construction Act and amendments thereto or (2) Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Public Law 88-164, and amendments thereto or (3) Public Law 91-517 of the 91st Congress, and amendments thereto;

(c) "The surgeon general" means the surgeon general of the public health service of the United States;

(d) "Health facilities" shall mean any of the following:

(1) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four (24) hours in any week of two (2) or more nonrelated individuals suffering from illness, disease, injury, deformity, or requiring care because of old age, or a place devoted primarily to providing for not less than twenty-four (24) hours in any week of obstetrical or other medical or nursing care for two (2) or more nonrelated individuals. The term hospital includes public health centers in general, tuberculosis, mental, chronic disease and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals;

(2) A facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with said facility;

(3) A facility specially designed for the diagnosis, treatment, education, training, or custodial care of ~~the mentally retarded~~ people with intellectual disabilities, including facilities for training specialists and sheltered workshops for ~~the mentally retarded~~ people with intellectual disabilities, but only if such workshops are part of facilities which provide or will provide comprehensive services for ~~the mentally retarded~~ people with intellectual disabilities;

(4) A facility providing services for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community or communities in or near which the facility is situated or at a statewide facility;

(e) "The secretary" means the secretary of health, ~~education and welfare~~ and human services of the United States, or his delegate to administer the federal act;

(f) "Nonprofit facility" means a facility which is owned and operated by one (1) or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

SECTION 26. That Section 39-4602, Idaho Code, be, and the same is hereby amended to read as follows:

39-4602. PURPOSE. It is declared to be the policy of the legislature of the state of Idaho to authorize and mandate the department of health and welfare to develop and coordinate services for developmentally disabled persons through adult and child development programs and through contracts with rehabilitation facilities. The complexities of developmental disabilities require the services of many state departments as well as those of the community. It is the intent of this chapter that the department of health and welfare will cooperate with recognized agencies, organizations and departments in implementing this chapter. Services should be planned and provided as a part of a continuum. A pattern of facilities, services and eligibility should be established which is sufficiently complete to meet the needs of

each developmentally disabled person regardless of age or degree of ~~handicap disability~~, with consideration of the family.

SECTION 27. That Section 39-4604, Idaho Code, be, and the same is hereby amended to read as follows:

39-4604. DEFINITIONS. As used in this chapter:

(1) ~~"Department" means the Idaho department of health and welfare~~ "Comprehensive developmental disability system" means a system of services including, but not limited to, the following basic services with the intention of providing alternatives to institutionalization:

- (a) Evaluation services;
- (b) Diagnostic services;
- (c) Treatment services;
- (d) Individualized developmental programs;
- (e) Extended sheltered employment and work activities;
- (f) Recreation services;
- (g) Domiciliary care services;
- (h) Special living arrangement services;
- (i) Counseling services;
- (j) Information and referral services;
- (k) Follow-along services; and
- (l) Transportation services.

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

(3) "Developmental disabilities facility" means any service or group of services which provide care to the developmentally disabled on an inpatient, outpatient, residential, clinical or other programmatic basis, including sheltered workshops and adult and child development centers.

(24) ~~A~~ "Developmental disability" is:

- (a) ~~e~~ Attributable to an impairment, such as ~~mental retardation~~ intellectual disability, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one of these impairments that requires similar treatment or services or is attributable to dyslexia resulting from such impairments;
- (b) ~~h~~ Has continued or can be expected to continue indefinitely; and
- (c) ~~e~~ Constitutes a substantial ~~handicap~~ limitation to such person's ability to function normally in society.

(5) "Habilitation" is the process of developing skills and abilities.

(6) "Normalization" is the process of providing services which promote a life as much as possible like that of the rest of the community, including living in the community and access to community resources.

(7) "Rehabilitation" is the process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning.

(38) ~~A~~ "Substantial handicap limitation" is:

(a) ~~e~~ A disability which results in substantial function limitation in three (3) or more of the following areas of major life activity:

- (i) ~~s~~ Self-care;
- (ii) ~~r~~ Receptive and expressive language;
- (iii) ~~l~~ Learning;
- (iv) ~~m~~ Mobility;
- (v) ~~s~~ Self-direction;
- (vi) ~~e~~ Capacity for independent living; or
- (vii) ~~e~~ Economic self-sufficiency; and

(b) ~~r~~ Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment or other services which are:

- (i) ~~l~~ Lifelong or extended duration, and
- (ii) ~~i~~ Individually planned and coordinated.

~~(4) "Normalization" is the process of providing services which promote a life as much as possible like that of the rest of the community, including living in the community and access to community resources.~~

~~(5) "Habilitation" is the process of developing skills and abilities.~~

~~(6) "Rehabilitation" is the process of improving skills or level of adjustment to increase the person's ability to maintain satisfactory independent or dependent functioning.~~

~~(7) "Developmental disabilities facility" means any service or group of services which provide care to the developmentally disabled on an inpatient, outpatient, residential, clinical or other programmatic basis, including sheltered workshops and adult and child development centers.~~

~~(8) "Comprehensive developmental disability system" means a system of services including, but not limited to, the following basic services with the intention of providing alternatives to institutionalization: (a) evaluation services; (b) diagnostic services; (c) treatment services; (d) individualized developmental programs; (e) extended sheltered employment and work activities; (f) recreation services; (g) domiciliary care services; (h) special living arrangements services; (i) counseling services; (j) information and referral services; (k) follow along services; and (l) transportation services.~~

SECTION 28. That Section 39-4803, Idaho Code, be, and the same is hereby amended to read as follows:

39-4803. IMMUNIZATION REGISTRY. (1) The department of health and welfare shall provide for the establishment of a voluntary registry of the immunization status of Idaho children against childhood diseases. The registry may be maintained and its data disclosed as set out herein to further the following purposes:

(a) To make immunizations readily available to every Idaho citizen that desires to have their child immunized;

(b) To increase the voluntary immunization rate in Idaho to the maximum extent possible without mandating such immunizations;

(c) To recognize and respect the rights of parents and guardians to make health care decisions for their children;

(d) To provide for timely reminders to parents of children in the registry.

(2) The name of a child or information relating to the immunization status of that child may be collected or included in the registry only upon the separate and specific written authorization of a parent, guardian or other person legally responsible for the care of the child. Such authorization may not be part of a general authorization or release. The registry may contain only the following information for each child:

(a) The child's name, address and birth date;

(b) The name and address of each parent of the child;

(c) The month, day, year and type of each immunization that has been administered to the child;

(d) The name, address and phone number of each provider that has administered an immunization to the child;

(e) If requested by a parent or guardian, any statement made pursuant to subsection (4) of this section;

(f) Other information as authorized or requested by a parent or guardian.

(3) The department of health and welfare may only disclose information relating to an individual child in the registry to the following upon a specific request:

(a) Employees of the health district in which the child resides or seeks medical services;

- (b) Health records staff of the school or school district in which the child is enrolled;
 - (c) The operator of a licensed child care facility in which the child is enrolled;
 - (d) Persons who are legally responsible for the long-term care of the child, including operators of licensed ICF/~~MR~~-ID's and residential or assisted living facilities, adoptive and foster parents and a guardian appointed pursuant to chapter 5, title 15, Idaho Code;
 - (e) Any health care provider rendering treatment to the child, and the provider's agents;
 - (f) Any person possessing a lawful release, properly executed by the child's parent or guardian;
 - (g) A parent of the child;
 - (h) Any hospital where the child is receiving care.
- (4) A parent or guardian of the child shall have free and open access to all information in the registry that relates to their child or themselves. Upon the written request of a parent or guardian, the department of health and welfare shall:
- (a) Cause all information relating to the child to be removed from the registry and any databases or files of other entities or persons to which information in the database has been disclosed;
 - (b) Include in the registry the statement of a physician or parent pursuant to section 39-4802(2) or 39-1118(2), Idaho Code.
- (5) All information contained in the registry or disclosed from it is confidential and may not be sold and may only be disclosed as specifically authorized in this section. A person or entity to whom information is disclosed from the registry may not thereafter disclose it to others. Any person who discloses or authorizes disclosure of any information contained in the registry, except as authorized in this section is guilty of a misdemeanor and is liable for civil damages in the amount of one hundred dollars (\$100) for each violation.

SECTION 29. That Section 39-5008, Idaho Code, be, and the same is hereby amended to read as follows:

39-5008. DISCRIMINATION PROHIBITED. No person shall, on the ground of sex, age, race, color, religion, national origin or ~~handicap~~ disability, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity made available under this chapter.

SECTION 30. That Section 39-5102, Idaho Code, be, and the same is hereby amended to read as follows:

39-5102. DEFINITIONS. As used in this chapter:

- (1) "Department" means the Idaho department of health and welfare.
- (2) "Developmental disability" means a chronic disability of an individual which appears before the age of twenty-two (22) years of age and:
 - (a) Is attributable to an impairment, such as ~~mental retardation~~ intellectual disability, cerebral palsy, epilepsy, autism or a condition found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and
 - (b) Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and

(c) Reflects the need for a combination and sequence of special, interdisciplinary treatment or other services which are of lifelong or extended duration and individually planned and coordinated.

(3) "Director" means the director of the Idaho department of health and welfare.

(4) "Family" means a group of interdependent persons residing in the same household and includes an individual with a developmental disability and one (1) or more of the following:

(a) A birth or adoptive mother or father, stepparent, brother, sister or any combination; or

(b) Extended blood relatives, such as a grandparent, aunt, uncle, nephew or niece; or

(c) Legal guardian.

The term "family" does not include paid providers of care.

(5) "In-home assistance application" means a written document describing the needs of an individual with developmental disabilities and specifying the services or supports required.

(56) "Institution" means any public or private residential facility which is licensed in the state of Idaho for the purpose of providing care and treatment for individuals with developmental disabilities.

~~(6) "Family" means a group of interdependent persons residing in the same household and includes an individual with a developmental disability and one (1) or more of the following:~~

~~(a) A birth or adoptive mother or father, stepparent, brother, sister or any combination; or~~

~~(b) Extended blood relatives, such as a grandparent, aunt, uncle, nephew or niece; or~~

~~(c) Legal guardian.~~

~~The term "family" does not include paid providers of care.~~

SECTION 31. That Section 40-1335, Idaho Code, be, and the same is hereby amended to read as follows:

40-1335. STANDARDS FOR CURB CONSTRUCTION -- CURB RAMPS FOR ~~THE~~ PEOPLE WITH PHYSICALLY HANDICAPPED DISABILITIES. (1) The standard for construction of curbs on each side of any city highway, or any connecting highway for which curbs and sidewalks have been prescribed by the appropriate governing body, shall require curb cuts or ramps at locations which allow a crossing movement at intersections. Each curb cut or ramp shall be constructed to allow reasonable access to the crosswalk for people with physically handicapped persons disabilities.

(2) Standards set for curb cuts and ramps under this section shall apply to all new curb construction and to all replacement curbs constructed at any point in a block which gives reasonable access to a crosswalk.

SECTION 32. That Section 41-2139, Idaho Code, be, and the same is hereby amended to read as follows:

41-2139. REQUIRED PROVISIONS -- COVERAGE OF DEPENDENT CHILD. There shall be a provision as follows: a policy delivered or issued for delivery in this state more than one hundred twenty (120) days after the effective date of this act under which coverage of a dependent of an insured terminates at a specified age shall, with respect to an unmarried child who is incapable of self-sustaining employment by reason of ~~mental retardation~~ intellectual disability or physical handicap disability and who became so incapable prior to attainment of the limiting age and who is chiefly dependent upon such insured for support and maintenance, not so terminate while the policy remains in force and the dependent remains in such condition, if the insured has within thirty-one (31) days of such dependent's attainment of the

limiting age submitted proof of such dependent's incapacity as described herein. The insurer may require at reasonable intervals during the two (2) years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After the two (2) year period, such subsequent proof may not be required more than once each year.

SECTION 33. That Section 41-2203, Idaho Code, be, and the same is hereby amended to read as follows:

41-2203. REQUIRED PROVISIONS IN GROUP POLICIES. Each such group disability insurance policy shall contain in substance the following provisions:

(1) A provision that, in the absence of fraud, all statements made by applicants or the ~~policy holders~~ policyholders or by an insured person shall be deemed representations and not warranties, and that no statement made for the purpose of effecting insurance shall void such insurance or reduce benefits unless contained in a written instrument signed by the ~~policy holder~~ policyholder or the insured person, a copy of which has been furnished to such ~~policy holder~~ policyholder or to such person or his beneficiary.

(2) A provision that the insurer will furnish to the ~~policy holder~~ policyholder for delivery to each employee or member of the insured group, a statement in summary form of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one (1) certificate need be issued for each family unit.

(3) A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

(4) A provision that, a policy delivered or issued for delivery in this state more than one hundred twenty (120) days after the effective date of this act under which coverage of a dependent of a member of an insured group terminates at a specified age shall, with respect to an unmarried child who is incapable of self-sustaining employment by reason of ~~mental retardation~~ intellectual disability or physical handicap disability and who became so incapable prior to attainment of the limiting age and who is chiefly dependent upon such member for support and maintenance, not so terminate while the policy remains in force and the dependent remains in such condition, if the member has within thirty-one (31) days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity as described herein. The insurer may require at reasonable intervals during the two (2) years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After the two (2) year period, such subsequent proof may not be required more than once each year.

SECTION 34. That Section 41-3436, Idaho Code, be, and the same is hereby amended to read as follows:

41-3436. DEPENDENT'S COVERAGE -- DEPENDENT'S TERMINATION OF COVERAGE, DISABILITY AND DEPENDENCY PROOF AND APPLICATION. (1) Any new or renewing subscriber contract delivered or issued for delivery in this state shall provide that an unmarried child under the age of twenty-five (25) years and who receives more than one-half (1/2) of his financial support from the parent shall be permitted to remain on the parent's or parents' contract. Further, any unmarried child of any age who is medically certified as disabled and financially dependent upon the parent is permitted to remain on the parent's or parents' contract.

(2) There shall be a provision that a subscriber's contract delivered or issued for delivery in this state more than one hundred twenty (120) days after the effective date of this act under which coverage of a dependent of

a subscriber terminates at a specified age shall, with respect to an unmarried child who is incapable of self-sustaining employment by reason of ~~mental retardation~~ intellectual disability or physical handicap disability and who became so incapable prior to attainment of the limiting age and who is chiefly dependent upon such member for support and maintenance, not to terminate while the contract remains in force and the dependent remains in such condition, if the member has within thirty-one (31) days of such dependent's attainment of the limiting age submitted proof of such dependent's incapacity as described herein. The service corporation may require at reasonable intervals during the two (2) years following the child's attainment of the limiting age subsequent proof of the child's disability and dependency. After the two (2) year period, such subsequent proof may not be required more than once each year.

SECTION 35. That Section 49-114, Idaho Code, be, and the same is hereby amended to read as follows:

49-114. DEFINITIONS -- M. (1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration fee is assessed is a combination of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Mileage" means actual distance that a vehicle has traveled.

(9) "Moped" means a limited-speed motor-driven cycle having:

(a) Both motorized and pedal propulsion that is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged; or

(b) Two (2) wheels or three (3) wheels with no pedals, which is powered solely by electrical energy, has an automatic transmission, a motor which produces less than two (2) gross brake horsepower, is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground and as originally manufactured, meets federal motor vehicle safety standards for motor-driven cycles. A moped is not required to be titled and no motorcycle endorsement is required for its operator.

(10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho Code. Such vehicle shall be titled and may be approved for motorcycle registration pursuant to section 49-402, Idaho Code, upon certification by the owner of the installation and use of conversion components that make the motorbike compliant with federal motor vehicle safety standards.

(11) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground that meets the federal motor vehicle safety standards as originally designed, and includes a converted motorbike, but does not include a motor-driven cycle, a motorbike, a tractor or a moped.

(12) "Motor carrier" means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.

(13) "Motor-driven cycle" means a cycle with a motor that produces five (5) brake horsepower or less as originally manufactured that meets federal motor vehicle safety standards as originally designed, and does not include mopeds. Such vehicle shall be titled and a motorcycle endorsement is required for its operation.

(14) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the National Fire Protection Association (NFPA) 1192 Standard on Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating and/or air conditioning, a potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(15) "Motorized wheelchair" means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a handicapped person with a disability.

(16) "Motor number." (See "Identifying number," section 49-110, Idaho Code)

(17) "Motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(18) "Motor vehicle liability policy" means an owner's or operator's policy of liability insurance, certified as provided in section 49-1210, Idaho Code, as proof of financial responsibility, and issued by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(19) "Motor vehicle record" means any record that pertains to a motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency.

SECTION 36. That Section 50-460, Idaho Code, be, and the same is hereby amended to read as follows:

50-460. ASSISTANCE TO VOTER. If any registered elector, who is unable by reason of physical ~~disability~~ or other ~~handicap~~ disability to record his vote by personally marking his ballot and who desires to vote, then and in that case such elector shall be assisted by the person of his choice or by one (1) of the election clerks. Such clerk or selected person shall mark the ballot in the manner directed by the elector and fold it properly and present it to the elector before leaving the voting compartment or area provided for such purpose. The elector shall then present the ballot to the judge of election in the manner provided above. If any registered elector is unable, due to physical ~~disability~~ or other ~~handicap~~ disability, to enter the polling place, he may be handed a ballot outside the polling place but within forty (40) feet thereof by one (1) of the election clerks, and in his presence but

in a secret manner, mark and return the same to such election officer who shall proceed as provided by law to record the ballot.

SECTION 37. That Section 54-903, Idaho Code, be, and the same is hereby amended to read as follows:

54-903. GENERAL DEFINITIONS. As used in this chapter:

(1) "Association" means the Idaho state dental association and the Idaho dental hygienists' association.

(2) "Board" means the state board of dentistry.

(3) "Conviction" or "convicted" means a finding of guilt by a judge or jury, an entry of a guilty plea by a defendant and its acceptance by the court, a forfeiture of a bail bond or collateral deposited to secure a defendant's appearance, a judgment of conviction, a suspended sentence, probation, or a withheld judgment.

(4) "Dental assistant" is a person who need not be licensed under this chapter, but who is regularly employed by a dentist at his office, who works under the dentist's supervision, and is adequately trained and qualified according to standards established by the board to perform the dental services permitted to be performed by assistants by this chapter and applicable rules of the board.

(5) "Dental hygienist" is a person both qualified and licensed by the laws of Idaho to practice dental hygiene.

(6) "Dental specialist" is a dentist who limits his practice to a specialty recognized by the American dental association, who has graduated from a board-approved postgraduate program in his specialty and is a person both qualified and licensed by the laws of Idaho to practice a dental specialty.

(7) "Dentist" is a person both qualified and licensed by the laws of Idaho to practice dentistry.

(8) "Direct supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist diagnose the condition to be treated, a dentist authorize the procedure to be performed, a dentist remain in the dental office while the procedure is performed, and that before dismissal of the patient, a dentist approves the work performed by the dental assistant or dental hygienist.

(9) "Extended access oral health care program" means and includes dental and dental hygiene treatment and services provided as part of a program conducted by or through a local, county, state or federal agency, hospital, long-term care facility, public health district, dental or dental hygiene school, tribal clinic, or migrant health center; or such other oral health care program approved on an annual basis by the board and conducted by or through a public or private entity, recognized under section 501(c)(3) of the federal Internal Revenue Code, to provide free or reduced fee dental and dental hygiene services to persons who, due to age, infirmity, ~~handicap~~, indigence or disability, are unable to receive regular dental and dental hygiene treatment in a private office.

(10) "General supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize the procedure which is carried out, but not requiring that a dentist be in the office when the authorized procedure is performed.

(11) "Indirect supervision" is supervision of a dental assistant or dental hygienist requiring that a dentist authorize a procedure and that a dentist be in the dental office while the procedure is performed by the assistant or hygienist.

SECTION 38. That Section 54-935, Idaho Code, be, and the same is hereby amended to read as follows:

54-935. VOLUNTEER'S LICENSE -- QUALIFICATIONS -- PERMISSIBLE PRACTICE -- IMMUNITY FROM LIABILITY. (1) Upon application and qualification, the board may issue, without examination, a volunteer's license to a dentist or dental hygienist who is retired from the active practice of dentistry or dental hygiene to enable the retired dentist or dental hygienist to provide dental or dental hygiene services at specified locations to persons who, due to age, infirmity, ~~handicap~~, indigence or disability, are unable to receive regular dental treatment.

(2) For purposes of this section, a dentist or dental hygienist previously holding a dental or dental hygiene license with active status in Idaho or another state shall be considered to be retired if, prior to the date of application for a volunteer's license, he has surrendered or allowed his license with active status to expire with the intention of ceasing to actively practice as a dentist or dental hygienist for remuneration, he has converted his license with active status to a license with inactive status with the intention of ceasing to actively practice as a dentist or dental hygienist for remuneration, or he has converted his license with active or inactive status to a license with retirement or similar status that proscribed the active practice of dentistry or dental hygiene. A dentist or dental hygienist whose dental or dental hygiene license had been restricted, suspended, revoked, surrendered, resigned, converted, or allowed to lapse or expire as the result of disciplinary action or in lieu of disciplinary action being taken shall not be eligible for a volunteer's license.

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

(a) Verification of graduation from a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association as of the date of the applicant's graduation;

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

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

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

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

(4) For purposes of this section, the specified locations at which a dentist or dental hygienist holding a volunteer's license may provide dental or dental hygiene services shall be limited to the premises or sites of

extended access oral health care programs. The dental services provided at an extended access oral health care program by a dentist holding a volunteer's license shall not require or include the administration of general anesthesia or conscious sedation to a patient unless otherwise specifically approved in advance by the board.

(5) A volunteer's license shall be valid for that period specified for dentists and dental hygienists in section 54-920, Idaho Code, and may be renewed upon application of the licensee unless the license has been revoked in accordance with this section. The board shall maintain a register of all dentists and dental hygienists who hold a volunteer's license. The board shall not charge an application or licensing fee for issuing or renewing a volunteer's license. A volunteer's license cannot be converted to a license with active, inactive, provisional or special status.

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

(7) When practicing dentistry or dental hygiene within the permissible scope of a volunteer's license, the holder of a volunteer's license issued pursuant to this section shall be immune from liability for any civil action arising out of the provision of volunteer dental or dental hygiene services. This section does not provide or extend immunity to a holder of a volunteer's license for any acts or omissions constituting negligence.

SECTION 39. That Section 54-1841, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

(ii) He has converted his license with active status to a license with inactive status with the intention of ceasing to actively practice as a physician for remuneration; or

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

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

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

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

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

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

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

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

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

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

SECTION 40. That Section 54-3401, Idaho Code, be, and the same is hereby amended to read as follows:

54-3401. DEFINITIONS. As used in this chapter:

(1) "Board" means the Idaho state licensing board of professional counselors and marriage and family therapists.

(2) "Bureau chief" means the chief of the bureau of occupational licenses of the state of Idaho.

(3) "Department" means the department of self-governing agencies of the state of Idaho.

(4) "Licensed associate marriage and family therapist" means any person licensed under this chapter as an associate marriage and family therapist to practice marriage and family therapy under supervision as set forth in this chapter.

(5) "Licensed marriage and family therapist" means any person licensed under this chapter to practice marriage and family therapy as defined in this chapter.

(6) "Licensed professional counselor" means any person licensed under this chapter to practice professional counseling as defined in this chapter.

(7) "Marriage and family therapy" means the evaluation and treatment of mental and emotional disorders, whether cognitive, affective or behavioral, within the context of marriage and family systems. Marriage and family ther-

apy includes the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples and families for the purpose of treating nervous and mental disorders.

(8) "Practice of marriage and family therapy" means the rendering of professional marriage and family therapy services to individuals, couples and families, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private. A licensed associate marriage and family therapist shall only practice marriage and family therapy under supervision as established in this chapter and rules of the board.

(9) "Practice of professional counseling" means the application of mental health, psychological, and human development principles in order to facilitate human development and adjustment throughout the life span; prevent, assess, and treat mental, emotional or behavioral disorders and associated distresses which interfere with mental health; conduct assessments for the purpose of establishing treatment goals and objectives; and plan, implement and evaluate treatment plans using counseling treatment interventions. "Counseling treatment interventions" means the application of cognitive, affective, behavioral, and systemic counseling strategies, which include principles of development, wellness and pathology that reflect a pluralistic society. Such interventions are specifically implemented in the context of a professional counseling relationship.

The practice of professional counseling includes, but is not limited to:

- (a) Individual, group, marriage and family counseling and therapy;
- (b) Assessment;
- (c) Crisis intervention;
- (d) Treatment of persons with mental and emotional disorders;
- (e) Guidance and consulting to facilitate normal growth and development, including educational and career development;
- (f) Utilization of functional assessment and counseling for persons requesting assistance in adjustment to a disability ~~or handicapping condition~~;
- (g) Consulting;
- (h) Research; and
- (i) Referral.

The use of specific methods, techniques, or modalities within the practice of professional counseling is restricted to professional counselors appropriately trained in the use of such methods, techniques or modalities.

SECTION 41. That Section 56-101, Idaho Code, be, and the same is hereby amended to read as follows:

56-101. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter and shall have the following meanings:

(1) "Appraisal" means the method of determining the value of the property as determined by an appraisal conducted by a member of the appraisal institute (MAI), or successor organization. The appraisal must specifically identify the values of land, building, equipment, and goodwill.

(2) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(3) "Bed-weighted median" is determined by arraying the average per diem cost per bed of all facilities from high to low and identifying the bed at the point in the array at which half of the beds have equal or higher per diem costs and half have equal or lower per diem costs. The identified bed is the median bed. The per diem cost of the median bed is the bed-weighted median.

(4) "Case mix index" is a numeric score assigned to each facility resident, based on the resident's physical and mental condition, which projects the amount of relative resources needed to provide care to the resident.

(5) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(6) "Direct care costs" consists of the following costs directly assigned to the nursing facility or allocated to the nursing facility through medicare cost finding principles:

(a) Direct nursing salaries which include the salaries of registered nurses, licensed professional nurses, certificated nurse's aides, and unit clerks; and

(b) Routine nursing supplies; and

(c) Nursing administration; and

(d) Direct portion of medicaid related ancillary services; and

(e) Social services; and

(f) Raw food; and

(g) Employee benefits associated with the direct salaries.

(7) "Director" means the director of the department of health and welfare or the director's designee.

(8) "Equity" means the ~~new~~ net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(9) "Facility" means an entity which contracts with the director to provide services to recipients in a structure owned, controlled, or otherwise operated by such entity, and which entity is responsible for operational decisions. In conjunction with the use of the term "facility":

(a) "~~Free-standing~~ Freestanding intermediate care" means an intermediate care facility, as defined in and licensed under chapter 13, title 39, Idaho Code, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code; and

(b) "~~Free-standing~~ Freestanding skilled care" means a nursing facility, as defined in and licensed under chapter 13, title 39, Idaho Code, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code; and

(c) "~~Free-standing~~ Freestanding special care" means a facility that provides either intermediate care, or skilled care, or intermediate care for ~~the mentally retarded~~ people with intellectual disabilities, or any combination of either, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code; and

(d) "Hospital-based" means a nursing or intermediate care facility, as defined in and licensed under chapter 13, title 39, Idaho Code, which is owned, managed, or operated by, or is otherwise a part of a hospital, as defined in section 39-1301(a), Idaho Code.

(10) "Forced sale" is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner which requires ownership transfer to existing partner or partners, or a sale required by the ruling of a federal agency or by a court order.

(11) "Goodwill" means the amount paid by the purchaser that exceeds the net tangible assets received. The value of goodwill is derived from the economic benefits that a going concern may enjoy, as compared with a new one, from established relations in the related markets, with government departments and other noncommercial bodies and with personal relationships. These intangible assets cannot be separated from the business and sold as can plant and equipment. Under the theory that the excess payment would be made only if expected future earnings justified it, goodwill is often described as the

price paid for excess future earnings. The amortization of goodwill is non-allowable, nonreimbursable expense.

(12) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(13) "Indirect care costs" consists of the following costs either directly coded to the nursing facility or allocated to the nursing facility through the medicare step-down process:

- (a) Administrative and general care cost; and
- (b) Activities; and
- (c) Central services and supplies; and
- (d) Laundry and linen; and
- (e) Dietary ("non-raw food" costs); and
- (f) Plant operation and maintenance (excluding utilities); and
- (g) Medical records; and
- (h) Employee benefits associated with the indirect salaries; and
- (i) Housekeeping; and
- (j) Other costs not included in direct care costs or costs exempt from cost limits.

(14) "Interest rate limitation" means that the interest rate allowed for working capital loans and for loans for major movable equipment for intermediate care facilities for ~~the mentally retarded~~ people with intellectual disabilities shall be the prime rate as published in the western edition of the Wall Street Journal or successor publication, plus one percent (1%) at the date the loan is made. All interest expense greater than the amount derived by using the limitation above shall be nonreimbursable; provided, however, that this interest rate limitation shall not be imposed against loans or leases which were made prior to July 1, 1984. Said loans or leases shall be subject to the tests of reasonableness, relationship to patient care and necessity.

(15) "Intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities" means an habilitative facility designed and operated to meet the educational, training, habilitative and intermittent medical needs of the developmentally disabled.

(16) "Major movable equipment" means such items as accounting machines, beds, wheelchairs, desks, furniture, vehicles, etc. The general characteristics of this equipment are:

- (a) A relatively fixed location in the building;
- (b) Capable of being moved, as distinguished from building equipment;
- (c) A unit cost sufficient to justify ledger control;
- (d) Sufficient size and identity to make control feasible by means of identification tags; and
- (e) A minimum life of approximately three (3) years.

(17) "Medicaid" means the 1965 amendments to the social security act (P.L. 89-97), as amended.

(18) "Minor movable equipment" includes such items as wastebaskets, bedpans, syringes, catheters, silverware, mops, buckets, etc. The general characteristics of this equipment are:

- (a) In general, no fixed location and subject to use by various departments of the provider's facility;
- (b) Comparatively small in size and unit cost;
- (c) Subject to inventory control;
- (d) Fairly large quantity in use; and
- (e) Generally, a useful life of approximately three (3) years or less.

(19) "Net book value" means the historical cost of an asset, less accumulated depreciation.

(20) "Normalized per diem costs" refers to direct care costs that have been adjusted based on the facility's case mix index for purposes of making the per diem costs comparable among facilities. Normalized per diem costs

are calculated by dividing the facility's direct care per diem costs by its facility-wide case mix index, and multiplying the result by the statewide average case mix index.

(21) "Nursing facility inflation rate" means the most specific skilled nursing facility inflation rate applicable to Idaho established by data resources, inc., or its successor. If a state or regional index has not been implemented, the national index shall be used.

(22) "Patient-day" means a calendar day of care which will include the day of admission and exclude the day of discharge unless discharge occurs after 3:00 p.m. or it is the date of death, except that, when admission and discharge occur on the same day, one (1) day of care shall be deemed to exist.

(23) "Property costs" means the total of allowable interest expense, plus depreciation, property insurance, real estate taxes, amortization, and allowable lease/rental expense. The department may require and utilize an appraisal to establish those components of property costs which are identified as an integral part of an appraisal.

(24) "Raw food" means food used to meet the nutritional needs of the residents of a facility, including liquid dietary supplements, liquid thickeners, and tube feeding solutions.

(25) "Reasonable property insurance" means that the consideration given is an amount that would ordinarily be paid by a cost-conscious buyer for comparable insurance in an arm's length transaction. Property insurance per licensed bed in excess of two (2) standard deviations above the mean of the most recently reported property insurance costs per licensed bed of all facilities in the reimbursement class as of the end of a facility's fiscal year shall not be considered reasonable.

(26) "Recipient" means an individual determined eligible by the director for the services provided in the state plan for medicaid.

(27) "Rural hospital-based nursing facilities" are those hospital-based nursing facilities not located within a metropolitan statistical area (MSA) as defined by the United States bureau of the census.

(28) "Urban hospital-based nursing facilities" are those hospital-based nursing facilities located within a metropolitan statistical area (MSA) as defined by the United States bureau of the census.

(29) "Utilities" means all expenses for heat, electricity, water and sewer.

SECTION 42. That Section 56-108, Idaho Code, be, and the same is hereby amended to read as follows:

56-108. PROPERTY REIMBURSEMENT -- FACILITIES WILL BE PAID A PROPERTY RENTAL RATE, PROPERTY TAXES AND REASONABLE PROPERTY INSURANCE. The provisions of this section shall not apply to hospital-based facilities which are subject to the provisions of section 56-120, Idaho Code, or to intermediate care facilities for ~~the mentally retarded~~ people with intellectual disabilities which are subject to the provisions of section 56-113, Idaho Code. The provisions of this section are applicable to all other facilities. The property rental rate includes compensation for major movable equipment but not for minor movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. Prior to final audit, the director shall determine an interim rate that approximates the property rental rate. The property rental rate shall be determined as follows:

(1) Except as determined pursuant to this section:

Property rental rate = ("Property base") x ("Change in building costs") x $\frac{40 - \text{"Age of facility"}}{40}$

40

where:

(a) "Property base" = \$9.24 for all facilities.

(b) "Change in building costs" = 1.0 from April 1, 1985, through December 31, 1985. Thereafter "Change in building costs" will be adjusted for each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year, published by the Marshall Swift Valuation Service. However, for freestanding skilled care facilities "change in building costs" = 1.145 from July 1, 1991, through December 31, 1991. Thereafter, change in building costs for freestanding skilled care facilities will be adjusted each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year as published by the Marshall Swift Valuation Service or the consumer price index for renter's costs available in September of the prior year, whichever is greater.

(c) "Age of facility" = the director shall determine the effective age, in years, of the facility by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof shall be assigned an age of more than thirty (30) years. However, beginning July 1, 1991, for freestanding skilled care facilities, "age of facility" will be a revised age which is the lesser of the age established under other provisions of this section or the age which most closely yields the rate allowable to existing facilities as of June 30, 1991, under subsection (1) of this section. This revised age shall not increase over time.

(i) If adequate information is not submitted by the facility to document that the facility, or portion thereof, is newer than thirty (30) years, the director shall set the effective age at thirty (30) years. Adequate documentation shall include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contracts, and original notes of indebtedness. The director shall compute an appropriate age for facilities when documentation is provided to reflect expenditures for building expansion or remodeling prior to the effective date of this section. The computation shall decrease the age of a facility by an amount consistent with the expenditure and the square footage impacted and shall be calculated as follows:

1. Determine, according to indexes published by the Marshall Swift Valuation Service, the construction cost per square foot of an average class D convalescent hospital in the western region for the year in which the expansion or renovation was completed.

2. Multiply the total square footage of the building following the expansion or renovation by the cost per square foot to establish the estimated replacement cost of the building at that time.

3. The age of the building at the time of construction shall be multiplied by the quotient of total actual renovation or remodeling costs divided by replacement cost. If this number is equal to or greater than 2.0, the age of the building in years will be reduced by this number, rounded to the nearest whole number. In no case will the age be less than zero (0).

(ii) The director shall adjust the effective age of a facility when major repairs, replacement, remodeling or renovation initiated after April 1, 1985, would result in a change in age of at least one (1) year. Such changes shall not increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the adjusted property base determined in subsec-

tions (1) (a) and (1) (b) of this section and the rental rate paid to the facility at the time of completion of such changes but before the change component has been added to said rate. The adjusted effective age of the facility will be used in future age determinations, unless modified by provisions of this chapter.

(iii) The director shall allow for future adjustments to the effective age of a facility or its rate to reimburse an appropriate amount for property expenditures resulting from new requirements imposed by state or federal agencies. The director shall, within twelve (12) months of verification of expenditure, reimburse the medicaid share of the entire cost of such new requirements as a one-time payment if the incurred cost for a facility is less than one hundred dollars (\$100) per bed.

(d) At no time shall the property rental rate, established under subsection (1) of this section, be less than that allowed in subsection (1) (c) (ii), with the rate in effect December 31, 1988, being the base. However, subsequent to the application of this paragraph, before any rate increase may be paid, it must first be offset by any rate decrease that would have been realized if the provisions of this paragraph had not been in effect.

(2) A "grandfathered rate" for existing facilities will be determined by dividing the audited allowable annual property costs, exclusive of taxes and insurance, for assets on hand as of January 1, 1985, by the total patient days in the period July 1, 1984, through June 30, 1985. The property rental rate will be the greater of the amount determined pursuant to subsection (1) of this section, or the grandfathered rate. The director shall adjust the grandfathered rate of a facility to compensate the owner for the cost of major repairs, replacement, expansion, remodeling and renovation initiated prior to April 1, 1985, and completed after January 1, 1985, but completed no later than December 31, 1985. For facilities receiving a grandfathered rate making major repairs, replacement, expansion, remodeling or renovation, initiated after January 1, 1986, the director shall compare the grandfathered rate of the facility to the actual depreciation, amortization, and interest for the current audit period plus the per diem of the recognized cost of major repairs, replacement, expansion, remodeling or renovation, amortized over the American hospital association guideline component useful life. The greater of the two (2) numbers will be allowed as the grandfathered rate. Such changes shall not increase the allowable grandfathered rate by more than three-fourths (3/4) of the difference between the current grandfathered rate and the adjusted property base determined in subsections (1) (a) and (1) (b) of this section.

(3) The property rental rate per day of care paid to facilities with leases signed prior to March 30, 1981, will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1985, exclusive of taxes and insurance when paid separately, divided by total patient days in the period June 30, 1983, through July 1, 1984. Effective July 1, 1989, the director shall adjust the property rental rate of a leased skilled facility under this paragraph to compensate for the cost of major repairs, replacement, expansion, remodeling and renovation initiated after January 1, 1985, by adding the per diem of the recognized cost of such expenditures amortized over the American hospital association guideline component useful life. Such addition shall not increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the current property rental rate and the adjusted property base as determined in paragraphs (a) and (b) of subsection (1) of this section. Where such leases contain provisions that bind the lessee to accept an increased rate, reimbursement shall be at a rate per day of care which reflects the increase in the lease rate. Where such leases bind the lessee to the lease and allow the rate to be renegotiated, reimbursement shall be at a

rate per day of care which reflects an annual increase in the lease rate not to exceed the increase in the consumer price index for renters costs. After the effective date of this subsection, if such a lease is terminated or if the lease allows the lessee the option to terminate other than by purchase of the facility, the property rental rate shall become the amount determined by the formula in subsection (1) of this section as of the date on which the lease is or could be terminated.

(4) (a) In the event of a sale, the buyer shall receive the property rental rate as provided in subsection (1) of this section, except under the conditions of paragraph (b) of this subsection or except in the event of the first sale for a freestanding skilled care facility receiving a grandfathered rate after June 30, 1991, whereupon the new owner shall receive the same rate that the seller would have received at any given point in time.

(b) In the event of a forced sale of a facility where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, whichever is higher, but not exceeding the rate that would be due the seller.

SECTION 43. That Section 56-113, Idaho Code, be, and the same is hereby amended to read as follows:

56-113. INTERMEDIATE CARE FACILITIES FOR ~~THE MENTALLY RETARDED~~ PEOPLE WITH INTELLECTUAL DISABILITIES. (1) Services provided by intermediate care facilities for ~~the mentally retarded people with intellectual disabilities~~, with the exception of state operated facilities, shall be paid in accordance with the provisions of this section, and not as provided in any other section of this chapter, unless otherwise provided in this section. State operated facilities shall be reimbursed costs based on medicare reasonable cost provisions.

(2) Except as otherwise provided in this section, intermediate care facilities for ~~the mentally retarded people with intellectual disabilities~~ shall remain at the rate paid in state fiscal year 2009 through June 30, 2010. Thereafter, intermediate care facilities for ~~the mentally retarded people with intellectual disabilities~~ shall be reimbursed based on a prospective rate system without retrospective settlement effective October 1, 1996. In no event, shall payments to this class of facility exceed, in the aggregate, the amount which would be reimbursed using medicare cost reimbursement methods as defined in the medicare provider reimbursement manual (HCFA - pub. 15).

(3) The prospective rate shall consist of the following components:

(a) A component for reasonable property costs which shall be computed using the property rental rate methodology set forth in section 56-108, Idaho Code, with the exceptions that the base rate shall exclude major moveable equipment and grandfathered rates will not apply. The initial base rate shall be eight dollars and ninety-four cents (\$8.94) for facilities that accommodate residents in wheelchairs and five dollars and eighty-one cents (\$5.81) for facilities that cannot accommodate residents in wheelchairs. The rates shall be adjusted annually as provided in section 56-108, Idaho Code; and

(b) A component for forecasted reasonable day treatment costs which shall be subject to a per patient day limit as provided in rule; and

(c) A component for all other allowable costs as determined in accordance with department rules which shall be subject to a limitation based on a percentage of the forecasted median for such costs of intermediate care facilities for ~~the mentally retarded people with intellectual disabilities~~, excluding state operated facilities; and

(d) A component that provides an efficiency increment payment of twenty cents (20¢) for each one dollar (\$1.00) per patient day that the facility is under the limit described in subsection (3) (c) of this section up to a maximum payment of three dollars (\$3.00) per patient day.

(4) The director may require retrospective settlement as provided by rule in limited circumstances including, but not limited to:

(a) The facility fails to meet quality of care standards; or

(b) The facility is new or operated by a new provider, until such time as a prospective rate is set; or

(c) The prospective rate resulted from fraud, abuse or error.

(5) The director shall have authority to provide by rule, exceptions to the limitations described in subsection (3) of this section.

(6) The director shall promulgate the rules necessary to carry out the provisions of this section.

SECTION 44. That Section 56-203, Idaho Code, be, and the same is hereby amended to read as follows:

56-203. POWERS OF STATE DEPARTMENT. The state department shall have the power to:

(a~~1~~) Enter into contracts and agreements with the federal government through its appropriate agency or instrumentality whereby the state of Idaho shall receive federal grants-in-aid or other benefits for public assistance or public welfare purposes under any act or acts of congress heretofore or hereafter enacted;

(b~~2~~) Cooperate with the federal government in carrying out the purposes of any federal acts pertaining to public assistance or welfare services, and in other matters of mutual concern;

(c~~3~~) Cooperate with county governments and other branches of government and other agencies, public or private, in administering and furnishing public welfare services;

(d~~4~~) Enter into reciprocal agreements with other states relative to the provisions of public assistance and welfare services to residents and non-residents;

(e~~5~~) Initiate and administer public assistance and social services for persons with physically or mentally handicapped disabilities;

(f~~6~~) Establish such requirements of residence for public assistance under this act as may be deemed advisable, subject to any limitations imposed in this act;

(g~~7~~) Define persons entitled to medical assistance in such terms as will meet requirements for federal financial participation in medical assistance payments;

(h~~8~~) Accept the legal custody of children committed to it by district courts of this state under the Child Protective Act, to provide protective supervision as defined therein, to place children for adoption when such children are in the legal custody of the state department and are legally available for adoption and to exercise consent to adoption when the authority to do so is vested in the department by court order or legally authorized parental relinquishment;

(i~~9~~) Determine the amount, duration and scope of care and services to be purchased as medical assistance on behalf of needy eligible individuals;

(j~~10~~) Manage and operate the Idaho state school and hospital at Nampa, Idaho.

SECTION 45. That Section 56-218A, Idaho Code, be, and the same is hereby amended to read as follows:

56-218A. MEDICAL ASSISTANCE LIENS DURING LIFE OF RECIPIENT. (1) The department may recover and may impose a lien against the real property of any

individual prior to his death for medical assistance paid or about to be paid under this chapter on behalf of an individual:

- (a) Who is an inpatient in a nursing facility, intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the state plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs; and
 - (b) With respect to whom the department has determined, after notice and opportunity for hearing, that he cannot reasonably be expected to be discharged from the medical institution and to return home.
- (2) No lien may be imposed on the home of an individual under subsection (1) of this section if any of the following is lawfully residing in such home:
- (a) The spouse of such individual;
 - (b) Such individual's child under age twenty-one (21) years;
 - (c) Such individual's child who is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c; or
 - (d) A sibling of such individual who holds an equity interest in such home and who was residing in such home for a period of at least one (1) year prior to the individual's admission to the medical institution.
- (3) (a) The lien shall be perfected by filing in the office of the secretary of state a notice of lien pursuant to section 45-1904, Idaho Code. The notice of lien shall include, in addition to the information required by section 45-1904, Idaho Code, the amount paid or about to be paid by the department on behalf of the individual, and, if applicable, the fact that the amount of the lien may increase over time.
- (b) The department shall file any notice of lien under this section within ninety (90) days of the final determination of the department, after hearing if any, required in subsection (1)(b) of this section, with the exception of property against which the department is prevented from filing a lien pursuant to subsection (2) of this section. With respect to the property described in subsection (2) of this section, the department shall file a notice of lien within ninety (90) days after the department is notified in writing that subsection (2) of this section ceases to apply to the property.
- (4) Any lien imposed in accordance with subsection (1) of this section shall dissolve upon the individual's discharge from the medical institution and return home.
- (5) No recovery shall be made under this section for medical assistance correctly paid except from such individual's estate as defined in subsection (4) of section 56-218, Idaho Code, and subject to subsections (1)(d), (5) and (6) of section 56-218, Idaho Code, or upon sale of the property subject to a lien and may be made only after the death of such individual's surviving spouse, if any, and only at a time:
- (a) When he has no surviving child who is under age twenty-one (21) years, or who is blind or permanently and totally disabled as defined in 42 U.S.C. 1382c; or
 - (b) In the case of a lien on an individual's home under subsection (1) of this section, when none of the following is lawfully residing in such home who has lawfully resided in such home on a continuous basis since the date of the individual's admission to the medical institution:
 - (i) A sibling of the individual, who was residing in the individual's home for a period of at least one (1) year immediately before the date of the individual's admission to the medical institution; or
 - (ii) A son or daughter of the individual, who was residing in the individual's home for a period of at least two (2) years immediately before the date of the individual's admission to the medical institution and who establishes to the satisfaction of the state

that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution.

(6) The director shall promulgate rules reasonably necessary to implement this section including, but not limited to, rules establishing undue hardship waivers, as provided in section 56-218(7), Idaho Code, and a procedure for notice and opportunity for hearing on the department's determination that an individual cannot reasonably be expected to be discharged from a medical institution and to return home.

SECTION 46. That Section 56-255, Idaho Code, be, and the same is hereby amended to read as follows:

56-255. MEDICAL ASSISTANCE PROGRAM -- SERVICES TO BE PROVIDED. (1) The department may make payments for the following services furnished by providers to participants who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be reimbursed only when medically necessary and in accordance with federal law and regulation, Idaho law and department rule. Notwithstanding any other provision of this chapter, medical assistance includes the following benefits specific to the eligibility categories established in section 56-254(1), (2) and (3), Idaho Code, as well as a list of benefits to which all Idaho medicaid participants are entitled, defined in subsection (5) of this section.

(2) Specific health benefits and limitations for low-income children and working-age adults with no special health needs include:

- (a) All services described in subsection (5) of this section;
- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found; and
- (c) Cost-sharing required of participants. Participants in the low-income children and working-age adult group are subject to the following premium payments, as stated in department rules:
 - (i) Participants with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guideline are not required to pay premiums; and
 - (ii) Participants with family incomes above one hundred thirty-three percent (133%) of the federal poverty guideline will be required to pay premiums in accordance with department rule.

(3) Specific health benefits for persons with disabilities or special health needs include:

- (a) All services described in subsection (5) of this section;
- (b) Early and periodic screening, diagnosis and treatment services for individuals under age twenty-one (21) years, and treatment of conditions found;
- (c) Case management services as defined in accordance with section 1905(a)(19) or section 1915(g) of the social security act; and
- (d) Mental health services, including:
 - (i) Inpatient psychiatric facility services whether in a hospital, or for persons under age twenty-two (22) years in a freestanding psychiatric facility, as permitted by federal law, in excess of those limits in department rules on inpatient psychiatric facility services provided under subsection (5) of this section;
 - (ii) Outpatient mental health services in excess of those limits in department rules on outpatient mental health services provided under subsection (5) of this section; and
 - (iii) Psychosocial rehabilitation for reduction of mental disability for children under the age of eighteen (18) years with a serious emotional disturbance (SED) and for severely and persis-

- tently mentally ill adults, aged eighteen (18) years or older, with severe and persistent mental illness;
- (e) Long-term care services, including:
 - (i) Nursing facility services, other than services in an institution for mental diseases, subject to participant cost-sharing;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require nursing facility level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including an option for self-determination, which will enable individuals to have greater freedom to manage their own care; and
 - (iii) Personal care services in a participant's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse;
 - (f) Services for persons with developmental disabilities, including:
 - (i) Intermediate care facility services, other than such services in an institution for mental diseases, for persons determined in accordance with section 1902(a)(31) of the social security act to be in need of such care, including such services in a public institution, or distinct part thereof, for ~~the mentally retarded~~ persons with intellectual disabilities or persons with related conditions;
 - (ii) Home-based and community-based services, subject to federal approval, provided to individuals who require an intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities (ICF/MR/ID) level of care who, without home-based and community-based services, would require institutionalization. These services will include community supports, including an option for self-determination, which will enable individuals to have greater freedom to manage their own care; and
 - (iii) Developmental services. The department shall pay for rehabilitative services, including medical or remedial services provided by a facility that has entered into a provider agreement with the department and is certified as a developmental disabilities agency by the department;
 - (g) Home health services, including:
 - (i) Intermittent or part-time nursing services provided by a home health agency or by a registered nurse when no home health agency exists in the area;
 - (ii) Home health aide services provided by a home health agency; and
 - (iii) Physical therapy, occupational therapy or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility;
 - (h) Hospice care in accordance with section 1905(o) of the social security act;
 - (i) Specialized medical equipment and supplies;
 - (j) Medicare cost-sharing, including:
 - (i) Medicare cost-sharing for qualified medicare beneficiaries described in section 1905(p) of the social security act;
 - (ii) Medicare part A premiums for qualified disabled and working individuals described in section 1902(a)(10)(E)(ii) of the social security act;
 - (iii) Medicare part B premiums for specified low-income medicare beneficiaries described in section 1902(a)(10)(E)(iii) of the social security act; and

- (iv) Medicare part B premiums for qualifying individuals described in section 1902(a)(10)(E)(iv) and subject to section 1933 of the social security act; and
- (k) Nonemergency medical transportation.
- (4) Specific health benefits for persons over twenty-one (21) years of age who have medicare and medicaid coverage include:
 - (a) All services described in subsection (5) of this section, other than if provided under the federal medicare program;
 - (b) All services described in subsection (3) of this section, other than if provided under the federal medicare program;
 - (c) Other services that supplement medicare coverage; and
 - (d) Nonemergency medical transportation.
 - (5) Benefits for all medicaid participants, unless specifically limited in subsection (2), (3) or (4) of this section include the following:
 - (a) Health care coverage including, but not limited to, basic inpatient and outpatient medical services, and including:
 - (i) Physicians' services, whether furnished in the office, the patient's home, a hospital, a nursing facility or elsewhere;
 - (ii) Services provided by a physician or other licensed practitioner to prevent disease, disability and other health conditions or their progressions, to prolong life, or to promote physical or mental health; and
 - (iii) Hospital care, including:
 - 1. Inpatient hospital services other than those services provided in an institution for mental diseases;
 - 2. Outpatient hospital services; and
 - 3. Emergency hospital services;
 - (iv) Laboratory and x-ray services;
 - (v) Prescribed drugs;
 - (vi) Family planning services and supplies for individuals of child-bearing age;
 - (vii) Certified pediatric or family nurse practitioners' services;
 - (viii) Emergency medical transportation;
 - (ix) Mental health services, including:
 - 1. Outpatient mental health services that are appropriate, within limits stated in department rules; and
 - 2. Inpatient psychiatric facility services within limits stated in department rules;
 - (x) Medical supplies, equipment, and appliances suitable for use in the home; and
 - (xi) Physical therapy and related services;
 - (b) Primary care case management;
 - (c) Dental services, and medical and surgical services furnished by a dentist in accordance with section 1905(a)(5)(B) of the social security act;
 - (d) Medical care and any other type of remedial care recognized under Idaho law, furnished by licensed practitioners within the scope of their practice as defined by Idaho law, including:
 - (i) Podiatrists' services;
 - (ii) Optometrists' services;
 - (iii) Chiropractors' services; and
 - (iv) Other practitioners' services, in accordance with department rules;
 - (e) Services for individuals with speech, hearing and language disorders, provided by or under the supervision of a speech pathologist or audiologist;
 - (f) Eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist;

- (g) Services provided by essential providers, including:
- (i) Rural health clinic services and other ambulatory services furnished by a rural health clinic in accordance with section 1905(1) (1) of the social security act;
 - (ii) Federally qualified health center (FQHC) services and other ambulatory services that are covered under the plan and furnished by an FQHC in accordance with section 1905(1) (2) of the social security act;
 - (iii) Indian health services;
 - (iv) District health departments; and
 - (v) The family medicine residency of Idaho and the Idaho state university family medicine residency;
- (h) Any other medical care and any other type of remedial care recognized under state law, specified by the secretary of the federal department of health and human services; and
- (i) Physician, hospital or other services deemed experimental are excluded from coverage. The director may allow coverage of procedures or services deemed investigational if the procedures or services are as cost-effective as traditional, standard treatments.

SECTION 47. That the Heading for Chapter 7, Title 56, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 7
RIGHTS OF THE BLIND AND PHYSICALLY HANDICAPPED PERSONS WITH PHYSICAL
DISABILITIES

SECTION 48. That Section 56-701, Idaho Code, be, and the same is hereby amended to read as follows:

56-701. POLICY OF STATE. It is the policy of this state to encourage and enable the blind, the visually ~~handicapped~~ impaired, the hearing impaired, and the otherwise physically disabled to participate fully in the social and economic life of the state and to engage in remunerative employment.

SECTION 49. That Section 56-701A, Idaho Code, be, and the same is hereby amended to read as follows:

56-701A. DEFINITIONS. As used in this chapter and chapter 58, title 18, Idaho Code:

(1) "Assistance device" means a cane or walking stick, predominantly white or metallic in color, with or without red tip, or a manual or motorized wheelchair or similar scooter, or other similar devices that enhance the safety or mobility of a disabled person.

(2) "Assistance dog" means a dog that has been trained as a guide dog for a blind or visually impaired person, a hearing dog for a hearing impaired person, or a service dog for a physically disabled person.

(3) "Disabled person" means a hearing, visually or physically impaired person.

(4) "Dog-in-training" means a dog being specifically trained to develop social, environmental and other skills needed for admission to a training school or other program for assistance dogs. Dogs-in-training shall wear a jacket, collar, scarf or other similar article identifying it as a dog-in-training.

(5) "Guide dog" means a dog that has been specially trained to aid a particular blind or visually impaired person.

(6) "Hearing dog" means a dog that has been specially trained to aid a particular hearing impaired person.

(7) "Hearing impaired person" means a person who has a hearing impairment manifested by a speech discrimination score of forty percent (40%) or more in the better ear with appropriate correction as certified by a licensed otologist, licensed audiologist, or the Idaho division of vocational rehabilitation.

(8) "Physically impaired person" means any person with any substantial physical disability which prevents normal participation in community or life activities as are available and participated in by persons with no such afflictions or conditions of the same age and sex.

(9) "Service dog" means a dog that has been specially trained to aid a particular physically disabled person with a physical disability other than sight or hearing impairment.

(10) "Visually impaired person" ~~or "visually handicapped person"~~ means any person who is blind, totally blind, partially blind or otherwise visually ~~handicapped~~ impaired meaning such person has central visual acuity not exceeding 20/200 in the better eye, with corrected lenses, as measured by the Snellen test, or visual acuity greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than twenty (20) degrees.

SECTION 50. That Section 56-702, Idaho Code, be, and the same is hereby amended to read as follows:

56-702. RIGHT TO FULL AND FREE USE OF STREETS, HIGHWAYS, PUBLIC BUILDINGS AND PUBLIC FACILITIES. The blind, the visually ~~handicapped~~ impaired, the hearing impaired, and the otherwise physically disabled have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

SECTION 51. That Section 56-703, Idaho Code, be, and the same is hereby amended to read as follows:

56-703. RIGHT TO FULL AND EQUAL ACCOMMODATIONS IN ALL COMMON CARRIERS, HOTELS, LODGING HOUSES, PLACES OF PUBLIC ACCOMMODATION OR OTHER PUBLIC PLACES. The blind, the visually ~~handicapped~~ impaired, the hearing impaired, and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, and railroad trains, motor buses, streetcars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodations, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

SECTION 52. That Section 56-707, Idaho Code, be, and the same is hereby amended to read as follows:

56-707. RIGHT TO BE EMPLOYED IN EMPLOYMENT SUPPORTED IN WHOLE OR IN PART BY PUBLIC FUNDS -- RESTRICTION -- USE OF SICK LEAVE. (1) The blind, the visually ~~handicapped~~ impaired, the hearing impaired, and the otherwise disabled shall be employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

(2) Persons employed as provided in subsection (1) of this section, may use accrued sick leave for the purpose of obtaining guide dogs and necessary training.

SECTION 53. That Section 56-802, Idaho Code, be, and the same is hereby amended to read as follows:

56-802. DEFINITIONS. For the purposes of this act:

(1) "Hard-to-place child" means a child who is difficult to place for adoption or guardianship because of ethnic background, race, color, age, sibling grouping, or physical or emotional ~~handicap~~ disability.

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

SECTION 54. That Section 56-1004A, Idaho Code, be, and the same is hereby amended to read as follows:

56-1004A. CRIMINAL HISTORY AND BACKGROUND CHECKS. (1) To assist in the protection of children and vulnerable adults, the legislature hereby authorizes the department of health and welfare to conduct criminal history and background checks of individuals who provide care or services to vulnerable adults or children and are identified in rule as being required to have a criminal history and background check.

(2) The criminal history and background check will be a fingerprint-based check of state and national records and may include information from the following:

- (a) Statewide criminal identification bureau;
- (b) Federal bureau of investigation (FBI);
- (c) National crime information center;
- (d) Statewide sex offender registry;
- (e) Idaho transportation department driving records;
- (f) Adult and child protection registries;
- (g) Nurse aide registry; and
- (h) Department of health and human services office of the inspector general list of excluded individuals and entities.

(3) The department of health and welfare shall promulgate rules to further define those individuals who are required to have a background check and the effective date. Each individual shall complete an application, which includes a notarized signature, on forms provided by the department. The completed application authorizes the department to obtain and release information in accordance with state and federal law. The applicant must disclose all information requested, including information on past convictions, driver's license revocations, and known adult or child protection findings. Once an application has been completed, the employer, at its discretion, may allow the individual to provide care or services prior to the individual completing fingerprinting and pending completion of the criminal history and background check by the department. The department shall promulgate rules defining the time frame for submitting the application. Under no circumstances may the individual be allowed to provide care or services where the employer has reviewed the completed application and the individual has disclosed a designated crime as set forth in rule.

(4) The department shall review the information received from the criminal history and background check and determine whether the applicant has a criminal or other relevant record that would disqualify the individual. The department shall determine which crimes disqualify the applicant and for what period of time according to promulgated rules. The process for the check and the issuance of a clearance or denial is set forth in department rules. The applicant shall be provided an opportunity for a formal review of a denial. The department shall communicate clearance or denial to the applicant and the applicant's employer.

(5) Applicants are responsible for the cost of the background check except where otherwise provided by department rules.

(6) The department, or an employer of an applicant, who acts in reasonable reliance on the results of the criminal history and background check in

making an employment decision, is immune from liability for that decision when it is based on such results.

(7) The department, its officers and employees are immune from liability for the consequences of including or excluding classes of individuals in the criminal history and background check process.

(8) Clearance through the criminal history and background check process is not a determination of suitability for employment.

(9) Effective until September 30, 2007, or when federal funding is no longer available, the legislature hereby authorizes the department of health and welfare to participate in a federal pilot project to conduct criminal history and background checks of providers, employees and contractors who have access to patients in long-term care settings. Long-term care facilities or providers include nursing facilities, institutional care facilities for ~~the mentally retarded~~ people with intellectual disabilities, residential or assisted living facilities, long-term care hospitals or hospitals with swing beds, and home health and hospice providers. The criminal history and background checks for the long-term care providers, employees and contractors will be funded through the federal grant at no cost to the long-term care providers, employees or contractors until September 30, 2007, or the federal funding is no longer available.

SECTION 55. That Section 63-701, Idaho Code, be, and the same is hereby amended to read as follows:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed an application under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

(a) Not less than sixty-five (65) years old; or

(b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such

as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8) (b) of this section.

(4) "Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) The nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1) (e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099.

For determining income for certain married individuals living apart, the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code shall apply.

(6) "Occupied" means actual use and possession.

(7) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or

(b) Is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation if such entity holds title in fee simple or holds a certificate of motor vehicle title and if the person holds at least a five percent (5%) ownership in such entity, as determined by the county assessor; or

(c) Has retained or been granted a life estate.

"Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered as ownership for determining initial qualification for property tax reduction benefits; however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. A person holding either partial title in fee simple or holding a certificate of motor vehicle title together with another person but who does not occupy the dwelling as his primary dwelling place, shall not be considered an owner for purposes of this section, if such person is a cosignatory of a note secured by the dwelling in question and at least one (1) of the other cosignatories of the note occupies the dwelling as his primary dwelling place. The combined community property interests of both spouses shall not be considered partial ownership so long as the combined community property interests constitute the entire ownership of the homestead, including where the spouses are occupying a homestead owned by an entity, as set forth in this subsection, and the spouses have the primary right of occupancy of the homestead. The proportional reduction required under this subsection shall not apply to community property interests. Where title to property was held by a person who has died without timely filing a claim for property tax reduction, the estate of the deceased person shall be the "owner," provided that the time periods during which the deceased person held such title shall be attributed to the estate for the computation of any time periods under subsection (8) (a) or (8) (b) of this section.

(8) (a) "Primary dwelling place" means the claimant's dwelling place on January 1 or before April 15 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates to be his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 or before April 15 and:

(i) At least six (6) months during the prior year; or

(ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant for less than one (1)

year. The county assessor may require written or other proof of the foregoing in such form as the county assessor may determine.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. Payment of utilities shall not be payment of a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, nursing facility or intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(14), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

SECTION 56. That Section 66-329, Idaho Code, be, and the same is hereby amended to read as follows:

66-329. COMMITMENT TO DEPARTMENT DIRECTOR UPON COURT ORDER -- JUDICIAL PROCEDURE. (1) Proceedings for the involuntary care and treatment of mentally ill persons by the department of health and welfare may be commenced by the filing of a written application with a court of competent jurisdiction by a friend, relative, spouse or guardian of the proposed patient, or by a licensed physician, prosecuting attorney, or other public official of a municipality, county or of the state of Idaho, or the director of any facility in which such patient may be.

(2) The application shall state the name and last known address of the proposed patient; the name and address of either the spouse, guardian, next of kin or friend of the proposed patient; whether the proposed patient can be cared for privately in the event commitment is not ordered; if the proposed patient is, at the time of the application, a voluntary patient; whether the proposed patient has applied for release pursuant to section 66-320, Idaho Code; and a simple and precise statement of the facts showing that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness.

(3) Any such application shall be accompanied by a certificate of a designated examiner stating that he has personally examined the proposed patient within the last fourteen (14) days and is of the opinion that the proposed patient is: (i) mentally ill; (ii) likely to injure himself or others or is gravely disabled due to mental illness; and (iii) lacks capacity to make informed decisions about treatment, or a written statement by the applicant that the proposed patient has refused to submit to examination by a designated examiner.

(4) Upon receipt of an application for commitment, the court shall, within forty-eight (48) hours appoint another designated examiner to make a personal examination of the proposed patient or if the proposed patient has not been examined, the court shall appoint two (2) designated examiners to make individual personal examinations of the proposed patient and may order the proposed patient to submit to an immediate examination. If neither designated examiner is a physician, the court shall order a physical examination of the proposed patient. At least one (1) designated examiner shall be a psychiatrist, licensed physician or licensed psychologist. The designated examiners shall report to the court their findings within the following seventy-two (72) hours as to the mental condition of the proposed

patient and his need for custody, care, or treatment by a facility. The reports shall be in the form of written certificates which shall be filed with the court. The court may terminate the proceedings and dismiss the application without taking any further action in the event the reports of the designated examiners are to the effect that the proposed patient is not mentally ill or, although mentally ill, is not likely to injure himself or others or is not gravely disabled due to mental illness. If the proceedings are terminated, the proposed patient shall be released immediately.

(5) If the designated examiner's certificate states a belief that the proposed patient is mentally ill and either likely to injure himself or others or is gravely disabled due to mental illness, the judge of such court shall issue an order authorizing any health officer, peace officer, or director of a facility to take the proposed patient to a facility in the community in which the proposed patient is residing or to the nearest facility to await the hearing and for good cause may authorize treatment during such period subject to the provisions of section 66-346(a)(4), Idaho Code. Under no circumstances shall the proposed patient be detained in a nonmedical unit used for the detention of individuals charged with or convicted of penal offenses.

(6) Upon receipt of such application and designated examiners' reports the court shall appoint a time and place for hearing not more than seven (7) days from the receipt of such designated examiners' reports and thereupon give written notice of such time and place of such hearing together with a copy of the application, designated examiner's certificates, and notice of the proposed patient's right to be represented by an attorney, or if indigent, to be represented by a court-appointed attorney, to the applicant, to the proposed patient, to the proposed patient's spouse, guardian, next of kin or friend. With the consent of the proposed patient and his attorney, the hearing may be held immediately. Upon motion of the proposed patient and attorney and for good cause shown, the court may continue the hearing up to an additional fourteen (14) days during which time, for good cause shown, the court may authorize treatment.

(7) An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel in accordance with chapter 8, title 19, Idaho Code, no later than the time the application is received by the court.

(8) If the involuntary detention was commenced under this section, the hearing shall be held at a facility, at the home of the proposed patient, or at any other suitable place not likely to have a harmful effect on the proposed patient's physical or mental health. Venue for the hearing shall be in the county of residence of the proposed patient or in the county where the proposed patient was found immediately prior to commencement of such proceedings.

(9) In all proceedings under this section, any existing provision of the law prohibiting the disclosure of confidential communications between the designated examiner and proposed patient shall not apply and any designated examiner who shall have examined the proposed patient shall be a competent witness to testify as to the proposed patient's condition.

(10) The proposed patient, the applicant, and any other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The proposed patient shall be required to be present at the hearing unless the court determines that the mental or physical state of the proposed patient is such that his presence at the hearing would be detrimental to the proposed patient's health or would unduly disrupt the proceedings. A record of the proceedings shall be made as for other civil hearings. The hearing shall be conducted in as informal a manner as may be consistent with orderly proce-

ture. The court shall receive all relevant and material evidence consistent with the rules of evidence.

(11) If, upon completion of the hearing and consideration of the record, and after consideration of reasonable alternatives including, but not limited to, holding the proceedings in abeyance for a period of up to thirty (30) days, the court finds by clear and convincing evidence that the proposed patient:

(a) ~~is~~ is mentally ill; and

(b) ~~is~~ is, because of such condition, likely to injure himself or others, or is gravely disabled due to mental illness;

the court shall order the proposed patient committed to the custody of the department director for observation, care and treatment for an indeterminate period of time not to exceed one (1) year. The department director, through his dispositioner, shall determine within twenty-four (24) hours the least restrictive available facility or outpatient treatment, consistent with the needs of each patient committed under this section for observation, care, and treatment.

(12) The commitment order constitutes a continuing authorization for the department of health and welfare, law enforcement, or director of a facility, upon request of the director of the outpatient facility, the physician, or the department director through his dispositioner, to transport a committed patient to designated outpatient treatment for the purpose of making reasonable efforts to obtain the committed patient's compliance with the terms and conditions of outpatient treatment. If the director of the outpatient facility, the treating physician, or the department director through his dispositioner determines any of the following:

(a) The patient is failing to adhere to the terms and conditions of outpatient treatment or the patient refuses outpatient treatment after reasonable efforts at compliance have been made; or

(b) Outpatient treatment is not effective after reasonable efforts have been made;

the department director through his dispositioner shall cause the committed patient to be transported by the department of health and welfare, law enforcement, or director of a facility to the least restrictive available facility for observation, care and treatment on an inpatient basis. Within forty-eight (48) hours of a committed patient's transfer from outpatient treatment to a facility for inpatient treatment, the department director through his dispositioner shall notify the court that originally ordered the commitment, the committed patient's attorney, and either the committed patient's spouse, guardian, adult next of kin or friend of the change in disposition and provide a detailed affidavit reciting the facts and circumstances supporting the transfer from outpatient treatment to inpatient treatment at a facility. The court shall conduct an ex parte review of the notice and affidavit within forty-eight (48) hours of filing and determine whether the change in disposition from outpatient treatment to inpatient treatment at a facility is supported by probable cause. In no event shall the calculation of forty-eight (48) hours provided for in this subsection include holidays formally recognized and observed by the state of Idaho, nor shall the calculation include weekends. If the court determines that probable cause exists, the department director through his dispositioner shall continue with care and treatment on an inpatient basis at the least restrictive available facility. Within twenty-four (24) hours of a finding of probable cause, the court shall issue an order to show cause why the patient does not meet the conditions in subsection (12) (a) or (12) (b) of this section. The order shall be served on the committed patient, the committed patient's attorney and either the committed patient's spouse, guardian, adult next of kin or friend. The patient shall have fifteen (15) days to present evidence that the conditions in subsection (12) (a) or (12) (b) of this section have not been met. In no event shall the calcu-

lation of twenty-four (24) hours provided for in this subsection include holidays formally recognized and observed by the state of Idaho, nor shall the calculation include weekends. If the court determines that a change in disposition from outpatient treatment to inpatient treatment does not meet the conditions in subsection (12) (a) or (12) (b) of this section, the department director through his dispositioner will continue with outpatient treatment on the same or modified terms and conditions. Nothing provided in this section shall limit the authority of any law enforcement officer to detain a patient pursuant to the emergency authority conferred by section 66-326, Idaho Code.

(13) Nothing in this chapter or in any rule adopted pursuant thereto shall be construed to authorize the detention or involuntary admission to a hospital or other facility of an individual who:

(a) Has epilepsy, a developmental disability, a physical disability, ~~mental retardation~~ an intellectual disability, is impaired by chronic alcoholism or drug abuse, or aged, unless in addition to such condition, such person is mentally ill;

(b) Is a patient under treatment by spiritual means alone, through prayer, in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof and who asserts to any authority attempting to detain him that he is under such treatment and who gives the name of a practitioner so treating him to such authority; or

(c) Can be properly cared for privately with the help of willing and able family or friends, and provided, that such person may be detained or involuntarily admitted if such person is mentally ill and presents a substantial risk of injury to himself or others if allowed to remain at liberty.

(14) The order of commitment shall state whether the proposed patient lacks capacity to make informed decisions about treatment, the name and address of the patient's attorney and either the patient's spouse, guardian, adult next of kin, or friend.

(15) If the patient has no spouse or guardian and if the patient has property which may not be cared for pursuant to chapter 5, title 66, Idaho Code, or by the patient while confined at a facility, the court shall appoint a guardian ad litem for the purpose of preserving the patient's estate, pending further guardianship or conservatorship proceedings.

(16) The commitment shall continue until the commitment is terminated and shall be unaffected by the patient's conditional release or change in disposition.

SECTION 57. That Section 66-401, Idaho Code, be, and the same is hereby amended to read as follows:

66-401. LEGISLATIVE INTENT. It is hereby declared by the legislature of the state of Idaho in enacting chapter 4, title 66, Idaho Code, that the ~~developmentally handicapped~~ developmentally disabled citizens of ~~the state~~ Idaho who have developmental disabilities are entitled to be diagnosed, cared for, and treated in a manner consistent with their legal rights in a manner no more restrictive than for their protection and the protection of society, for a period no longer than reasonably necessary for diagnosis, care, treatment and protection, and to remain at liberty or be cared for privately except when necessary for their protection or the protection of society. Recognizing that every individual has unique needs and differing abilities, it is the purpose of the provisions of this chapter to promote the general welfare of all citizens by establishing a system which permits partially disabled and disabled persons to participate as fully as possible in all decisions which affect them, which assists such persons in meeting the essential requirements for their physical health and safety, protecting their rights,

managing their financial resources, and developing or regaining their abilities to the maximum extent possible. The provisions of this chapter shall be liberally construed to accomplish these purposes.

SECTION 58. That Section 66-402, Idaho Code, be, and the same is hereby amended to read as follows:

66-402. DEFINITIONS. As used in this chapter:

- (1) "Adult" means an individual eighteen (18) years of age or older.
- (2) "Artificial life-sustaining procedures" means any medical procedure or intervention which utilizes mechanical means to sustain or supplant a vital function. Artificial life-sustaining procedures shall not include the administration of medication, and it shall not include the performance of any medical procedure deemed necessary to alleviate pain, or any procedure which could be expected to result in the recovery or long-term survival of the patient and his restoration to consciousness.
- (3) "Department" means the Idaho department of health and welfare.
- (4) "Director" means the director of the department of health and welfare.
- (5) "Developmental disability" means a chronic disability of a person which appears before the age of twenty-two (22) years of age and:
 - (a) Is attributable to an impairment, such as ~~mental retardation~~ intellectual disability, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and
 - (b) Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and
 - (c) Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated.
- (6) "Emancipated minor" means an individual between fourteen (14) and eighteen (18) years of age who has been married or whose circumstances indicate that the parent-child relationship has been renounced.
- (7) "Evaluation committee" means an interdisciplinary team of at least three (3) individuals designated by the director or his designee to evaluate an individual as required by the provisions of this chapter. Each committee must include a physician licensed to practice medicine in the state of Idaho, a licensed social worker and a clinical psychologist or such other individual who has a master's degree in psychology as designated by the department director. Each committee member must be specially qualified by training and experience in the diagnosis and treatment of persons with a developmental disability.
- (8) "Facility" means the Idaho state school and hospital, a nursing facility, an intermediate care facility, an intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities, a licensed residential or assisted living facility, a group foster home, other organizations licensed to provide twenty-four (24) hour care, treatment and training to the developmentally disabled, a mental health center, or an adult and child development center.
- (9) "Lacks capacity to make informed decisions" means the inability, by reason of developmental disability, to achieve a rudimentary understanding of the purpose, nature, and possible risks and benefits of a decision, after conscientious efforts at explanation, but shall not be evidenced by improvident decisions within the discretion allowed nondevelopmentally disabled individuals.

(10) "Likely to injure himself or others" means:

(a) A substantial risk that physical harm will be inflicted by the respondent upon his own person as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or

(b) A substantial risk that physical harm will be inflicted by the respondent upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or

(c) That the respondent is unable to meet essential requirements for physical health or safety.

(11) "Manage financial resources" means the actions necessary to obtain, administer and dispose of real, personal, intangible or business property, benefits and/or income.

(12) "Meet essential requirements for physical health or safety" means the actions necessary to provide health care, food, clothing, shelter, personal hygiene and/or other care without which serious physical injury or illness would occur.

(13) "Minor" means an individual seventeen (17) years of age or less.

(14) "Protection and advocacy system" means the agency designated by the governor of the state of Idaho to provide advocacy services for people with disabilities pursuant to 42 USC section 6042.

(15) "Respondent" means the individual subject to judicial proceedings authorized by the provisions of this chapter.

SECTION 59. That Section 66-408, Idaho Code, be, and the same is hereby amended to read as follows:

66-408. PETITION FOR REEXAMINATION OF ORDER OF GUARDIANSHIP OR COMMITMENT. All respondents admitted to a residential facility upon application of their parent or guardian or committed to the director shall be entitled to an annual review of their placement by an evaluation committee upon request therefor by the respondent, the respondent's guardian or attorney. In addition, all respondents committed pursuant to section 66-406, Idaho Code, or for whom an order for guardianship or conservatorship has been issued pursuant to section 66-405, Idaho Code, shall be entitled to a reexamination of the order for or conditions of their commitment, guardianship or conservatorship on their own petition, or that of their legal guardian, parent, attorney or friend, to the district court of the county in which the order was issued or in which they are found. Upon receipt of the petition, the court shall determine whether the conditions justifying the order or its conditions continue to exist. ~~Within three (3) years of the effective date of this chapter, the department shall petition for the reexamination of all individuals committed prior to the effective date of this chapter as being mentally retarded or mentally deficient and whose commitments have not been terminated.~~

SECTION 60. That Section 67-2319, Idaho Code, be, and the same is hereby amended to read as follows:

67-2319. PURCHASING PRODUCTS OF REHABILITATION FACILITIES. Products which are manufactured by and services which are provided for nonprofit corporations and public agencies operating rehabilitation facilities serving ~~the handicapped~~ people with disabilities and disadvantaged people and offered for sale at the fair market price as determined by the administrator of the division of purchasing which meet the specific requirement for such products may be procured by the state agencies or departments or any political subdivision of the state from such nonprofit corporations or public agencies without advertising or calling for bids.

SECTION 61. That Section 67-6530, Idaho Code, be, and the same is hereby amended to read as follows:

67-6530. DECLARATION OF PURPOSE. The legislature declares that it is the policy of this state that mentally and/or physically handicapped persons with disabilities or elderly persons are entitled to live in normal residential surroundings and should not be excluded therefrom because of their disability or advanced age, and in order to achieve statewide implementation of such policy it is necessary to establish the statewide policy that the use of property for the care of eight (8) or fewer ~~mentally and/or physically handicapped persons with disabilities~~ or elderly persons is a residential use of such property for the purposes of local zoning.

SECTION 62. That Section 67-6531, Idaho Code, be, and the same is hereby amended to read as follows:

67-6531. SINGLE FAMILY DWELLING. (a~~1~~) For the purpose of any zoning law, ordinance or code, the classification "single family dwelling" shall include any group residence in which eight (8) or fewer unrelated ~~mentally and/or physically handicapped persons with disabilities~~ or elderly persons reside and who are supervised at the group residence in connection with their ~~handicap~~ disability or age related infirmity.

(b~~2~~) Resident staff, if employed, need not be related to each other or to any of the ~~mentally and/or physically handicapped persons with disabilities~~ or elderly persons residing in the group residence.

(e~~3~~) No more than two (2) of such staff shall reside in the dwelling at any one time.

SECTION 63. That Section 67-6532, Idaho Code, be, and the same is hereby amended to read as follows:

67-6532. LICENSURE, STANDARDS AND RESTRICTIONS. (a~~1~~) The department of health and welfare may require group residences, as defined in section 67-6531, Idaho Code, to be licensed and set minimum standards for providing services or operation. Such licensure may be under the residential or assisted living facility rules, or under the intermediate care facilities for ~~mentally retarded people with intellectual disabilities~~ or related conditions rules, or under rules specifically written for such group residences.

(b~~2~~) No conditional use permit, zoning variance, or other zoning clearance shall be required of a group residence, as defined in section 67-6531, Idaho Code, which is not required of a single family dwelling in the same zone.

(e~~3~~) No local ordinances or local restrictions shall be applied to or required for a group residence, as defined in section 67-6531, Idaho Code, which is not applied to or required for a single family dwelling in the same zone.

(d~~4~~) The limitations provided for in subsections (b~~2~~) and (e~~3~~) of this section shall not apply to tenancy or planned tenancy in a group residence, as defined in section 67-6531, Idaho Code, by persons who are under the supervision of the state board of correction pursuant to section 20-219, Idaho Code, or who are required to register pursuant to chapter 83 or 84, title 18, Idaho Code, or whose tenancy would otherwise constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

SECTION 64. That Section 67-6901, Idaho Code, be, and the same is hereby amended to read as follows:

67-6901. STATEMENT OF PUBLIC POLICY. It is the policy of this state to encourage and enable ~~the physically and mentally handicapped~~ people with disabilities to participate fully in the social and economic life of the state and to engage in remunerative employment.

SECTION 65. That Section 67-6902, Idaho Code, be, and the same is hereby amended to read as follows:

67-6902. DEFINITIONS. As used in this chapter:

(1) ~~"Public buildings" means all county courthouses, and all city halls and buildings used primarily as governmental offices of the state or any county or city. It does not include public schools or buildings or institutions of higher education or professional-technical training, buildings of the department of health and welfare, facilities of the state board of correction or the state capitol building.~~ "Disabled" or "person with disability" means:

(a) A person who has a physical or mental impairment which substantially limits one (1) or more major life activities (e.g., communication, ambulation, self-care, socialization, education, vocational training, transportation or employment);

(b) A person who has a record of such an impairment and the impairment is expected to continue indefinitely;

(c) A person who is regarded or treated by others as having such an impairment;

(d) Persons including, but not limited to, persons who are blind, deaf or who have epilepsy, autism, intellectual disabilities or mental illness or who have orthopedic disorders or cerebral palsy.

(2) "Food service facilities" includes restaurants, cafeterias, snack bars, and goods and services customarily offered in connection with any of the foregoing, and also includes vending machines dispensing foods when operated independently or in conjunction with such facilities.

(3) ~~"Handicapped" means:~~

~~(a) A person who has a physical or mental impairment which substantially limits one (1) or more major life activities (e.g. communication, ambulation, self-care, socialization, education, vocational training, transportation or employment);~~

~~(b) A person who has a record of such an impairment and the impairment is expected to continue indefinitely;~~

~~(c) A person who is regarded or treated by others as having such an impairment;~~

~~(d) Persons including, but not limited to, persons who are blind, deaf, epileptic, autistic, mentally retarded or mentally ill or who have orthopedic disorders or cerebral palsy.~~

(4) ~~"Nonprofit organization representing the handicapped persons with disabilities" means tax exempt organizations as defined under section 501(c)(3) of the Internal Revenue Code and includes the Idaho commission for the blind and visually impaired.~~

(4) "Public buildings" means all county courthouses, and all city halls and buildings used primarily as governmental offices of the state or any county or city. It does not include public schools or buildings or institutions of higher education or professional-technical training, buildings of the department of health and welfare, facilities of the state board of correction or the state capitol building.

SECTION 66. That Section 67-6903, Idaho Code, be, and the same is hereby amended to read as follows:

67-6903. FOOD SERVICE FACILITIES IN PUBLIC BUILDINGS. Any governmental agency which proposes to allow, to operate or to continue a food service facility in a public building shall first attempt, in good faith, to notify nonprofit organizations representing ~~handicapped~~ persons with disabilities of the opportunity to operate a food service. If more than one (1) organization responds, the governmental agency shall establish reasonable criteria and shall select on the basis of that criteria from the proposals submitted. Criteria adopted by a governmental agency pursuant to this section, and used as a basis for selection among proposals submitted, shall include the requirement that proposals submitted by the Idaho commission for the blind and visually impaired shall have priority over all other proposals submitted. Proposals submitted by nonprofit organizations representing ~~the handicapped~~ persons with disabilities, other than the Idaho commission for the blind and visually impaired, shall receive priority over all other proposals except proposals submitted by the Idaho commission for the blind and visually impaired. A food service facility shall be operated without payment of rent. The governmental agency shall not offer or grant any other party a contract or concession to operate such food service facility unless the governmental agency determines in good faith that no nonprofit organization representing ~~handicapped~~ persons with disabilities is willing or able to provide satisfactory food service.

SECTION 67. That Section 68-1301, Idaho Code, be, and the same is hereby amended to read as follows:

68-1301. DEFINITIONS. As used in this chapter:

(1) "Adult" means an individual who is at least eighteen (18) years of age.

(2) "Beneficiary" means an individual for whom property has been transferred to or held under a declaration of trust by a custodial trustee for the individual's use and benefit under this chapter.

(3) "Conservator" means a person appointed or qualified by a court to manage the estate of an individual or a person legally authorized to perform substantially the same functions.

(4) "Court" means the district court of this state.

(5) "Custodial trust property" means an interest in property transferred to or held under a declaration of trust by a custodial trustee under this chapter and the income from and proceeds of that interest.

(6) "Custodial trustee" means a person designated as trustee of a custodial trust under this chapter or a substitute or successor to the person designated.

(7) "Guardian" means a person appointed or qualified by a court as a guardian of an individual, including a limited guardian, but not a person who is only a guardian ad litem.

(8) "Incapacitated" means lacking the ability to manage property and business affairs effectively by reason of mental illness, mental ~~deficiency~~ disability, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, disappearance, minority, or other disabling cause.

(9) "Legal representative" means a personal representative or conservator.

(10) "Member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

(12) "Personal representative" means an executor, administrator, or special administrator of a decedent's estate, a person legally authorized to perform substantially the same functions, or a successor to any of them.

(13) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(14) "Transferor" means a person who creates a custodial trust by transfer or declaration.

(15) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

SECTION 68. That Section 68-1405, Idaho Code, be, and the same is hereby amended to read as follows:

68-1405. SPECIAL NEEDS TRUSTS -- REQUIREMENTS -- JURISDICTION OF COURT -- COURT ORDERS. (1) If a court orders that money of a minor or incompetent person be paid to a special needs trust, the terms of the trust shall be reviewed and approved by the court and shall satisfy the requirements of this section. The trust shall be subject to the continuing jurisdiction of the court, and is subject to court supervision to the extent determined by the court. The court may transfer jurisdiction to the court in the county where the minor or incompetent person resides.

(2) A special needs trust may be established and continued under this section only if the court determines all of the following:

(a) That the minor or incompetent person has a disability that substantially impairs the individual's ability to provide for the individual's own care or custody ~~and constitutes a substantial handicap;~~

(b) That the minor or incompetent person is likely to have special needs that will not be met without the trust; and

(c) That money to be paid to the trust does not exceed the amount that appears reasonably necessary to meet the special needs of the minor or incompetent person.

(3) If at any time it appears that:

(a) Any of the requirements of this section are not satisfied or the trustee refuses without good cause to make payments from the trust for the special needs of the beneficiary; and

(b) That the Idaho department of health and welfare or a county or city in this state has a claim against trust property, then the Idaho department of health and welfare, the county or the city may petition the court for an order terminating the trust.

(4) A court order for payment of money or property to a special needs trust shall include a provision that all statutory liens properly perfected at the time of the court's order, and in favor of the Idaho department of health and welfare or any county or city of this state, shall be satisfied first.

SECTION 69. That Section 71-241, Idaho Code, be, and the same is hereby amended to read as follows:

71-241. PETROLEUM PRODUCTS -- HOW SOLD -- MEASUREMENT. (1) All petroleum products shall be sold by liquid measure or by net weight in accordance with the provisions of section 71-232, Idaho Code, and in accordance with regulations to be made by the director.

(2) Sellers of motor fuel within this state shall offer to prospective purchasers the option to buy the product either by gross gallons or on the assumption that the temperature of the product is sixty degrees (60°) fahrenheit or the centigrade equivalent. This purchaser option may be exercised

only on an annual basis and applied only to single deliveries of eight thousand (8,000) gallons or more or the metric equivalent. Any adjustments to volumes during the temperature compensation process shall be made in accordance with the standards set by the American society of testing materials.

(3) The department of agriculture may purchase and use measuring devices for monitoring bulk deliveries.

(4) Any retail outlet offering self-dispensed motor fuels only shall, upon request of the disabled driver, provide assistance in delivering fuel into the tank of a vehicle displaying ~~a handicapped~~ an accessible parking license or card, but this requirement shall not apply when such vehicle carries an able-bodied adult or if only one (1) attendant is on duty at the retail outlet. Disabled individuals receiving this refueling service at a self-service pump shall not be charged more than the self-service price for the fuel. Notice of the availability of this service shall be posted pursuant to the provisions of subsection (5) (b) of this section. A violation of the provisions of this subsection shall be an infraction.

(5) Any retail outlet offering both attendant-dispensed motor fuels and self-dispensed motor fuels will, during those hours that attendant-dispensed motor fuels are available, provide attendant-dispensed motor fuels at the same price as for self-dispensed motor fuels when such fuel is delivered at the self-service pump into the fuel tank of a vehicle displaying ~~a handicapped~~ an accessible parking license or card, but this requirement shall not apply when such vehicle carries an able-bodied adult.

(a) Notification of the provisions of subsections (4) and (5) of this section shall be provided, by the Idaho transportation department, to all operators of facilities offering gasoline or other motor vehicle fuels for sale, and to every person who is issued ~~a handicapped~~ an accessible parking plate or a disabled veterans registration plate, or other authorized designation.

(b) The following notice shall be provided by the Idaho transportation department and posted in a manner and location which is visible to any driver seeking refueling service. The notice shall be a placard in substantially the following format, printed in black except that the international accessible symbol shall be printed in blue.

WHEN THERE ARE TWO OR MORE
EMPLOYEES ON DUTY
THIS STATION WILL



PUMP YOUR GAS
Idaho Code Section 71-241

SECTION 70. That Section 72-430, Idaho Code, be, and the same is hereby amended to read as follows:

72-430. PERMANENT DISABILITY -- DETERMINATION OF -- PERCENTAGES -- SCHEDULE. (1) Matters to be considered. In determining percentages of permanent disabilities, account shall be taken of the nature of the physical disablement, the disfigurement if of a kind likely to ~~handicap~~ limit the employee in procuring or holding employment, the cumulative effect of multiple injuries, the occupation of the employee, and his age at the time of accident causing the injury, or manifestation of the occupational disease, consid-

eration being given to the diminished ability of the afflicted employee to compete in an open labor market within a reasonable geographical area considering all the personal and economic circumstances of the employee, and other factors as the commission may deem relevant, provided that when a scheduled or unscheduled income benefit is paid or payable for the permanent partial or total loss or loss of use of a member or organ of the body no additional benefit shall be payable for disfigurement.

(2) Preparation of schedules--Availability for inspection--Prima facie evidence. The commission may prepare, adopt and from time to time amend a schedule for the determination of the percentages of unscheduled permanent injuries less than total, including, but not limited to, a schedule for partial loss of binaural hearing and for loss of teeth, and methods for determination thereof. Such schedule shall be available for public inspection, and without formal introduction in evidence shall be prima facie evidence of the percentages of permanent disabilities to be attributed to the injuries or diseases covered by such schedule.

SECTION 71. That Section 72-1316A, Idaho Code, be, and the same is hereby amended to read as follows:

72-1316A. EXEMPT EMPLOYMENT. "Exempt employment" means service performed:

- (1) By an individual in the employ of his spouse or child.
- (2) By a person under the age of twenty-one (21) years in the employ of his father or mother.
- (3) By an individual under the age of twenty-two (22) years who is enrolled as a student in a full-time program at an accredited nonprofit or public education institution for which credit at such institution is earned in a program which combines academic instruction with work experience. This subsection shall not apply to service performed in a program established at the request of an employer or group of employers.
- (4) In the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this chapter.
- (5) In the employ of a governmental entity in the exercise of duties:
 - (a) As an elected official;
 - (b) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof;
 - (c) As a member of the state national guard or air national guard;
 - (d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or
 - (e) In a position which, pursuant to the laws of this state, is designated as (i) a major nontenured policymaking or advisory position, or (ii) a policymaking or advisory position which ordinarily does not require more than eight (8) hours per week.
- (6) By an inmate of a correctional, custodial or penal institution, if such services are performed for or within such institution.
- (7) In the employ of:
 - (a) A church or convention or association of churches; or
 - (b) An organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church, or convention or association of churches; or
 - (c) In the employ of an institution of higher education, if it is devoted primarily to preparation of a student for the ministry or training candidates to become members of a religious order; or
 - (d) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.

(8) By a program participant in a facility that provides rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency limitation, or injury or provides remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed into the labor market.

(9) As part of an unemployment work relief program or as part of an unemployment work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(10) Service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress other than the social security act.

(11) As a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending courses in a nurses' training school approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a course in a medical school approved pursuant to state law.

(12) By an individual under the age of eighteen (18) years of age in the delivery or distribution of newspapers or shopping news not including delivery or distribution to any point for subsequent delivery or distribution.

(13) By an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(14) By an individual for a real estate broker as an associate real estate broker or as a real estate salesman, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(15) Service covered by an election approved by the agency charged with the administration of any other state or federal unemployment insurance law, in accordance with an arrangement pursuant to section 72-1344, Idaho Code.

(16) In the employ of a school or college by a student who is enrolled and regularly attending classes at such school or college.

(17) In the employ of a hospital by a resident patient of such hospital.

(18) By a member of an AmeriCorps program.

(19) By an individual who is paid less than fifty dollars (\$50.00) per calendar quarter for performing work that is not in the course of the employer's trade or business, and who is not regularly employed by such employer to perform such service. For the purposes of this subsection, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if:

(a) On each of some twenty-four (24) days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or

(b) Such individual was so employed by such employer in the performance of such service during the preceding calendar quarter.

(20) By an individual who is engaged in the trade or business of selling or soliciting the sale of consumer products in a private home or a location other than in a permanent retail establishment, provided the following criteria are met:

(a) Substantially all the remuneration, whether or not received in cash, for the performance of the services is directly related to sales or other output, including the performance of services, rather than to the number of hours worked; and

(b) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual shall not be treated as an employee for federal and state tax purposes.

Such exemption applies solely to the individual's engagement in the trade or business of selling or soliciting the sale of consumer products in a private home or location other than in a permanent retail establishment.

SECTION 72. That Section 73-114, Idaho Code, be, and the same is hereby amended to read as follows:

73-114. STATUTORY TERMS DEFINED. (1) Unless otherwise defined for purposes of a specific statute,

(a) ~~W~~words used in these compiled laws in the present tense, include the future as well as the present;

(b) ~~W~~words used in the masculine gender, include the feminine and neuter;

(c) ~~T~~he singular number includes the plural and the plural the singular;

(d) ~~T~~he word "person" includes a corporation as well as a natural person;

(e) ~~W~~riting includes printing;

(f) ~~O~~ath includes affirmation or declaration, and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depose";

(g) ~~S~~ignature or subscription includes mark, when the person cannot write, his name being written near it, and witnessed by a person who writes his own name as a witness.

(2) The following words have, in the compiled laws, the signification attached to them in this section, unless otherwise apparent from the context:

(a) "Intellectual disability" means significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two (2) of the following skill areas: communication, self-care, home living, social or interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health and safety. The onset of significantly subaverage general intelligence functioning and significant limitations in adaptive functioning must occur before age eighteen (18) years.

(b) "Month" means a calendar month, unless otherwise expressed.

(c) "Personal property" includes money, goods, chattels, things in action, evidences of debt and general intangibles as defined in the uniform commercial code -- secured transactions.

~~1. (d) The word "pProperty" includes both real and personal property.~~

~~2. (e) The words "rReal property" are is coextensive with lands, tenements and hereditaments, possessory rights and claims.~~

~~3. The words "personal property" include money, goods, chattels, things in action, evidences of debt and general intangibles as defined in the Uniform Commercial Code -- Secured Transactions.~~

~~4. The word "month" means a calendar month, unless otherwise expressed.~~

(f) "Registered mail" includes certified mail.

(g) "State," when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words "United States" may include the District of Columbia and territories.

~~5. (h) The word "wWill" includes codicils.~~

~~6. (i) The word "wWrit" signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer, and the word "process," a writ or summons issued in the course of judicial proceedings.~~

~~7. The word "state," when applied to the different parts of the United States, includes the District of Columbia and the territories, and the words "United States" may include the District and territories.~~

~~8. The words "registered mail" include certified mail.~~

SECTION 73. That Chapter 1, Title 73, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 73-114A, Idaho Code, and to read as follows:

73-114A. LEGISLATIVE INTENT ON RESPECTFUL LANGUAGE. (1) It is the intent of the legislature that the Idaho Code be amended to remove certain archaic language related to the condition of individuals. Certain terms, such as "idiots," "handicap," "retarded," "lunatic" and "deficient," when applied to individuals, have outlived their usefulness. The term "intellectual disability" as used in this act is intended to replace the term "mental retardation" as previously used in the Idaho Code.

(2) The legislature intends that the emphasis should be on people first, rather than on archaic labels. Therefore, any new or amended section of the Idaho Code should incorporate more modern and people first language when referring to the condition of individuals, as used in this act.

(3) The legislature further intends that rules promulgated under the administrative procedure act, chapter 52, title 67, Idaho Code, after the effective date of this act, should incorporate more modern and people first language when referring to the condition of individuals, as used in this act. Where appropriate and when the use of more modern and people first language will not substantively change the meaning of a rule, the rules coordinator is encouraged to use the authority provided for in section 67-5202(2), Idaho Code, to replace archaic language in the administrative code with more modern and people first language, as used in this act.

(4) This act's substitution of more modern and people first language in place of archaic language when referring to the condition of individuals shall not change the substantive interpretation of the amended Idaho Code sections or the case law interpreting those sections.

Approved April 6, 2010.

CHAPTER 236
(S.B. No. 1382, As Amended)

AN ACT

RELATING TO DE FACTO CUSTODIANS; AMENDING TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 17, TITLE 32, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A PURPOSE, TO PROVIDE FOR DE FACTO CUSTODIANS, TO PROVIDE FOR PETITIONS FOR CUSTODY AND MOTIONS TO INTERVENE BY PERSONS SEEKING DETERMINATIONS THAT THEY ARE DE FACTO CUSTODIANS, TO PROVIDE FOR NOTICE, TO REQUIRE STIPULATED FACTS OR FINDINGS OF FACT THAT A PERSON IS A DE FACTO CUSTODIAN, TO PROVIDE CERTAIN EVIDENTIARY STANDARDS, TO PROVIDE FOR THE APPLICATION OF SPECIFIED STANDARDS AND CONSIDERATIONS RELATING TO A DETERMINATION OF THE BEST INTERESTS OF THE CHILD, TO PROVIDE FOR DE FACTO CUSTODIAN ORDERS, TO PROVIDE FOR ACCESS TO CERTAIN RECORDS AND TO PROVIDE FOR TERMINATION OF CUSTODY ORDERS; AMENDING SECTION 15-5-207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPOINTMENT OF GUARDIANS OF MINORS, TO PROVIDE THAT DE FACTO CUSTODIANS MAY INITIATE PROCEEDINGS FOR THE APPOINTMENT OF A GUARDIAN, TO REVISE PROVISIONS RELATING TO NOTICE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 15-5-213, IDAHO CODE, TO REVISE A DEFINITION OF "DE FACTO CUSTODIAN" AND TO REVISE PROVISIONS RELATING TO THE RECOGNITION OF DE FACTO CUSTODIANS RELATING TO STANDING IN CERTAIN PROCEEDINGS.

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

SECTION 1. That Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 17, Title 32, Idaho Code, and to read as follows:

CHAPTER 17
DE FACTO CUSTODIAN ACT

32-1701. SHORT TITLE. This chapter may be known and cited as the "De Facto Custodian Act."

32-1702. PURPOSE. The purpose of this act is to:

(1) Give constitutionally required deference to the decisions of fit parents in custody actions brought by third parties;

(2) Subject to such constitutionally required deference, meet the needs of children for caring and stable homes by providing a flexible method by which a third party who has cared for and supported a child may obtain legal and physical custody of the child where such custody is in the child's best interests.

32-1703. DE FACTO CUSTODIANS. (1) "De facto custodian" means an individual who:

(a) Is related to a child within the third degree of consanguinity; and

(b) Either individually or together with a copetitioner has been the primary caretaker and primary financial supporter of such child has resided with the individual without a parent present and with a lack of demonstrated consistent participation by a parent for a period of:

(i) Six (6) months or more if the child is under three (3) years of age; or

(ii) One (1) year or more if the child is three (3) years of age or older.

(c) For purposes of the definition in this section, "lack of demonstrated consistent participation" by a parent means refusal or failure to comply with the duties imposed upon the parent by the parent-child relationship. When determining a "lack of demonstrated consistent participation," the court may consider parent involvement in providing the child necessary food, clothing, shelter, health care and education and in creating a nurturing and consistent relationship for the child's physical, mental or emotional health and development.

(2) In determining if a petitioner or intervenor is a de facto custodian for the child, the court shall also take into consideration whether the child is currently residing with the petitioner or intervenor and, if not, the length of time since the child resided with the petitioner or intervenor.

(3) Any period of time after the filing of a petition pursuant to this chapter shall not be included in determining whether the child has resided with the individual for the time period as provided in subsection (1) of this section.

(4) An individual shall not be deemed a de facto custodian if a child has resided with the individual because:

(a) The child was placed in the individual's care through a court order or voluntary placement agreement under title 16, Idaho Code; or

(b) The individual is or was cohabiting with, or is or was married to, a parent of the child.

32-1704. COMMENCEMENT OF PROCEEDINGS. (1) A child custody proceeding may be initiated in any court of this state with jurisdiction to determine child custody matters, by an individual:

(a) Filing a petition seeking a determination that he or she is a de facto custodian pursuant to section 32-1703, Idaho Code, and seeking custody of a child; or

(b) Filing a motion seeking permissive intervention pursuant to rule 24 of the Idaho rules of civil procedure, in a pending custody proceeding seeking a determination that he or she is a de facto custodian pursuant to section 32-1703, Idaho Code, and seeking custody of a child.

(2) A petition for custody or a motion to intervene based on the petitioners or intervenors alleged status as a de facto custodian, filed under this section, must state and allege:

(a) The name and address of the petitioner or intervenor and any prior or other name used by the petitioner or intervenor;

(b) The name of the respondent mother and father or guardian(s) and any prior or other name used by the respondent(s) and known to the petitioner or intervenor;

(c) The name and date of birth of each child for whom custody is sought;

(d) The relationship of the petitioner or intervenor to each child for whom custody is sought;

(e) The basis for jurisdiction asserted by the petitioner or intervenor;

(f) The current legal and physical custodial status of each child for whom custody is sought, whether a proceeding involving custody of the child, including a proceeding for an order or protection pursuant to section 39-6304, Idaho Code, is pending in a court in this state or elsewhere, and a list of all prior orders of custody, including temporary orders, if known to the petitioner or intervenor;

(g) Whether either parent is a member of the armed services, if known to the petitioner or intervenor;

(h) The length of time each child has resided with the petitioner or intervenor and the nature of the petitioners or intervenors role in caring for each child for whom custody is sought;

(i) The financial support provided by the petitioner or intervenor for each child for whom custody is sought;

(j) Whether physical and/or legal custody should be granted to and/or shared with the respondent(s); and

(k) The basis upon which the petitioner or intervenor is claiming that it is in the best interests of the child that the petitioner or intervenor have custody of the child.

(3) The petition or motion must be verified by the petitioner or intervenor.

(4) Written notice of a hearing on a petition or motion to intervene for custody of a child by a de facto custodian must be given to:

(a) The parent(s) of the child as defined in section 16-2002(11) and (12), Idaho Code; and

(b) The guardian or legal custodian, if any, of the child; and

(c) The child's tribe pursuant to federal law, if the child is an Indian child as defined in the Indian child welfare act, 25 U.S.C. 1901, et seq.

(5) Written notice of a hearing on a petition for custody of a child by a de facto custodian must be given to the Idaho department of health and welfare if the petitioner has reason to believe that either parent receives public assistance, the petitioner receives public assistance on behalf of the child or either parent receives child support enforcement services from the Idaho department of health and welfare or applies for such public assistance or child support enforcement services after a petition under this section is filed. Notice to the Idaho department of health and welfare must include a copy of the petition.

(6) In an action for custody of a child by a de facto custodian, the parties must stipulate to, or the court must find, facts establishing by clear and convincing evidence that the petitioner or intervenor is a de facto custodian pursuant to the requirements of section 32-1703, Idaho Code, before the court considers whether custody with the de facto custodian is in the best interests of the child.

(7) Once a court has found facts supporting the qualification of the petitioner or intervenor as the de facto custodian of a child, the petitioner or intervenor must prove by a preponderance of the evidence that it is in the best interests of the child to be in the custody of the de facto custodian. In determining the best interests of the child, the court shall apply the standards as provided in section 32-717(1), Idaho Code.

(8) In determining whether the petitioner or intervenor has established that it is in the best interests of the child to be in the custody of the de facto custodian, the court may also consider:

(a) The circumstances under which the child was allowed to remain in the care of the de facto custodian, including whether the child was placed with the de facto custodian to allow the parent to seek work or to attend school;

(b) Whether the child is currently residing with the de facto custodian and, if not, the length of time since the petitioner or intervenor last functioned as the child's de facto custodian.

32-1705. NATURE OF DE FACTO CUSTODIAN ORDER -- ACCESS TO RECORDS -- TERMINATION OF DE FACTO CUSTODIANSHIP. (1) A court may enter an order granting a de facto custodian sole or joint legal and/or physical custody as defined in section 32-717B(1), (2) and (3), Idaho Code, in the same manner as it would grant such custody to a parent.

(2) An order granting custody to a de facto custodian is subject to the continuing jurisdiction of the court and is modifiable in the same manner as an order establishing parental custody pursuant to section 32-717, Idaho Code, or a similar provision.

(3) A de facto custodian who has been granted sole or joint legal custody of a child shall have access to records pertaining to the child who is the subject of the de facto custodianship to the same extent as a parent would have such access pursuant to an order of legal custody.

(4) Any party to the proceeding granting custody to a de facto custodian may move for the termination of the custody order. A de facto custodian may move for permission to resign as de facto custodian.

(a) A party moving for termination of the de facto custodian-child relationship must show by a preponderance of the evidence that termination of the relationship would be in the best interests of the child.

(b) A motion for termination or for resignation may, but need not, include a proposal for the continuing custody of the child.

(c) After notice and hearing on a motion for termination or resignation, the court may terminate the custody of the de facto custodian and may make any further orders that may be appropriate in the best interests of the child.

SECTION 2. That Section 15-5-207, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-207. COURT APPOINTMENT OF GUARDIAN OF MINOR -- PROCEDURE. (1) Proceedings for the appointment of a guardian may be initiated by the following persons:

(a) Any relative of the minor;

(b) The minor if he is fourteen (14) or more years of age, a de facto custodian of the minor;

(c) Any person who comes within section 15-5-213(1), Idaho Code; or

(d) Any person interested in the welfare of the minor.

(2) Notice of the time and place of hearing of a petition for the appointment of a guardian of a minor is to be given by the petitioner in the manner prescribed by section 15-1-401, ~~of this code~~ Idaho Code, to:

(a) The minor, if he is fourteen (14) or more years of age;

(b) The person who has had the principal care and custody of the minor during the sixty (60) days preceding the date of the petition;

(c) ~~The de facto custodian of the minor, if any~~ Any person who comes within section 15-5-213(1), Idaho Code; and

(d) Any living parent of the minor; provided however, that the court may waive notice to a living parent of the minor who is, or is alleged to be, the father of the minor if:

(i) The father was never married to the mother of the minor and has failed to register his paternity as provided in section 16-1504(4), Idaho Code; or

(ii) The court has been shown to its satisfaction circumstances that would allow the entry of an order of termination of parental rights pursuant to section 16-2005, Idaho Code, even though termination of parental rights is not being sought as to such father.

(3) Upon hearing, if the court finds that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 15-5-204, ~~of this part Idaho Code,~~ have been met, and the welfare and best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases the court may dismiss the proceedings, or make any other disposition of the matter that will best serve the interest of the minor.

(4) If necessary, the court may appoint a temporary guardian, with the status of an ordinary guardian of a minor, but the authority of a temporary guardian shall not last longer than six (6) months.

(5) The court shall appoint an attorney to represent the minor if the court determines that the minor possesses sufficient maturity to direct the attorney. If the court finds that the minor is not mature enough to direct an attorney, the court shall appoint a guardian ad litem for the minor. The court may decline to appoint an attorney or guardian ad litem if it finds in writing that such appointment is not necessary to serve the best interests of the minor or if the Idaho department of health and welfare has legal custody of the child.

(6) Letters of guardianship must indicate whether the guardian was appointed by will or by court order.

SECTION 3. That Section 15-5-213, Idaho Code, be, and the same is hereby amended to read as follows:

15-5-213. DE FACTO CUSTODIAN. (1) "De facto custodian" means a person who has either been appointed the de facto custodian pursuant to section 32-1705, Idaho Code, or if not so appointed, has been the primary caregiver for, and primary financial supporter of, a child who, prior to the filing of a petition for guardianship, has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older.

(2) If a court determines by clear and convincing evidence that a person meets the definition of a de facto custodian, and that recognition of the de facto custodian is in the best interests of the child, the court shall give the person the same standing that is given to each parent in proceedings for appointment of a guardian of a minor. In determining whether recognition of a de facto custodian is in the child's best interests, the court shall consider:

(a) Whether the child is currently residing with the person seeking ~~recognition as a de facto custodian~~ such standing; and

(b) If the child is not currently residing with the person seeking ~~de facto custodian status~~ such standing, the length of time since the person served as the child's primary caregiver and primary financial supporter.

Approved April 6, 2010.

CHAPTER 237
(S.B. No. 1375, As Amended)

AN ACT

RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO PROVIDE THAT A LATE RENEWAL PENALTY FOR A LICENSE TO CARRY A CONCEALED WEAPON SHALL NOT APPLY TO CERTAIN LICENSEES SERVING IN THE ARMED FORCES OF THE UNITED STATES AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county, on behalf of the state of Idaho, shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law, issue a license to the person to carry a weapon concealed on his person within this state. For licenses issued before July 1, 2006, a license shall be valid for four (4) years from the date of issue. For licenses issued on or after July 1, 2006, a license shall be valid for five (5) years from the date of issue. The citizen's constitutional right to bear arms shall not be denied to him, unless he:

- (a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law; or
- (b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year; or
- (c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year; or
- (d) Is a fugitive from justice; or
- (e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802; or
- (f) Is currently suffering or has been adjudicated as follows, based on substantial evidence:
 - (i) Lacking mental capacity as defined in section 18-210, Idaho Code; or
 - (ii) Mentally ill as defined in section 66-317, Idaho Code; or
 - (iii) Gravely disabled as defined in section 66-317, Idaho Code; or
 - (iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code; or
- (g) Is or has been discharged from the armed forces under dishonorable conditions; or
- (h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years ~~has~~ have elapsed since disposition or pardon has occurred prior to the date on which the application is submitted; or

- (i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license; or
- (j) Is an alien illegally in the United States; or
- (k) Is a person who having been a citizen of the United States, has renounced his or her citizenship; or
- (l) Is under twenty-one (21) years of age; or
- (m) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapon license; or
- (n) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

The license application shall be in triplicate, in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. The license application shall contain a warning substantially as follows: CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A state permit is not a defense to a federal prosecution.

The sheriff shall require any person who is applying for original issuance of a license to submit his fingerprints in addition to the other information required in this subsection. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police for a records check of state and national files. The Idaho state police shall conduct a national fingerprint-based records check and return the results to the sheriff within seventy-five (75) days. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in paragraphs (a) through (n) of subsection (1) of this section.

The license will be in a form substantially similar to that of the Idaho driver's license. It will bear the signature, name, address, date of birth, picture of the licensee, expiration date and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. Upon issuing a license under the provisions of this section, the sheriff will notify the Idaho state police on a form or in a manner prescribed by the state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 9-338, Idaho Code.

(2) The fee for original issuance of a license shall be twenty dollars (\$20.00) paid to the sheriff for the purpose of enforcing the provisions of this chapter. The sheriff may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by any state agency or department, which costs shall be paid to the state.

(3) The fee for renewal of the license shall be fifteen dollars (\$15.00). The sheriff may collect any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the cost of materials for the license lawfully required by

any state agency or department, which costs shall be paid to the state. If a licensee applying for renewal has not previously been required to submit fingerprints, the sheriff shall require the licensee to do so and may collect any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department.

(4) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. Renewal notices shall be mailed out ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff shall submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police shall conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (1), paragraphs (a) through (n) of this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days or more after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days or more after the expiration date of the license. The fee shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter.

(5) Notwithstanding the requirements of this section, the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section.

(6) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of subsections (1) through (5) of this section, shall be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

(7) Except in the person's place of abode or fixed place of business, or on property in which the person has any ownership or leasehold interest, a person shall not carry a concealed weapon without a license to carry a concealed weapon. For the purposes of this section, a concealed weapon means any dirk, dirk knife, bowie knife, dagger, pistol, revolver, or any other deadly or dangerous weapon. The provisions of this section shall not apply to any lawfully possessed shotgun or rifle.

(8) A county sheriff, deputy sheriff, or county employee who issues a license to carry a concealed weapon under this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.

(9) While in any motor vehicle, inside the limits or confines of any city, a person shall not carry a concealed weapon on or about his person without a license to carry a concealed weapon. This shall not apply to any firearm located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled or unloaded.

(10) In implementing the provisions of this section on behalf of the state of Idaho, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(11) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrant the issuance of the license to carry a concealed weapon. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years shall be easily distinguishable from regular licenses.

(12) The requirement to secure a license to carry a concealed weapon under this section shall not apply to the following persons:

(a) Officials of a county, city, state of Idaho, the United States, peace officers, guards of any jail, court appointed attendants or any officer of any express company on duty;

(b) Employees of the adjutant general and military division of the state where military membership is a condition of employment when on duty;

(c) Criminal investigators of the attorney general's office, criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;

(d) Any person outside the limits of or confines of any city while engaged in lawful hunting, fishing, trapping or other lawful outdoor activity;

(e) Any publicly elected Idaho official;

(f) Retired peace officers or detention deputies with at least ten (10) years of service with the state or a political subdivision as a peace officer or detention deputy and who have been certified by the peace officer standards and training council;

(g) Any person who has a valid permit from a state or local law enforcement agency or court authorizing him to carry a concealed weapon. A permit issued in another state will only be considered valid if the permit is in the licensee's physical possession.

(13) When issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm and shall accept any of the following, provided the applicant may select which one:

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

(b) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course; or

(c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police; or

(d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency; or

(e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service; or

(f) Is licensed or has been licensed to carry a firearm in this state or a county or municipality, unless the license has been revoked for cause; or

(g) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor.

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

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

(a) Fraud or intentional misrepresentation in the obtaining of a license; or

(b) Misuse of a license, including lending or giving a license to another person, or duplicating a license, or using a license with the intent to unlawfully cause harm to a person or property; or

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

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

(e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime which would have disqualified him from initially receiving a license.

(16) A person twenty-one (21) years of age or older issued a license to carry a concealed weapon is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer. However, a temporary emergency license issued under subsection (5) of this section shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(17) The attorney general is authorized to negotiate reciprocal agreements with other states related to the recognition of licenses to carry concealed weapons. The Idaho state police shall keep a copy and maintain a record of all such agreements, which shall be made available to the public.

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

Approved April 8, 2010.

CHAPTER 238
(S.B. No. 1327)

AN ACT

RELATING TO ANNUITY CONTRACTS; AMENDING CHAPTER 19, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1941, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE DISCLOSURE REQUIREMENTS FOR ANNUITY SALES TO CONSUMERS, TO PROVIDE EXCEPTIONS, TO PROVIDE REPORTING REQUIREMENTS, TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE WITH RULEMAKING AUTHORITY AND TO SPECIFY THAT A PRIVATE RIGHT OF ACTION IS NOT CREATED OR IMPLIED.

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

SECTION 1. That Chapter 19, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1941, Idaho Code, and to read as follows:

41-1941. ANNUITY SALES TO CONSUMERS -- DISCLOSURES. (1) In this section, the following definitions shall apply unless the context otherwise requires:

- (a) "Contract owner" means the owner named in the annuity contract or certified holder in the case of a group annuity contract.
- (b) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and that are not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements may include the premiums, credited interest rates (including any bonus), benefits, values, noninterest based credits, charges or elements of formulas used to determine any of these. An element is considered determinable if it is calculated from underlying determinable elements only or from both determinable and guaranteed elements.
- (c) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated such as "single premium deferred annuity."
- (d) "Guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest based credits, charges or elements of formulas used to determine any of these, that are promised and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.
- (e) "Insurance producer" or "producer" has the same meaning as in chapter 10, title 41, Idaho Code.
- (f) "Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and that are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.
- (g) "Structured settlement annuity" means a qualified funding asset as defined in section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under section 130(d) of the Internal Revenue Code but for the fact that it is not owned by an assignee under a qualified assignment.
- (2) The provisions of this section shall apply to all group and individual annuity contracts and certificates except:
- (a) Registered or nonregistered variable annuities or other registered products;
- (b) Immediate and deferred annuities that contain no nonguaranteed elements;
- (c) Annuities used to fund:
- (i) An employee pension plan that is covered by the employee retirement income security act of 1974, title 29, U.S.C. sections 1001 through 1461;
- (ii) A plan described in section 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of the employee retirement income security act of 1974, is established or maintained by an employer;
- (iii) A governmental or church plan as defined in section 414 of the Internal Revenue Code or a deferred compensation plan of a state or local government or a tax exempt organization pursuant to section 457 of the Internal Revenue Code; or
- (iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.
- (d) Structured settlement annuities.
- (3) If the application for an annuity contract is taken in a face-to-face meeting, the applicant, at or before the time of application, shall be given both the disclosure document and the buyer's guide in the form prescribed by the director. The disclosure document shall be dated and signed

by the prospective annuity owner and producer and the company shall maintain a signed copy for the life of the contract.

(4) If the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the buyer's guide in the manner and form prescribed by the director no later than five (5) business days after the completed application is received by the insurer.

(5) A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the insurer for a free annuity buyer's guide.

(6) If the disclosure document and buyer's guide are not provided at or before the time of application, a free look period of not less than twenty (20) days shall be provided for the applicant to return the annuity contract without penalty. This free look period shall run concurrently with any other free look period provided in statute.

(7) At minimum, the following information shall be included in the disclosure document required to be provided under this section:

(a) The generic name of the contract, the company product name, if different, the form number and the fact that it is an annuity;

(b) The insurer's name and address;

(c) A description of the contract and its benefits, emphasizing its long-term nature and including the following examples where appropriate:

(i) The guaranteed, nonguaranteed and determinable elements of the contract, their limitations, if any, and an explanation of how they operate;

(ii) An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

(iii) The periodic income options both on a guaranteed and nonguaranteed basis;

(iv) Any value reductions caused by withdrawals from or surrender of the contract;

(v) How values in the contract can be accessed;

(vi) The death benefit, if available, and how it will be calculated;

(vii) A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract; and

(viii) The impact of any rider, such as a long-term care rider.

(d) The specific dollar amount or percentage charges and fees shall be listed with an explanation of how they apply;

(e) Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change;

(f) Whenever projections for nonguaranteed elements of a contract are provided in the disclosure document, equal prominence shall be given to guaranteed elements; and

(g) Terms used in the disclosure document shall be defined in clear and concise language that facilitates the understanding of a typical person within the segment of the public to which the disclosure document is directed.

(8) For annuities in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract. Such report shall contain at minimum the following information:

(a) The beginning and end dates of the current report period;

(b) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period;

(c) The total amounts, if any, that have been credited, charged to the contract value paid during the current report period; and

(d) The amount of outstanding loans, if any, as of the end of the current report period.

(9) The director may promulgate rules pursuant to this section including, but not limited to, more fully implementing model rules or laws developed by the national association of insurance commissioners that provide standards for the disclosure of certain minimum information in connection with the sale of annuity contracts.

(10) Nothing in this section shall be construed to create or imply a private cause of action for a violation of the provisions of this section or rules promulgated pursuant to this section.

Approved April 8, 2010.

CHAPTER 239

(S.B. No. 1345, As Amended)

AN ACT

RELATING TO LIVESTOCK; AMENDING TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 28, TITLE 6, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR A LIMITATION OF LIABILITY FOR CERTAIN LIVESTOCK ACTIVITIES, TO PROVIDE FOR APPLICATION AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 28, Title 6, Idaho Code, and to read as follows:

CHAPTER 28

LIVESTOCK ACTIVITIES IMMUNITY ACT

6-2801. DEFINITIONS. For purposes of this section, the following terms have the following meanings:

(1) "Livestock" means cattle, sheep, swine, goats, llamas, alpacas or poultry.

(2) "Livestock activity" means livestock shows, fairs, competitions, performances, races or parades.

(3) "Livestock activity sponsor" means an individual, group or club, partnership or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes or provides the facilities for a livestock activity including, but not limited to, 4-H clubs, school and college sponsored classes and programs and operators, instructors and promoters of livestock facilities including, but not limited to, fairs and arenas at which the activity is held.

(4) "Livestock professional" means a person engaged for compensation in:

- (a) Instructing a participant or renting livestock to a participant; or
- (b) Renting equipment to a participant.

(5) "Participant" means any person, whether amateur or professional, who directly engages in a livestock activity, whether or not a fee is paid to participate in the livestock activity.

6-2802. LIMITATION OF LIABILITY ON LIVESTOCK ACTIVITIES. (1) Except as provided in subsections (2) and (3) of this section, a livestock activity

sponsor or a livestock professional shall not be liable for any injury to or the death of a participant or livestock engaged in a livestock activity and, except as provided in subsections (2) and (3) of this section, no participant nor participant's representative may maintain an action against or recover from a livestock activity sponsor or a livestock professional for an injury to or the death of a participant or livestock engaged in a livestock activity.

(2) The provisions of this chapter do not apply to the horse or mule racing industry as regulated in chapter 25, title 54, Idaho Code, or to equines regulated in chapter 18, title 6, Idaho Code.

(3) Nothing in subsection (1) of this section shall prevent or limit the liability of a livestock activity sponsor or a livestock professional:

(a) If the livestock activity sponsor or the livestock professional:

(i) Provided equipment and the equipment caused the injury;

(ii) Provided the livestock and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the livestock activity, determine the ability of the livestock to behave safely with the participant, and to determine the ability of the participant to safely manage the particular livestock;

(iii) Owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant or livestock sustained injuries because of a dangerous latent condition which was known to or should have been known to the livestock activity sponsor or the livestock professional and for which warning signs have not been conspicuously posted;

(iv) Commits an act or omission that is unreasonable or willfully disregards the safety of the participant or livestock and that act or omission caused the injury; or

(v) Intentionally injures the participant or livestock;

(b) Under liability provisions as set forth in the products liability laws; or

(c) Under the liability provisions set forth in chapter 9, title 6, Idaho Code.

Approved April 8, 2010.

CHAPTER 240

(S.B. No. 1365, As Amended)

AN ACT

RELATING TO THE RURAL PHYSICIAN INCENTIVE FUND; AMENDING SECTION 33-3724, IDAHO CODE, TO PROVIDE FOR CERTAIN MONEYS PAYABLE INTO THE FUND; AND AMENDING SECTION 33-3725, IDAHO CODE, TO DELETE A PROVISION RELATING TO THE AMOUNT CONTRACTUALLY COMMITTED IN A YEAR AND TO PROVIDE FOR A PREFERENCE.

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

SECTION 1. That Section 33-3724, Idaho Code, be, and the same is hereby amended to read as follows:

33-3724. RURAL PHYSICIAN INCENTIVE FUND. There is hereby created the rural physician incentive fund in the state treasury. Money is payable into the fund as provided in section 33-3723, Idaho Code. Money is also payable into the fund from state appropriations, from private contributions, from gifts and grants, and from any other source. Income and earnings on the fund shall be returned to the fund. The state board of education shall adminis-

ter the fund as provided by section 33-3725, Idaho Code. The state board of education shall identify an oversight committee made up of knowledgeable individuals or organizations to assist in the administration of this fund. Members of this oversight committee should come from the Idaho hospital association, Idaho medical association, office of rural health, Idaho rural health education center, medical student program administrators and others as appropriate.

SECTION 2. That Section 33-3725, Idaho Code, be, and the same is hereby amended to read as follows:

33-3725. INCENTIVE PAYMENTS FROM FUND. The moneys in the rural physician incentive fund are hereby appropriated for the uses of the fund. The state board of education may use the moneys to pay:

(1) The educational debts of rural physicians who practice primary care medicine in medically underserved areas of the state that demonstrate a need for assistance in physician recruitment; and

(2) The expenses of administering the rural physician incentive program. The expenses of administering the program shall not exceed ten percent (10%) of the annual fees assessed pursuant to section 33-3723, Idaho Code.

The board, through the oversight committee, shall establish procedures for determining the areas of the state that qualify for assistance in physician recruitment. An eligible area must demonstrate that a physician shortage exists or that the area has been unsuccessful in recruiting physicians by other mechanisms.

A physician from an area determined to be eligible under this section may apply to the board for payment of an educational debt directly related to a professional school. Physicians who have paid the fee authorized in section 33-3723, Idaho Code, shall be given a preference over other applicants. To receive the educational debt payments, the physician shall sign an annual contract with the board. The contract must provide that the physician is liable for the payments if the physician ceases to practice in the eligible area during the contract period.

The maximum amount of educational debt payment that a rural physician may receive is fifty thousand dollars (\$50,000) over a five (5) year period. The board may structure the payment schedule to make greater payments in the later years. ~~The amount contractually committed in a year shall not exceed the annual amount deposited in the rural physician incentive fund.~~

When determining an applicant's eligibility, the state board of education may give preference to those applicants who have paid into the rural physician incentive fund pursuant to section 33-3723, Idaho Code, but shall not exclude from consideration applicants who have not contributed to the fund.

Approved April 8, 2010.

CHAPTER 241
(S.B. No. 1409)

AN ACT

REDUCING THE APPROPRIATION TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation to the Office of the State Board of Education made in Section 1, Chapter 291, Laws of 2009, is hereby reduced by the following amount from the listed fund for the period July 1, 2009, through June 30, 2010:

General Fund	\$198,700
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SECTION 2. In addition to the appropriation made in Section 1, Chapter 291, Laws of 2009, there is hereby appropriated to the Office of the State Board of Education the following amount to be expended from the listed funds for the period July 1, 2009, through June 30, 2010:

Miscellaneous Revenue Fund	\$38,600
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SECTION 3. There is hereby appropriated to the Office of the State Board of Education the following amounts to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

General Fund	\$2,025,200
Indirect Cost Recovery Fund	18,400
Miscellaneous Revenue Fund	83,600
Federal Grant Fund	<u>1,323,400</u>
TOTAL	\$3,450,600

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Office of the State Board of Education is authorized no more than twenty-one and twenty-five one-hundredths (21.25) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 8, 2010.

CHAPTER 242
(S.B. No. 1410)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE COMMISSION FOR PARDONS AND PAROLE FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE COMMISSION FOR PARDONS AND PAROLE FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE COMMISSION FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2010; EXEMPTING THE COMMISSION FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the Department of Correction for the Commission for Pardons and Parole in Section 1, Chapter 338, Laws of 2009, is hereby re-

duced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$108,000
Operating Expenditures	<u>47,000</u>
TOTAL	\$155,000

FROM:

General Fund	\$155,000
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SECTION 2. There is hereby appropriated to the Commission for Pardons and Parole the following amount to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	\$1,684,000	\$394,400	\$2,078,400
Miscellaneous Revenue Fund	<u> </u>	<u>20,700</u>	<u>20,700</u>
TOTAL	\$1,684,000	\$415,100	\$2,099,100

SECTION 3. AUTHORIZED FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Commission for Pardons and Parole is authorized no more than thirty-two (32) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EXEMPTIONS FROM APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2010. To provide maximum flexibility in dealing with reduced appropriations for Fiscal Year 2010, the Commission for Pardons and Parole within the Department of Correction is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2009, through June 30, 2010. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 5. EXEMPTIONS FROM APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2011. To provide maximum flexibility in dealing with reduced appropriations for Fiscal Year 2011, the Commission for Pardons and Parole is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 4 of this act shall be in full force and effect on and after passage and approval.

Approved April 8, 2010.

CHAPTER 243
(S.B. No. 1357)

AN ACT

RELATING TO MOTOR VEHICLE SERVICE CONTRACTS; AMENDING SECTION 49-2803, IDAHO CODE, TO PROVIDE FOR APPLICATION OF LAW, TO PROVIDE PROVISIONS AND REQUIREMENTS RELATING TO SERVICE CONTRACT LIABILITY POLICIES; AND AMENDING CHAPTER 28, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2805A, IDAHO CODE, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR ANY COMPANY TO REPRESENT IN ANY MANNER A FALSE, DECEPTIVE OR MISLEADING STATEMENT REGARDING SUCH COMPANY'S AFFILIATION WITH CERTAIN MANUFACTURERS, SUCH COMPANY'S POSSESSION OF INFORMATION REGARDING CERTAIN MANUFACTURER'S EQUIPMENT WARRANTIES, ALL INDICATIONS THAT SUCH COMPANY'S RECORDS SHOW A CERTAIN WARRANTY IS NEARING OR PAST EXPIRATION, A REQUIREMENT THAT A VEHICLE OWNER REGISTER FOR A CERTAIN CONTRACT, AND TO PROVIDE FOR A MISDEMEANOR, TO PROVIDE FOR PENALTIES, AND TO PROVIDE FOR ENFORCEMENT.

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

SECTION 1. That Section 49-2803, Idaho Code, be, and the same is hereby amended to read as follows:

49-2803. SERVICE CONTRACT REIMBURSEMENT POLICY REQUIREMENTS. (1) Mandatory insurance.

(a) No motor vehicle service contract shall be issued, sold, or offered for sale in this state unless the motor vehicle service contract provider is insured under a service contract liability policy issued by an insurer admitted to do business in this state or as otherwise provided in subsection (2) of this section. The policy shall provide that the insurer will pay to, or on behalf of, the motor vehicle service contract provider all sums which the motor vehicle service contract provider is legally obligated to pay according to the motor vehicle service contract provider's contractual obligations under the motor vehicle service contracts issued or sold by the motor vehicle service contract provider.

(b) All service contract liability policies insuring motor vehicle service contracts issued, sold or offered for sale in this state must conspicuously state that, upon failure of the motor vehicle service contract provider to perform under the contract, the issuer of the policy shall pay on behalf of the provider any sums which the provider is legally obligated to perform, according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider.

~~(2) Reserves. The reserve to be maintained on service contract liability policies issued:~~

~~(a) Covering new vehicles shall be one which generates an unearned premium reserve not less than the unearned premium reserve which is generated by applying the "reverse sum of the digits" earnings method to each policy issued;~~

~~(b) Covering used vehicles shall be a reserve of not less than the unearned premium reserve which is generated by the "straight line" or "prorated" earnings method; or~~

~~(c) Shall be by such other methods as are certified annually by a competent actuary who is a member of the American society of actuaries.~~

The service contract liability policy shall be obtained from an insurer authorized, registered or otherwise permitted to transact insurance in this state or a surplus lines insurer meeting the requirements of chapter 12, ti-

tle 41, Idaho Code, and which insurer or surplus lines insurer meets one (1) of the following requirements:

- (a) (i) Maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars (\$15,000,000); and
- (ii) Annually file copies of the insurer's financial statements, its NAIC annual statement and the actuarial certification required by and filed in the insurer's state of domicile; or
- (b) (i) Maintain surplus as to policyholders and paid-in capital of less than fifteen million dollars (\$15,000,000) but at least equal to ten million dollars (\$10,000,000); and
- (ii) Maintain a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three (3) to one (1); and
- (iii) Annually files copies of the insurer's audited financial statements, its NAIC annual statement and the actuarial certification required by and filed in the insurer's state of domicile.

(3) Premiums. Premiums are defined as those funds paid by or on behalf of the motor vehicle service contract provider to the liability insurance policy issuer for such risks covered under such liability insurance policy. Such premiums or the method of developing such premiums shall be filed with the director of the department of insurance for approval.

(4) Cancellation of service contract liability insurance policy. The issuer of a service contract liability policy may not cancel the policy until a thirty (30) days' advance notice of cancellation has been mailed or delivered to each motor vehicle service contract provider. The cancellation of a service contract liability policy shall not reduce the insurer's responsibility for motor vehicle service contracts issued by motor vehicle service contract providers prior to the date of the cancellation.

SECTION 2. That Chapter 28, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-2805A, Idaho Code, and to read as follows:

49-2805A. DECEPTIVE SOLICITATION OF MOTOR VEHICLE SERVICE CONTRACTS PROHIBITED -- PENALTIES. (1) It shall be unlawful for any company to directly or indirectly represent in any manner, whether by written solicitation, advertisement, or telemarketing, a false, deceptive or misleading statement with regard to:

- (a) Such company's affiliation with a motor vehicle manufacturer, recreational vehicle manufacturer or dealer;
- (b) Such company's possession of information regarding a motor vehicle owner's current motor vehicle manufacturer or recreational vehicle manufacturer original equipment warranty;
- (c) All indications that such company's records show that a motor vehicle or recreational vehicle owner's current motor vehicle manufacturer or recreational manufacturer's original equipment warranty is nearing or past expiration;
- (d) A requirement that such motor vehicle, or recreational vehicle owner register for a new motor vehicle service contract with such company to maintain coverage under the motor vehicle or recreational vehicle owner's current service contract or manufacturer's original equipment warranty.

(2) In addition to any other penalty provided by law, any company who violates any provisions of this section shall be subject to prosecution for a misdemeanor for each violation, plus a civil penalty of one thousand dollars (\$1,000) a day for each violation.

(3) This section shall be enforced by the Idaho attorney general or local prosecuting attorney.

Approved April 8, 2010.

CHAPTER 244

(H.B. No. 589, As Amended in the Senate)

AN ACT

RELATING TO FIREARMS MANUFACTURED IN IDAHO; TO PROVIDE A SHORT TITLE; TO PROVIDE LEGISLATIVE INTENT; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3315A, IDAHO CODE, TO PROVIDE PROHIBITIONS ON REGULATION OF CERTAIN FIREARMS, FIREARM ACCESSORIES OR AMMUNITION BY THE FEDERAL GOVERNMENT, TO PROVIDE EXCEPTIONS, TO PROVIDE REQUIREMENTS FOR MARKETING OF FIREARMS IN IDAHO AND TO PROVIDE APPLICABILITY; AND PROVIDING SEVERABILITY.

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

SECTION 1. SHORT TITLE. This act may be cited as the "Idaho Firearms Freedom Act."

SECTION 2. LEGISLATIVE INTENT. The Legislature declares that the authority for this act is the following:

(1) The Tenth Amendment to the United States Constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution and reserves to the state and people of Idaho certain powers as they were understood at the time that Idaho was admitted to statehood in 1890. The guaranty of those powers is a matter of contract between the state and people of Idaho and the United States as of the time that the compact with the United States was agreed upon and adopted by Idaho and the United States in 1890.

(2) The Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of Idaho certain rights as they were understood at the time that Idaho was admitted to statehood in 1890. The guaranty of those rights is a matter of contract between the state and people of Idaho and the United States as of the time that the compact with the United States was agreed upon and adopted by Idaho and the United States in 1890.

(3) The regulation of intrastate commerce is vested in the states under the Ninth and Tenth Amendments to the United States Constitution, particularly if not expressly preempted by federal law. Congress has not expressly preempted state regulation of intrastate commerce pertaining to the manufacture on an intrastate basis of firearms, firearms accessories, and ammunition.

(4) The Second Amendment to the United States Constitution reserves to the people the right to keep and bear arms as that right was understood at the time that Idaho was admitted to statehood in 1890, and the guaranty of the right is a matter of contract between the state and people of Idaho and the United States as of the time that the compact with the United States was agreed upon and adopted by Idaho and the United States in 1890.

(5) Section 11, Article I, of the Constitution of the State of Idaho clearly secures to Idaho citizens, and prohibits government interference with, the right of individual Idaho citizens to keep and bear arms. This constitutional protection in the Idaho Constitution, which was approved by Congress and the people of Idaho, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Idaho and the United States in 1890.

(6) In 2009, the Idaho Legislature adopted House Joint Memorial No. 4, which stated findings of the Legislature claiming sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution.

(7) In enacting this law, the Idaho legislators are declaring their intention of Idaho becoming the freest state in the Union.

SECTION 3. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3315A, Idaho Code, and to read as follows:

18-3315A. PROHIBITION OF FEDERAL REGULATION OF CERTAIN FIREARMS. (1) As used in this section:

(a) "Borders of Idaho" means the boundaries of Idaho described in chapter 1, title 31, Idaho Code.

(b) "Firearms accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm including, but not limited to, telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition, ammunition carriers and lights for target illumination.

(c) "Generic and insignificant parts" includes, but is not limited to, springs, screws, nuts and pins.

(d) "Manufactured" means that a firearm, a firearm accessory, or ammunition has been created from basic materials for functional usefulness including, but not limited to, forging, casting, machining or other processes for working materials.

(2) A personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Idaho and that remains within the borders of Idaho is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory or ammunition that is manufactured in Idaho from basic materials and that can be manufactured without the inclusion of any significant parts imported from another state.

(3) It is declared by the legislature that generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories or ammunition, and their importation into Idaho and incorporation into a firearm, a firearm accessory or ammunition manufactured in Idaho does not subject the firearm, firearm accessory or ammunition to federal regulation. It is declared by the legislature that basic materials, such as unmachined steel and unshaped wood, are not firearms, firearms accessories or ammunition and are not subject to congressional authority to regulate firearms, firearms accessories and ammunition under interstate commerce as if they were actually firearms, firearms accessories or ammunition. The authority of congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearms accessories and ammunition made in Idaho from those materials. Firearms accessories that are imported into Idaho from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in Idaho.

(4) Subsections (2) and (3) of this section do not apply to:

(a) A firearm that cannot be carried and used by one (1) person;

(b) A firearm that has a bore diameter greater than one and one-half (1 1/2) inches and that uses smokeless powder, not black powder, as a propellant;

(c) Ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or

(d) A firearm that discharges two (2) or more rounds of ammunition with one (1) activation of the trigger or other firing device.

(5) A firearm manufactured or sold in Idaho under this section shall have the words "Made in Idaho" clearly stamped on a central metallic part, such as the receiver or frame.

(6) This section applies to firearms, firearms accessories and ammunition that are manufactured as defined in subsection (1) and retained in Idaho after October 1, 2010.

SECTION 4. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

Approved April 8, 2010.

CHAPTER 245
(H.B. No. 531, As Amended)

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO IDAHO FISH AND GAME LICENSES, PERMITS AND TAGS; AMENDING SECTION 36-402, IDAHO CODE, TO PROVIDE FOR THE CONFIDENTIALITY OF CERTAIN INFORMATION RELATING TO IDAHO FISH AND GAME LICENSES, PERMITS AND TAGS; AMENDING SECTION 36-1510, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS RELATING TO INTERFERENCE WITH THE TAKING OR CONTROL OF WILDLIFE ALSO APPLY TO TRAPPING, TO PROHIBIT INTENTIONAL INTERFERENCE WITH LAWFUL WILDLIFE CONTROL BY ANOTHER, TO DELETE THE PROHIBITION OF ENTERING OR REMAINING IN AN AREA WHERE AN ANIMAL MAY BE TAKEN WITH THE INTENT TO INTERFERE WITH THE LAWFUL TAKING OR PURSUIT OF WILDLIFE, TO PROHIBIT CERTAIN HARASSMENT, INTIMIDATION OR THREATS RELATING TO THE LAWFUL TAKING AND CONTROL OF FISH AND WILDLIFE AND TO CLARIFY THAT CERTAIN PROHIBITIONS SHALL NOT APPLY TO CONSTITUTIONALLY PROTECTED ACTIVITIES; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public

without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(4) Records of a personal nature as follows:

- (a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;
- (b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;
- (c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;
- (d) Records, with regard to the ownership of, or security interests in, registered public obligations;
- (e) Vital statistics records; and
- (f) Military records as described in and pursuant to section 65-301, Idaho Code.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3) (a), (3) (b)

or (3) (d) of section 9-342, Idaho Code. Notwithstanding the provisions of section 9-342, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section and in chapter 13, title 72, Idaho Code, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection (2) of section 20-607, Idaho Code.

(17) Records of the Idaho state police or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

(18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records as soon as the facility in question has received the report, and no later than the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for

purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.

(19) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

(a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

(b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;

(c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

(21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order.

(22) Records of the Idaho state bar lawyer assistance program pursuant to chapter 49, title 54, Idaho Code, unless a participant in the program authorizes the release pursuant to subsection (4) of section 54-4901, Idaho Code.

(23) Records and information contained in the trauma registry created by chapter 20, title 57, Idaho Code, together with any reports, analyses and compilations created from such information and records.

(24) Records contained in the court files, or other records prepared as part of proceedings for judicial authorization of sterilization procedures pursuant to chapter 39, title 39, Idaho Code.

(25) The physical voter registration card on file in the county clerk's office; however, a redacted copy of said card shall be made available consistent with the requirements of this section. Information from the voter registration card maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

(26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, Idaho Code, are confidential and shall not be disclosed to any person other than to the person who executed the health care directive or the revocation thereof and that person's legal representatives, to the person who

registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

(a) If requested by a law enforcement agency, to the law enforcement agency; or

(b) If directed by a court order, to a person identified in the order.

(28) Except as otherwise provided by law relating to the release of information to a governmental entity or law enforcement agency, any personal information including, but not limited to, names, personal and business addresses and phone numbers, sex, height, weight, date of birth, social security and driver's license numbers, or any other identifying numbers and/or information related to any Idaho fish and game licenses, permits and tags unless written consent is obtained from the affected person.

SECTION 2. That Section 36-402, Idaho Code, be, and the same is hereby amended to read as follows:

36-402. LICENSES -- AUTHORITY -- LIMITATIONS -- CONFIDENTIALITY. The licenses mentioned in this chapter shall entitle the person to whom issued to take such wildlife as may be authorized by said license, subject to the limitations set forth under this title and commission regulations promulgated pursuant thereto. Except as otherwise provided by law relating to the release of information to a governmental entity or law enforcement agency, any personal information including, but not limited to, names, personal and business addresses and phone numbers, sex, height, weight, date of birth, social security and driver's license numbers, or any other identifying numbers and/or information related to any Idaho fish and game licenses, permits and tags shall be confidential and not subject to disclosure pursuant to the provisions of chapter 3, title 9, Idaho Code, unless written consent is obtained from the affected person.

SECTION 3. That Section 36-1510, Idaho Code, be, and the same is hereby amended to read as follows:

36-1510. INTERFERENCE WITH HUNTING, FISHING AND PREDATOR, TRAPPING OR WILDLIFE CONTROL. (1) No person shall:

(a) Intentionally interfere with the lawful taking or control of wildlife ~~or lawful predator control~~ by another; or

(b) Intentionally harass, bait, drive or disturb any animal for the purpose of disrupting lawful pursuit or taking thereof; or

(c) ~~Enter or remain in any area where any animal may be taken with the intent to interfere with the lawful taking or pursuit of wildlife; or~~

~~(d) Damage or destroy in any way any lawful hunting blind with the intent to interfere with its usage for hunting; or~~

(d) Harass, intimidate or threaten by any means including, but not limited to, personal or written contact, or via telephone, e-mail or website, any person who is or was engaged in the lawful taking or control of fish or wildlife.

(2) Any fish and game enforcement officer or peace officer who reasonably believes that a person has violated provisions of this section may arrest such person therefor.

(3) (a) The conduct declared unlawful in this section does not include any incidental interference arising from lawful activity by land users or interference by a landowner or members of his immediate family arising from activities on his own property.

(b) The conduct declared unlawful in this section does not include constitutionally protected activity.

(4) Every person convicted or entering a plea of guilty or of nolo contendere for violation of this section is subject to a fine of not to exceed one thousand five hundred dollars (\$1,500) or confinement for six (6) months in the county jail, or both such fine and confinement.

(5) In addition to the penalties provided in subsection (4) of this section, any person who is damaged by any act prohibited in this section may recover treble civil damages. A party seeking civil damages under this subsection (5) may recover upon proof of a violation of the provisions of this section by a preponderance of the evidence. The state of Idaho, or any person may have relief by injunction against violations of the provisions of this section. Any party recovering judgment under this subsection (5) may be awarded a reasonable attorney's fee.

SECTION 4. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

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

Approved April 8, 2010.

CHAPTER 246
(H.B. No. 496)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-1106, IDAHO CODE, TO PROVIDE THAT EACH ELECTOR SHALL SHOW A PHOTO IDENTIFICATION OR PERSONAL IDENTIFICATION AFFIDAVIT BEFORE RECEIVING A BALLOT; AMENDING CHAPTER 11, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1113, IDAHO CODE, TO PROVIDE THAT ALL VOTERS SHALL BE REQUIRED TO PROVIDE CERTAIN PERSONAL IDENTIFICATION AT THE POLLS OR AT THE ABSENT ELECTOR POLLING PLACES; AND AMENDING CHAPTER 11, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1114, IDAHO CODE, TO PROVIDE FOR AN AFFIDAVIT IN LIEU OF PERSONAL IDENTIFICATION.

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

SECTION 1. That Section 34-1106, Idaho Code, be, and the same is hereby amended to read as follows:

34-1106. SIGNING COMBINATION ELECTION RECORD AND POLL BOOK -- DELIVERY OF BALLOT TO ELECTOR. (1) An elector desiring to vote shall state his name and address to the judge or clerk in charge of the combination election record and poll book.

(2) Before receiving his ballot, each elector shall sign his name in the combination election record and poll book following his name therein and show a valid photo identification as provided for in section 34-1113,

Idaho Code, or personal identification affidavit as provided for in section 34-1114, Idaho Code.

(3) No person shall knowingly sign his name in the combination election record and poll book if his residence address is not within that precinct at the time of signing.

(4) If the residence address of a person contained in the combination election record and poll book is incorrectly given due to an error in preparation of the combination election record and poll book, the judge shall ascertain the correct address and make the necessary correction.

(5) The elector shall then be given the appropriate ballots which have been stamped with the official election stamp and shall be given folding instructions for such ballots.

SECTION 2. That Chapter 11, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1113, Idaho Code, and to read as follows:

34-1113. IDENTIFICATION AT THE POLLS. All voters shall be required to provide personal identification before voting at the polls or at absent electors polling places as required by section 34-1006, Idaho Code. The personal identification that may be presented shall be one of the following:

(1) An Idaho driver's license or identification card issued by the Idaho transportation department;

(2) A passport or an identification card, including a photograph, issued by an agency of the United States government;

(3) A tribal identification card, including a photograph; or

(4) A current student identification card, including a photograph, issued by a high school or an accredited institution of higher education, including a university, college or technical school, located within the state of Idaho.

SECTION 3. That Chapter 11, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-1114, Idaho Code, and to read as follows:

34-1114. AFFIDAVIT IN LIEU OF PERSONAL IDENTIFICATION. If a voter is not able to present personal identification as required in section 34-1113, Idaho Code, the voter may complete an affidavit in lieu of the personal identification. The affidavit shall be on a form prescribed by the secretary of state and shall require the voter to provide the voter's name and address. The voter shall sign the affidavit. Any person who knowingly provides false, erroneous or inaccurate information on such affidavit shall be guilty of a felony.

Approved April 8, 2010.

CHAPTER 247
(H.B. No. 602, As Amended)

AN ACT

RELATING TO IMMUNITY FROM LIABILITY; AMENDING CHAPTER 3, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-342, IDAHO CODE, TO PROVIDE FOR IMMUNITIES FOR VOLUNTEER MEMBERS OF SEARCH AND RESCUE OPERATIONS UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Chapter 3, Title 5, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 5-342, Idaho Code, and to read as follows:

5-342. IMMUNITY FOR SEARCH AND RESCUE OPERATIONS. No person serving as a volunteer member of a search and rescue operation constituted pursuant to section 31-2229, Idaho Code, may have their actions or omissions occurring during the search and rescue operation found to be the proximate cause of injuries to a person subject of a search or rescue, unless the volunteer's actions or omissions are not done in good faith or are grossly negligent. This limitation of liability applies notwithstanding the fact that an organization may recover costs incurred incident to the search and rescue operation or rendering of emergency care.

Approved April 8, 2010.

CHAPTER 248
(H.B. No. 603)

AN ACT

RELATING TO THE IDAHO DEPARTMENT OF LABOR'S ADMINISTRATIVE SUPPORT FOR THE IDAHO COMMISSION ON HUMAN RIGHTS; AMENDING SECTION 67-5904, IDAHO CODE, TO REVISE AUTHORITY OF THE HUMAN RIGHTS COMMISSION; AMENDING SECTION 67-5905, IDAHO CODE, TO PROVIDE DUTIES OF THE DEPARTMENT OF LABOR REGARDING THE HUMAN RIGHTS COMMISSION; AMENDING SECTION 67-5907, IDAHO CODE, TO PROVIDE DUTIES OF THE ADMINISTRATOR OF THE HUMAN RIGHTS COMMISSION; AND AMENDING SECTION 72-1333, IDAHO CODE, TO REVISE AUTHORITY AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF LABOR.

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

SECTION 1. That Section 67-5904, Idaho Code, be, and the same is hereby amended to read as follows:

67-5904. ORGANIZATION OF COMMISSION -- COMPENSATION OF MEMBERS. The commission shall annually select a president and vice president. Members shall each be compensated as provided by section 59-509(h), Idaho Code. ~~The commission may appoint a staff director to serve at its pleasure. Other subordinate staff necessary to accomplish the commission's mission shall be subject to the provisions of chapter 53, title 67, Idaho Code.~~

SECTION 2. That Section 67-5905, Idaho Code, be, and the same is hereby amended to read as follows:

67-5905. ADMINISTRATIVE SUPPORT -- APPOINTMENT OF COMMISSION STAFF -- DUTIES OF ~~STAFF DIRECTOR~~ ADMINISTRATOR. The director of the department of labor shall provide administrative support to the commission. The director shall appoint an administrator to the commission to serve at the director's pleasure. Any decision by the director regarding the appointment and tenure of the administrator shall be made with the advice and consent of the commission. The ~~staff director~~ administrator shall attend all meetings of the commission, serve as its executive and administrative officer, have charge of its office and records, and, under the general supervision of the commission, be responsible for the administration of this act and the general policies and regulations adopted by the commission. Other subordinate staff necessary to accomplish the commission's mission shall be employees of the department of labor subject to the provisions of chapter 53, title 67, Idaho Code.

SECTION 3. That Section 67-5907, Idaho Code, be, and the same is hereby amended to read as follows:

67-5907. COMPLAINTS -- PROCEDURE ON COMPLAINT. (1) Any person who believes he or she has been subject to unlawful discrimination, or a member of the commission, may file a complaint under oath with the commission stating the facts concerning the alleged discrimination within one (1) year of the alleged unlawful discrimination.

(2) Upon receipt of such a complaint, the commission or its delegated investigator shall endeavor to resolve the matter by informal means prior to a determination of whether there are reasonable grounds to believe that unlawful discrimination has occurred. The commission or its delegated investigator shall conduct such investigation as may be necessary to resolve the issues raised by the facts set forth in the complaint.

(3) If the commission does not find reasonable grounds to believe that unlawful discrimination has occurred, it shall enter an order so finding, and dismiss the proceeding, and shall notify the complainant and the respondent of its action.

(4) If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, it shall endeavor to eliminate such discrimination by informal means such as conference, conciliation and persuasion. No offer or counter offer of conciliation nor the terms of any conciliation agreement may be made public without the written consent of all the parties to the proceeding, nor used as evidence in any subsequent proceeding, civil or criminal. If the case is disposed of by such informal means in a manner satisfactory to the commission, the commission shall dismiss the proceeding, and shall notify the complainant and the respondent.

(5) If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination if relief is not immediately granted, or if conciliation efforts under subsection (4) have not succeeded, the commission may file a civil action seeking appropriate legal and equitable relief.

(6) A complainant may request dismissal of an administrative complaint at any time. Dismissals requested before three hundred sixty-five (365) calendar days from the date of filing of the administrative complaint may be granted at the discretion of the ~~staff director~~ administrator who will attempt to contact all parties who have appeared in the proceeding and consider their interests. After three hundred sixty-five (365) calendar days, if the complaint has not been dismissed pursuant to subsection (3) of this section or the parties have not entered into a settlement or conciliation agreement

pursuant to subsection (2) or (4) of this section or other administrative dismissal has not occurred, the commission shall, upon request of the complainant, dismiss the complaint and notify the parties.

SECTION 4. That Section 72-1333, Idaho Code, be, and the same is hereby amended to read as follows:

72-1333. DEPARTMENT OF LABOR -- AUTHORITY AND DUTIES OF THE DIRECTOR. (1) The director shall administer the employment security law, chapter 13, title 72, Idaho Code, the minimum wage law, chapter 15, title 44, Idaho Code, the provisions of chapter 6, title 45, Idaho Code, relating to claims for wages, the provisions of section 44-1812, Idaho Code, relating to minimum medical and health standards for paid firefighters, the disability determinations service established pursuant to 42 U.S.C. 421, and shall perform such other duties relating to labor and workforce development as may be imposed upon him by law. The director shall be the successor in law to the office enumerated in section 1, article XIII, of the constitution of the state of Idaho. The director shall have the authority to employ individuals, make expenditures, require reports, make investigations, perform travel and take other actions deemed necessary. The director shall organize the department of labor which is hereby created, and which shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government. The director shall have an official seal which shall be judicially noticed.

(2) The director shall have the authority pursuant to chapter 52, title 67, Idaho Code, to adopt, amend, or rescind rules as he deems necessary for the proper performance of all duties imposed upon him by law.

(3) Subject to the provisions of chapter 53, title 67, Idaho Code, the director is authorized and directed to provide for a merit system for the department covering all persons, except the director, the division administrators, employees of the Idaho career information system, and two (2) exempt positions to serve at the pleasure of the director.

(4) The director shall make recommendations for amendments to the employment security law and other laws he is charged to implement as he deems proper.

(5) The director shall have all the powers and duties as may have been or could have been exercised by his predecessors in law, except those powers and duties granted and reserved to the director of the department of commerce in titles 39, 49 and 67, Idaho Code, and he shall be the successor in law to all contractual obligations entered into by his predecessors in law, except for those contracts of the department of commerce, or contracts pertaining to any power or duty granted and reserved to the director of the department of commerce, in titles 39, 49 and 67, Idaho Code.

(6) The director shall provide administrative support for the commission on human rights pursuant to section 67-5905, Idaho Code.

Approved April 8, 2010.

CHAPTER 249
(H.B. No. 550)

AN ACT

RELATING TO TRUST DEEDS; AMENDING SECTION 45-1510, IDAHO CODE, TO SPECIFY THE EFFECTIVE DATE OF A TRUSTEE'S DEED AND TO PROVIDE A PROCEDURE TO RESTORE THE CONDITION OF RECORD TITLE TO THE REAL PROPERTY DESCRIBED IN A

TRUSTEE'S DEED AND THE EXISTENCE AND PRIORITY OF ALL LIENHOLDERS TO THE STATUS QUO PRIOR TO THE RECORDATION OF THE TRUSTEE'S DEED UPON SALE WHEN THE TRUSTEE'S SALE IS INVALID FOR CERTAIN REASONS.

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

SECTION 1. That Section 45-1510, Idaho Code, be, and the same is hereby amended to read as follows:

45-1510. TRUSTEE'S DEED -- RECORDING -- EFFECT. (1) When the trustee's deed is recorded in the deed records of the county where the property described in the deed is located, the recitals contained in the deed and in the affidavits required under section 45-1506, subsection (7), Idaho Code, shall be prima facie evidence in any court of the truth of the recitals and the affidavits. However, the recitals and affidavits are conclusive in favor of a purchaser in good faith for value or any successor in interest thereof. For purposes of this section, the trustee's deed shall be deemed effective as of the date and time on which the sale was held if such deed is recorded within fifteen (15) days after the date of sale or the first business day following the fifteenth day if the county recorder of the county in which the property is located is closed on the fifteenth day.

(2) Where a trustee's sale held pursuant to section 45-1506, Idaho Code, is invalid by reason of automatic stay provisions of the U.S. bankruptcy code, or a stay order issued by any court of competent jurisdiction or otherwise, recordation of a notice of rescission of the trustee's deed shall restore the condition of record title to the real property described in the trustee's deed and the existence and priority of all lienholders to the status quo prior to the recordation of the trustee's deed upon sale. Only the trustee or beneficiary who caused the trustee's deed to be recorded, or his/its successor in interest, may record a notice of rescission. The notice of rescission shall accurately identify the deed of trust, the recording instrument numbers used by the county recorder or the book and pages at which the trustee's deed and deed of trust are recorded, the names of all grantors, trustors and beneficiaries, the location of the property subject to the deed of trust and the reason for rescission. Such notice of rescission shall be in substantially the following form:

NOTICE OF RESCISSION OF TRUSTEE'S DEED UPON SALE

This Notice of Rescission is made this day . . . with respect to the following:

1. THAT . . . is the duly appointed Trustee under the certain Deed of Trust dated . . . and recorded . . . as instrument number . . . in book . . . , page . . . , wherein . . . and . . . are named as Trustors, . . . is named as Trustee, . . . is named as Beneficiary;
2. THAT . . . is the Beneficiary of record under said Deed of Trust;
3. THAT THE DEED OF TRUST encumbers real property located in the County of . . . , State of Idaho, described as follows:

Property Description

4. THAT BY VIRTUE OF a default under the terms of the Deed of Trust, the Beneficiary did declare a default, as set forth in a Notice of Default recorded . . . as instrument number . . . in book . . . , page . . . , in the office of the Recorder of . . . County, State of Idaho;
5. THAT THE TRUSTEE has been informed by the Beneficiary that the Beneficiary desires to rescind the Trustee's Deed recorded upon the foreclosure sale that was conducted in error due to a failure to

communicate timely, notice of conditions that would have warranted a cancellation of the foreclosure that did occur on;

6. THAT THE EXPRESS PURPOSE of this Notice of Rescission is to return the priority and existence of all title and lienholders to the status quo ante as existed prior to the Trustee's sale.

NOW THEREFORE, THE UNDERSIGNED HEREBY RESCINDS THE TRUSTEE'S SALE AND PURPORTED TRUSTEE'S DEED UPON SALE AND HEREBY ADVISES ALL PERSONS THAT THE TRUSTEE'S DEED UPON SALE DATED AND RECORDED AS INSTRUMENT NUMBER IN THE COUNTY OF, STATE OF IDAHO, FROM (TRUSTEE) TO (GRANTEE) IS HEREBY RESCINDED, AND IS AND SHALL BE OF NO FORCE AND EFFECT WHATSOEVER. THE DEED OF TRUST DATED, RECORDED AS INSTRUMENT NUMBER IN BOOK, PAGE, IS IN FULL FORCE AND EFFECT.

.....
Authorized Signatory

Acknowledgment

Approved April 8, 2010.

CHAPTER 250
(H.B. No. 554)

AN ACT

RELATING TO CHANGE OF NAMES; AMENDING SECTION 7-803, IDAHO CODE, TO REMOVE REFERENCE TO CERTAIN PERSONAL IDENTIFYING INFORMATION IN A NOTICE OF HEARING OF A PETITION PROPOSING A NAME CHANGE.

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

SECTION 1. That Section 7-803, Idaho Code, be, and the same is hereby amended to read as follows:

7-803. PUBLICATION OF PETITION. A notice of hearing of such petition signed by the clerk and issued under the seal of the court, must be published for four (4) successive weeks in some newspaper printed in the county, if a newspaper be printed therein, but if no newspaper be printed in the county a copy of such notice of hearing must be posted at three (3) of the most public places in the county for a like period, and proofs must be made of such publication or posting before the petition can be considered. The notice of hearing may be substantially in the following form:

NOTICE OF HEARING

In the District Court of the Judicial District of the State of Idaho in and for County.

In the matter of the application of for change in name.
(Assertions herein contained refer to assertions in the petition)

A petition by, ~~born at~~ now residing at in the City of, State of Idaho, proposing a change in name to has been filed in the above entitled court, the reason for the change in name being
.....:
~~the name of the petitioner's father is address (if living); the names and addresses of petitioner's near relatives (if father be dead) are+~~

.....

 such petition will be heard at such time as the court may appoint, and objections may be filed by any person who can, in such objections, show to the court a good reason against such a change of name.

WITNESS my hand and seal of said District Court this day of

.....

 Attorney for petitioner Clerk

 Residence or post office address Deputy
 Idaho.

Approved April 8, 2010.

CHAPTER 251
 (H.B. No. 593, As Amended)

AN ACT

RELATING TO ATTORNEY'S FEES IN SUITS OR ARBITRATION WITH INSURERS; AMENDING SECTION 41-1839, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE AWARD OF ATTORNEY'S FEES IN ACTIONS OR ARBITRATIONS INVOLVING INSURERS AND TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 41-1839, Idaho Code, be, and the same is hereby amended to read as follows:

41-1839. ALLOWANCE OF ATTORNEY'S FEES IN SUITS AGAINST OR IN ARBITRATION WITH INSURERS. (1) Any insurer issuing any policy, certificate or contract of insurance, surety, guaranty or indemnity of any kind or nature whatsoever, which shall fail for a period of thirty (30) days after proof of loss has been furnished as provided in such policy, certificate or contract, to pay to the person entitled thereto the amount justly due under such policy, certificate or contract, shall in any action thereafter brought against the insurer in any court in this state or in any arbitration for recovery under the terms of the policy, certificate or contract, pay such further amount as the court shall adjudge reasonable as attorney's fees in such action or arbitration.

(2) In any such action or arbitration, if it is alleged that before the commencement thereof, a tender of the full amount justly due was made to the person entitled thereto, and such amount is thereupon deposited in the court, and if the allegation is found to be true, or if it is determined in such action or arbitration that no amount is justly due, then no such attorney's fees may be recovered.

(3) This section shall not apply as to actions under the worker's compensation law ~~which are subject to section 72-611, title 72,~~ Idaho Code. This section shall not apply to actions or arbitrations against surety insurers by creditors of or claimants against a principal and arising out of a surety or guaranty contract issued by the insurer as to such principal, unless such creditors or claimants shall have notified the surety of their claim, in writing, at least sixty (60) days prior to such action or arbitration against the surety. The surety shall be authorized to determine what portion or amount of such claim is justly due the creditor or claimant and payment or tender of the amount so determined by the surety shall not be deemed a volunteer payment and shall not prejudice any right of the surety to indemnification and/or subrogation so long as such determination and

payment by the surety be made in good faith. Nor shall this section apply to actions or arbitrations against fidelity insurers by claimants against a principal and arising out of a fidelity contract or policy issued by the insurer as to such principal unless the liability of the principal has been acknowledged by him in writing or otherwise established by judgment of a court of competent jurisdiction.

(4) Notwithstanding any other provision of statute to the contrary, this section and section 12-123, Idaho Code, shall provide the exclusive remedy for the award of statutory attorney's fees in all actions or arbitrations between insureds and insurers involving disputes arising under policies of insurance. Provided, attorney's fees may be awarded by the court when it finds, from the facts presented to it that a case was brought, pursued or defended frivolously, unreasonably or without foundation. Section 12-120, Idaho Code, shall not apply to any actions or arbitrations between insureds and insurers involving disputes arising under any policy of insurance.

Approved April 8, 2010.

CHAPTER 252
(H.B. No. 613)

AN ACT

RELATING TO CORRECTIONAL INDUSTRIES; AMENDING SECTION 20-408, IDAHO CODE,
TO DELETE LANGUAGE REQUIRING AN ANNUAL AUDIT.

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

SECTION 1. That Section 20-408, Idaho Code, be, and the same is hereby amended to read as follows:

20-408. DUTIES OF BOARD. The board of correction shall:

(a) Recommend productive enterprises in the penal institutions under the jurisdiction of the department of correction, in such volume and of such kinds as to eliminate unnecessary idleness among the inmates and to provide diversified work activities which will serve as a means of vocational education and rehabilitation, as well as financial support;

(b) Determine the advisability and suitability of establishing, expanding, diminishing, or discontinuing any enterprise;

(c) Hold hearings and make rules for conducting such hearings. The board may, in its discretion, hold public hearings on any subject within its jurisdiction;

(d) Conduct programs of research, education and publicity for correctional industries products;

(e) Secure new markets for correctional industries products;

(f) Enter into such contracts and agreements as may be necessary or advisable pursuant to the provisions of this act;

(g) Appoint and employ all necessary officers, agents and other personnel, including any experts in any correctional industries enterprise pursuit, prescribe their duties and fix their compensation;

(h) Cooperate with any local, state or national organization or agency and to enter into contracts and agreements with such agencies for carrying on and promoting the purposes of this act;

(i) Adopt, rescind, modify and amend all necessary and proper orders, rules and regulations for the exercise of its powers and the performance of its duties herein;

(j) Keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all collections, receipts,

deposits, withdrawals, disbursements, paid-outs, moneys, and other financial transactions made and done pursuant to this act. ~~Such records, books and accounts shall be audited subject to lawful, sound procedures and methods of accounting at least annually and a copy of such audit shall be delivered within thirty (30) days after completion thereof to the board of correction.~~ The books, records and accounts shall be open to inspection and audit by the legislative council and the public at all times.

Approved April 8, 2010.

CHAPTER 253
(H.B. No. 608, As Amended)

AN ACT

RELATING TO LOCAL LAND USE PLANNING; AMENDING SECTION 67-6509, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A RECOMMENDATION FOR AN AMENDMENT TO THE COMPREHENSIVE PLAN.

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

SECTION 1. That Section 67-6509, Idaho Code, be, and the same is hereby amended to read as follows:

67-6509. RECOMMENDATION AND ADOPTION, AMENDMENT, AND REPEAL OF THE PLAN. (a) The planning or planning and zoning commission, prior to recommending the plan, amendment, or repeal of the plan to the governing board, shall conduct at least one (1) public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the plan to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. The commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice of intent to adopt, repeal or amend the plan shall be sent to all political subdivisions providing services within the planning jurisdiction, including school districts, at least fifteen (15) days prior to the public hearing scheduled by the commission. Following the commission hearing, if the commission recommends a material change to the proposed amendment to the plan which was considered at the hearing, it shall give notice of its proposed recommendation and conduct another public hearing concerning the matter if the governing board will not conduct a subsequent public hearing concerning the proposed amendment. If the governing board will conduct a subsequent public hearing, notice of the planning and zoning commission recommendation shall be included in the notice of public hearing provided by the governing board. A record of the hearings, findings made, and actions taken by the commission shall be maintained by the city or county.

(b) The governing board, as provided by local ordinance, prior to adoption, amendment, or repeal of the plan, may conduct at least one (1) public hearing, in addition to the public hearing(s) conducted by the commission, using the same notice and hearing procedures as the commission. The governing board shall not hold a public hearing, give notice of a proposed hearing, nor take action upon the plan, amendments, or repeal until recommendations have been received from the commission. Following consideration by the governing board, if the governing board makes a material change in the recommendation or alternative options contained in the recommendation by the commission concerning adoption, amendment or repeal of a plan, further notice and hearing shall be provided before the governing board adopts, amends or repeals the plan.

(c) No plan shall be effective unless adopted by resolution by the governing board. A resolution enacting or amending a plan or part of a plan may be adopted, amended, or repealed by definitive reference to the specific plan document. A copy of the adopted or amended plan shall accompany each adopting resolution and shall be kept on file with the city clerk or county clerk.

(d) Any person may petition the commission or, in absence of a commission, the governing board, for a plan amendment at any time. ~~The commission may recommend amendments to the land use map component of the comprehensive plan to the governing board not more frequently than once every, unless the governing board has established by resolution a minimum interval between consideration of requests to amend, which interval shall not exceed six (6) months.~~ The commission may recommend amendments to ~~the text of~~ the comprehensive plan and to other ordinances authorized by this chapter to the governing board at any time.

Approved April 8, 2010.

CHAPTER 254
(H.B. No. 596, As Amended)

AN ACT

RELATING TO COLLEGE AND UNIVERSITY IMPROVEMENTS; AMENDING SECTION 63-301A, IDAHO CODE, TO PROVIDE THAT CERTAIN IMPROVEMENTS ON STATE COLLEGE OR STATE UNIVERSITY LANDS MAY BE INCLUDED ON THE NEW CONSTRUCTION ROLL; AMENDING SECTION 63-602E, IDAHO CODE, TO PROVIDE THAT CERTAIN IMPROVEMENTS ON STATE COLLEGE OR STATE UNIVERSITY OWNED LAND SHALL BE EXEMPT FROM TAXATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-301A, Idaho Code, be, and the same is hereby amended to read as follows:

63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

- (a) The name of the taxpayer;
- (b) The description of the new construction, suitably detailed to meet the requirements of the individual county;
- (c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;
- (d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both;
- (e) The amount of taxable market value added as provided in subsection (3) (g) of this section as a result of dissolution of any revenue allocation area.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission on or before the fourth Monday in July. Provided however, the value shown in subsection (3) (f) of this section shall be reported to the appropriate county auditor by the state tax commission by the third Monday in July and the value sent by the county auditor to each taxing district. The value established pursuant to subsection (3) (f) of this section is subject to correction by the

state tax commission until the first Monday in September and any such corrections shall be sent to the appropriate county auditor, who shall notify any affected taxing districts.

(3) The value shown on the new construction roll may include the taxable market value increase from:

- (a) Construction of any new structure that previously did not exist; or
- (b) Additions or alterations to existing nonresidential structures; or
- (c) Installation of new or used manufactured housing that did not previously exist within the county; or
- (d) Change of land use classification; or
- (e) Property newly taxable as a result of loss of the exemption provided by section 63-602W, Idaho Code; or
- (f) The construction of any improvement or installation of any equipment used for or in conjunction with the generation of electricity and the addition of any improvement or equipment intended to be so used, except property that has a value allocated or apportioned pursuant to section 63-405, Idaho Code, or that is owned by a cooperative or municipality, as those terms are defined in section 61-332A, Idaho Code, or that is owned by a public utility, as that term is defined in section 61-332A, Idaho Code, owning any other property that is allocated or apportioned. No replacement equipment or improvements may be included; or
- (g) Increases in value over the base value of property on the base assessment roll within an urban renewal revenue allocation area that has been terminated pursuant to section 50-2909(4), Idaho Code, to the extent that this increment exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value. Notwithstanding other provisions of this section, the new construction roll shall not include new construction located within an urban renewal district's revenue allocation area, except as provided in this subsection (3) (g); or
- (h) Formerly exempt improvements on state college or state university owned land for student dining, housing, or other education related purposes approved by the state board of education and board of regents of the university of Idaho as proper for the operation of such state college or university provided however, such improvements were never included on any previous new construction roll.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation, except as provided in subsection (3) (g) of this section.

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

63-602E. PROPERTY EXEMPT FROM TAXATION -- PROPERTY USED FOR SCHOOL OR EDUCATIONAL PURPOSES. (1) The following property is exempt from taxation: all property used exclusively for nonprofit school or educational purposes, property used for charter school purposes, and all property from which no profit is derived and which is held or used exclusively for endowment, building or maintenance purposes of schools or educational institutions.

(2) If property is used primarily for nonprofit school purposes or charter school purposes and for business purposes from which a revenue is derived, which revenue is not related to the educational purpose for which the nonprofit school or charter school exists, the assessor shall determine the value of the entire property, of the part used for nonprofit school purposes or charter school purposes, and of the part used for such unrelated

business purposes. The portion of the building used for nonprofit school purposes or charter school purposes and for business and administration of the nonprofit school or charter school shall be exempt from taxation.

(3) Possessory interests in improvements on state college or state university owned land used exclusively for student housing, college or university operated dining, or other education related purposes approved by the state board of education and board of regents of the university of Idaho as proper for the operation of such state college or university shall be exempt from taxation.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2010.

Approved April 8, 2010.

CHAPTER 255
(H.B. No. 555)

AN ACT

RELATING TO ADMINISTRATIVE PROCEDURES; AMENDING SECTION 67-5243, IDAHO CODE, TO PROVIDE THAT MOTIONS FOR RECONSIDERATION OF CERTAIN RECOMMENDED AND PRELIMINARY ORDERS BE FILED WITHIN FOURTEEN DAYS OF THE SERVICE DATE OF SUCH ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5245, IDAHO CODE, TO PROVIDE THAT PETITIONS FOR REVIEW OF CERTAIN PRELIMINARY ORDERS BE FILED WITHIN FOURTEEN DAYS AFTER THE SERVICE DATE OF SUCH ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5246, IDAHO CODE, TO PROVIDE THAT MOTIONS FOR RECONSIDERATION OF CERTAIN FINAL ORDERS BE FILED WITHIN FOURTEEN DAYS OF THE SERVICE DATE OF SUCH ORDERS, TO PROVIDE THAT CERTAIN FINAL ORDERS SHALL BE EFFECTIVE FOURTEEN DAYS AFTER THE SERVICE DATE OF SUCH ORDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5248, IDAHO CODE, TO PROVIDE FOR THE SERVICE OF ORDERS AND PROOF OF SERVICE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 67-5273, IDAHO CODE, TO PROVIDE THAT PETITIONS FOR JUDICIAL REVIEW OF SPECIFIED ORDERS, DECISIONS AND ACTIONS BE FILED WITHIN TWENTY-EIGHT DAYS OF THE SERVICE DATE OF SUCH ORDERS OR DECISIONS.

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

SECTION 1. That Section 67-5243, Idaho Code, be, and the same is hereby amended to read as follows:

67-5243. ORDERS NOT ISSUED BY AGENCY HEAD. (1) If the presiding officer is not the agency head, the presiding officer shall issue either:

- (a) ~~a~~ recommended order, which becomes a final order only after review by the agency head in accordance with section 67-5244, Idaho Code; or
- (b) ~~a~~ preliminary order, which becomes a final order unless reviewed in accordance with section 67-5245, Idaho Code.

(2) The order shall state whether it is a preliminary order or a recommended order.

(3) Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the ~~issuance~~ service date of that order. The presiding officer shall render a written order disposing of the petition. The petition is deemed denied if the presiding officer does not dispose of it within twenty-one (21) days after the filing of the petition.

SECTION 2. That Section 67-5245, Idaho Code, be, and the same is hereby amended to read as follows:

67-5245. REVIEW OF PRELIMINARY ORDERS. (1) A preliminary order shall include:

(a) ~~a~~A statement that the order will become a final order without further notice; and

(b) ~~t~~The actions necessary to obtain administrative review of the preliminary order.

(2) The agency head, upon his own motion may, or, upon motion by any party shall, review a preliminary order, except to the extent that:

(a) ~~a~~Another statute precludes or limits agency review of the preliminary order; or

(b) ~~t~~The agency head has delegated his authority to review preliminary orders to one (1) or more persons.

(3) A petition for review of a preliminary order must be filed with the agency head, or with any person designated for this purpose by rule of the agency, within fourteen (14) days after the ~~issuance~~ service date of the preliminary order unless a different time is required by other provision of law. If the agency head on his own motion decides to review a preliminary order, the agency head shall give written notice within fourteen (14) days after the issuance of the preliminary order unless a different time is required by other provisions of law. The fourteen (14) day period for filing of notice is tolled by the filing of a petition for reconsideration under section 67-5243(3), Idaho Code.

(4) The basis for review must be stated on the petition. If the agency head on his own motion gives notice of his intent to review a preliminary order, the agency head shall identify the issues he intends to review.

(5) The agency head shall allow all parties to file exceptions to the preliminary order, to present briefs on the issues, and may allow all parties to participate in oral argument.

(6) The agency head shall:

(a) ~~i~~Issue a final order in writing, within fifty-six (56) days of the receipt of the final briefs or oral argument, whichever is later, unless the period is waived or extended with the written consent of all parties, or for good cause shown;

(b) ~~r~~Remand the matter for additional hearings; or

(c) ~~h~~Hold additional hearings.

(7) The head of the agency or his designee for the review of preliminary orders shall exercise all of the decision-making power that he would have had if the agency head had presided over the hearing.

SECTION 3. That Section 67-5246, Idaho Code, be, and the same is hereby amended to read as follows:

67-5246. FINAL ORDERS -- EFFECTIVENESS OF FINAL ORDERS. (1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of any final order issued by the agency head within fourteen (14) days of the ~~issuance~~ service date of that order. The agency head shall issue a written order disposing of the petition. The peti-

tion is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its ~~issuance~~ service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) ~~The~~ petition for reconsideration is disposed of; or

(b) ~~The~~ petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A nonparty shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

SECTION 4. That Section 67-5248, Idaho Code, be, and the same is hereby amended to read as follows:

67-5248. CONTENTS OF ORDERS. (1) An order must be in writing and shall include:

(a) ~~a~~ reasoned statement in support of the decision. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts of record supporting the findings.

(b) ~~a~~ statement of the available procedures and applicable time limits for seeking reconsideration or other administrative relief.

(2) Findings of fact must be based exclusively on the evidence in the record of the contested case and on matters officially noticed in that proceeding.

(3) All parties to the contested case shall be ~~provided~~ served with a copy of the order. The order shall be accompanied by proof of service stating the service date, each party who was served and the method(s) of service.

SECTION 5. That Section 67-5273, Idaho Code, be, and the same is hereby amended to read as follows:

67-5273. TIME FOR FILING PETITION FOR REVIEW. (1) A petition for judicial review of a temporary or final rule may be filed at any time, except as limited by section 67-5231, Idaho Code.

(2) A petition for judicial review of a final order or a preliminary order that has become final when it was not reviewed by the agency head or preliminary, procedural or intermediate agency action under section 67-5271(2), Idaho Code, must be filed within twenty-eight (28) days of the ~~issuance~~ service date of the final order, the date when the preliminary order became final, or the ~~issuance~~ service date of a preliminary, procedural or intermediate agency order, or, if reconsideration is sought, within twenty-eight (28) days after the service date of the decision thereon. A cross-petition for judicial review may be filed within fourteen (14) days after a party is served with a copy of the notice of the petition for judicial review.

(3) A petition for judicial review of a final agency action other than a rule or order must be filed within twenty-eight (28) days of the agency action, except as provided by other provision of law. The time for filing a petition for review shall be extended during the pendency of the

petitioner's timely attempts to exhaust administrative remedies, if the attempts are clearly not frivolous or repetitious. A cross-petition for judicial review may be filed within fourteen (14) days after a party is served with a copy of the notice of the petition for judicial review.

Approved April 8, 2010.

CHAPTER 256
(H.B. No. 425)

AN ACT

RELATING TO THE COORDINATE SYSTEM OF LAND DESCRIPTION; AMENDING SECTION 50-1301, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-1304, IDAHO CODE, TO PROVIDE REQUIREMENTS RELATING TO CERTAIN COORDINATES SHOWN ON A PLAT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1701, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE FOR A SINGLE ZONE COORDINATE AREA AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1702, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO PROVIDE REQUIREMENTS FOR REFERENCING THE SINGLE ZONE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 55-1703, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE AND TO REVISE PROVISIONS RELATING TO PLANE COORDINATES; AMENDING SECTION 55-1704, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DOCUMENTS REPORTING COORDINATES WITHIN TWO ZONES; AMENDING SECTION 55-1705, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, TO MAKE TECHNICAL CORRECTIONS AND TO DEFINE THE IDAHO COORDINATE SYSTEM OF 1983, SINGLE ZONE; REPEALING SECTION 55-1706, IDAHO CODE, RELATING TO THE FIVE KILOMETER TRIANGULATION LIMITATION; REPEALING SECTION 55-1707, IDAHO CODE, RELATING TO THE USE OF THE TERM IDAHO COORDINATE SYSTEM OF 1927, EAST, CENTRAL, WEST ZONE; AMENDING SECTION 55-1708, IDAHO CODE, TO CLARIFY SUPPLEMENTAL COORDINATE DESCRIPTIONS; AND AMENDING SECTION 55-1907, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO COORDINATES SHOWN ON CERTAIN MAPS AND PLATS.

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

SECTION 1. That Section 50-1301, Idaho Code, be, and the same is hereby amended to read as follows:

50-1301. DEFINITIONS. The following definitions shall apply to terms used in this section and sections 50-1301 through 50-1334, Idaho Code.

(1) Basis of bearing: The bearing in degrees, minutes and seconds, or equivalent, of a line between two (2) monuments or corners that serves as the reference bearing for all other lines on the survey;

(2) Easement: A right of use, falling short of ownership, and usually for a certain stated purpose;

2-(3) Functioning street department: A city department responsible for the maintenance, construction, repair, snow removal, sanding and traffic control of a public highway or public street system which qualifies such department to receive funds from the highway distribution account to local units of government pursuant to section 40-709, Idaho Code;

3-(4) Idaho coordinate system: That system of coordinates established and designated by chapter 17, title 55, Idaho Code;

4-(5) Monument: A physical structure or object that occupies the position of a corner;

5-(6) Owner: The proprietor of the land (having legal title);

6-(7) Plat: The drawing, map or plan of a subdivision, cemetery, town-site or other tract of land, or a replatting of such, including certifications, descriptions and approvals;

~~7-~~(8) Private road: A road within a subdivision plat that is not dedicated to the public and not a part of a public highway system;

~~8-~~(9) Public highway agency: The state transportation department, any city, county, highway district or other public agency with jurisdiction over public highway systems and public rights-of-way;

~~9-~~(10) Public land survey corner: Any point actually established and monumented in an original survey or resurvey that determines the boundaries of remaining public lands, or public lands patented, represented on an official plat and in the field notes thereof, accepted and approved under authority delegated by congress to the U.S. general land office and the U.S. department of interior, bureau of land management;

~~10-~~(11) Public right-of-way: Any land dedicated and open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic;

~~11-~~(12) Public street: A road, thoroughfare, alley, highway or bridge under the jurisdiction of a public highway agency;

~~12-~~(13) Reference monument: A special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is known and recorded, and which serves to witness the corner;

~~13-~~(14) Sanitary restriction: The requirement that no building or shelter which will require a water supply facility or a sewage disposal facility for people using the premises where such building or shelter is located shall be erected until written approval is first obtained from the state board of health and welfare by its administrator or his delegate approving plans and specifications either for public water and/or sewage facilities, or individual parcel water and/or sewage facilities;

~~14-~~(15) Street: A road, thoroughfare, alley, highway or a right-of-way which may be open for public use but is not part of a public highway system nor under the jurisdiction of a public highway agency;

~~15-~~(16) Subdivision: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bona fide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of the above definition;

~~16-~~(17) Witness corner: A monumented point usually on a lot line or boundary line of a survey, near a corner and established in situations where it is impracticable to occupy or monument the corner.

SECTION 2. That Section 50-1304, Idaho Code, be, and the same is hereby amended to read as follows:

50-1304. ESSENTIALS OF PLATS. (1) All plats offered for record in any county shall be prepared in black opaque image upon stable base drafting film with a minimum base thickness of 0.003 inches, by either a photographic process using a silver image emulsion or by use of a black opaque drafting film ink, by mechanical or handwritten means. The drafting film and image thereon shall be waterproof, tear resistant, flexible, and capable of withstanding repeated handling, as well as providing archival permanence. If ink is used on drafting film, the ink surface shall be coated with a suitable substance to assure permanent legibility. The drafting film must be of a type which can be reproduced by either a photographic or diazo process. Plats shall be eighteen (18) inches by twenty-seven (27) inches in size, with a three and one-half (3 1/2) inch margin at the left end for binding

and a one-half (1/2) inch margin on all other edges. No part of the drawing or certificates shall encroach upon the margins. Signatures shall be in reproducible black ink. The sheet or sheets which contain the drawing or diagram representing the survey of the subdivision shall be drawn at a scale suitable to ~~insure~~ ensure the clarity of all lines, bearings and dimensions. In the event that any subdivision is of such magnitude that the drawing or diagram cannot be placed on a single sheet, serially numbered sheets shall be prepared and match lines shall be indicated on the drawing or diagram with appropriate references to other sheets. The required dedications, ~~acknowledgements~~ acknowledgments and certifications shall appear on any of the serially numbered sheets.

(2) The plat shall show: (a) the streets and alleys, with widths and courses clearly shown; (b) each street named; (c) all lots numbered consecutively in each block, and each block lettered or numbered, provided, however, in a platted cemetery, that each block, section, district or division and each burial lot shall be designated by number or letter or name; (d) each and all lengths of the boundaries of each lot shall be shown, provided, however, in a platted cemetery, that lengths of the boundaries of each burial lot may be shown by appropriate legend; (e) the exterior boundaries shown by distance and bearing; (f) descriptions of survey monuments; (g) point of beginning with ties to at least two (2) public land survey corner monuments in one (1) or more of the sections containing the subdivision, or in lieu of public land survey corner monuments, to two (2) monuments recognized by the county surveyor; and also, if required by the city or county governing bodies, give coordinates based on the Idaho coordinate system; (h) the easements; (i) basis of bearings; and (j) subdivision name.

(3) When coordinates in the Idaho coordinate system are shown on a plat, the plat must show the national spatial reference system monuments and their coordinates used as the basis of the survey; the zone; the datum and adjustment; and the combined adjustment factor and the convergence angle and the location where they were computed.

SECTION 3. That Section 55-1701, Idaho Code, be, and the same is hereby amended to read as follows:

55-1701. ESTABLISHING COORDINATE SYSTEM -- DESIGNATING ZONES. (1) The system of plane coordinates which has been established by the national ocean service/national geodetic survey, ~~formerly the United States coast and geodetic survey,~~ or its successors, for defining and stating the positions or locations of points ~~on the surface of the earth~~ within the state of Idaho is to be known and designated as the "Idaho coordinate system of 1983." ~~and the "Idaho coordinate system of 1927." "The Idaho coordinate system of 1927" may be used through December 31, 1995.~~ On and after January 1, 1996, only the "Idaho coordinate system of 1983" shall be used.

(2) For the purpose of the use of this system the state is either divided into an "east zone," a "central zone," and a "west zone." or alternatively, a state comprehensive "single zone."

(3) The area ~~now~~ included in the following counties shall constitute the East Zone: Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton.

(4) The area ~~now~~ included in the following counties shall constitute the Central Zone: Blaine, Butte, Camas, Cassia, Custer, Gooding, Jerome, Lemhi, Lincoln, Minidoka and Twin Falls.

(5) The area ~~now~~ included in the following counties shall constitute the West Zone: Ada, Adams, Benewah, Boise, Bonner, Boundary, Canyon, Clearwater, Elmore, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Owyhee, Payette, Shoshone, Valley and Washington.

(6) The area included within the boundaries of the state of Idaho shall constitute the single zone.

SECTION 4. That Section 55-1702, Idaho Code, be, and the same is hereby amended to read as follows:

55-1702. ZONE REFERENCES. (1) As established for use in the east zone, the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983 shall be named, and in any land description document in which it is used it shall be designated the "Idaho coordinate system of 1927, east zone" or "Idaho coordinate system of 1983, east zone."

(2) As established for use in the central zone, the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983 shall be named, and in any land description document in which it is used it shall be designated the "Idaho coordinate system of 1927, central zone" or "Idaho coordinate system of 1983, central zone."

(3) As established for use in the west zone, the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983 shall be named, and in any land description document in which it is used it shall be designated the "Idaho coordinate system of 1927, west zone" or "Idaho coordinate system of 1983, west zone." For limitations on the use of the coordinate systems of 1927 and 1983, see section 55-1710, Idaho Code.

(4) As established for use in the single zone, the Idaho coordinate system of 1983 shall be named, and in any document in which it is used it shall be designated the "Idaho coordinate system of 1983, single zone."

SECTION 5. That Section 55-1703, Idaho Code, be, and the same is hereby amended to read as follows:

55-1703. PLANE COORDINATES. ~~The plane coordinates of a point on the earth's surface, to be used in expressing the position or location of such a point in the appropriate zone of this system, shall consist of two (2) distances, expressed in United States survey feet and decimals of a foot when using the Idaho coordinate system of 1927 and expressed in meters and decimals of a meter or in United States survey feet and decimals of a foot when using the Idaho coordinate system of 1983. For state plane coordinate system 27 (SPCS 27), one (1) of these distances, to be known as the "x coordinate," shall give the position in an east and west direction; the other, to be known as the "y coordinate," shall give the position in a north and south direction. For state plane coordinate system 83 (SPCS 83), For conversion purposes, one (1) United States survey foot equals one thousand two hundred (1,200) divided by three thousand nine hundred thirty-seven (3,937) meters. One (1) of these distances, to be known as "northing" or "N" shall give the position in a north-and-south direction; the other, to be known as the "easting" or "E" shall give the position in an east-and-west direction. These coordinates shall be made to depend upon and conform to the plane rectangular coordinate values for of the monumented points of the North American national geodetic horizontal network national spatial reference system as published maintained and provided by the national ocean service/national geodetic survey or its successors, and such plane coordinates shall have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to either the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983, and after December 31, 1995, only to the Idaho coordinate system of 1983.~~

SECTION 6. That Section 55-1704, Idaho Code, be, and the same is hereby amended to read as follows:

55-1704. ~~TRACTS EXTENDING INTO DOCUMENTS REPORTING COORDINATES WITHIN TWO ZONES.~~ When any tract of land to be defined by a single description extends from one into another of the above document reports coordinates that lie within two (2) coordinate zones, the position coordinates of all

~~points on its boundaries may be referred~~ shall refer to ~~either one (1) of such the zones, the zone which is used being specifically~~ shall be named in the description document.

SECTION 7. That Section 55-1705, Idaho Code, be, and the same is hereby amended to read as follows:

55-1705. ~~ADOPTION OF NATIONAL OCEAN SERVICE/NATIONAL GEODETIC SURVEY ZONE DEFINITIONS.~~ (1) For the purpose of more precisely defining the Idaho coordinate system of 1927, the following definition by the national ocean service/national geodetic survey is adopted:

~~The Idaho coordinate system of 1927, east zone, is a transverse mercator projection of the Clarke spheroid of 1866 having a central meridian 112°10' west of Greenwich, which meridian has a reduced scale of one part in 19,000. The origin of coordinates is at the intersection of the meridian 112°10' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: x=500,000 feet and y=0 feet.~~

~~The Idaho coordinate system of 1927, central zone, is a transverse mercator projection of the Clarke spheroid of 1866, having a central meridian 114°00' west of Greenwich which meridian has a reduced scale of one part in 19,000. The origin of coordinates is at the intersection of the meridian 114°00' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: x=500,000 feet and y=0 feet.~~

~~The position of the Idaho coordinate system of 1927, west zone, is a transverse mercator projection of the Clarke spheroid of 1866, having a central meridian 115°45' west of Greenwich, which meridian has a reduced scale of one part in 15,000. The origin of coordinates is at the intersection of the meridian 115°45' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: x=500,000 feet and y=0 feet.~~

~~(2) For the purpose of more precisely defining the Idaho coordinate system of 1983, the following definitions by the national ocean service/national geodetic survey is are adopted:~~

~~(1) The Idaho coordinate system of 1983, east zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian 112°10' west of Greenwich, which meridian has a reduced scale of one (1) part in nineteen thousand (19,000). The origin of coordinates is at the intersection of the meridian 112°10' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: N=0 meters and E=200,000 meters.~~

~~(2) The Idaho coordinate system of 1983, central zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian 114°00' west of Greenwich, which meridian has a reduced scale of one (1) part in nineteen thousand (19,000). The origin of coordinates is at the intersection of the meridian 114°00' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: N=0 meters and E=500,000 meters.~~

~~(3) The Idaho coordinate system of 1983, west zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian 115°45' west of Greenwich, which meridian has a reduced scale of one (1) part in fifteen thousand (15,000). The origin of coordinates is at the intersection of the meridian 115°45' west of Greenwich and the parallel 41°40' north latitude. This origin is given the coordinates: N=0 meters and E=800,000 meters.~~

~~(34) The position of the Idaho coordinate system shall be as marked on the ground by triangulation, traverse and global positioning satellite system stations established in conformity with the standards adopted by the national ocean service/national geodetic survey for A order, B order, first order and second order work, whose geodetic positions have been rigidly ad-~~

~~justed on the North American datum of 1927 and further refined on the North American datum of 1983, and whose coordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with either the Idaho coordinate system of 1927 or the Idaho coordinate system of 1983, and after December 31, 1995, only to the Idaho coordinate system of 1983~~ The Idaho coordinate system of 1983, single zone, is a transverse mercator projection of the North American datum of 1983 based on the geodetic reference system of 1980 (GRS 80), having a central meridian 114°00' west of Greenwich, which meridian has a reduced scale of one (1) part in two thousand five hundred (2,500). The origin of coordinates is at the intersection of the meridian 114°00' west of Greenwich and the parallel 42°00' north latitude. This origin is given the coordinates: N=1,200,000 meters and E=2,500,000 meters.

SECTION 8. That Section 55-1706, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Section 55-1707, Idaho Code, be, and the same is hereby repealed.

SECTION 10. That Section 55-1708, Idaho Code, be, and the same is hereby amended to read as follows:

55-1708. COORDINATE DESCRIPTIONS SUPPLEMENTAL. Whenever coordinates based on the Idaho coordinate system are used to describe any tract of land which in the same document is also described by reference to any subdivision, line or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line or corner contained in the official plats and field notes of the United States public land surveys filed of record, and in the event of any conflict the description by reference to the subdivision, line or corner of the United States public land surveys shall prevail over the description by coordinates unless said coordinates are upheld by adjudication, at which time the coordinate description shall prevail. Every recorded map, survey or conveyance or other instrument affecting title to real property which delineates, describes or refers to such property or any part thereof by reference to coordinates based upon the designated Idaho coordinate system shall also describe the property by reference and tie to either section corner or quarter corner monuments of the United States public land surveys.

SECTION 11. That Section 55-1907, Idaho Code, be, and the same is hereby amended to read as follows:

55-1907. COORDINATES -- BASIS. When coordinates in the Idaho coordinate system are shown on a record of survey map, subdivision plat or a highway right-of-way plat, the map or the plat must show:

~~(1) the national spatial reference system monuments and their coordinates used as the basis of the coordinates, survey; the zone; the datum, and adjustment; and the combined adjustment factor and the zone, convergence angle and the location where they were computed.~~

~~(2) If GPS is used, a statement that current national geodetic survey procedures were used to establish the coordinates, along with the classification order.~~

Approved April 8, 2010.

CHAPTER 257
(H.B. No. 459)

AN ACT

RELATING TO BARBERS; AMENDING SECTION 54-506, IDAHO CODE, TO REVISE QUALIFICATIONS FOR LICENSURE AS A BARBER INSTRUCTOR AND TO PROVIDE FOR A LICENSE TO PRACTICE AS A BARBER-STYLIST INSTRUCTOR; AMENDING SECTION 54-507, IDAHO CODE, TO PROVIDE THAT ONE INSTRUCTOR MUST BE EMPLOYED TO EACH TWENTY STUDENTS; AND AMENDING SECTION 54-521, IDAHO CODE, TO REVISE BOARD MEMBER AND ASSISTANT COMPENSATION.

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

SECTION 1. That Section 54-506, Idaho Code, be, and the same is hereby amended to read as follows:

54-506. QUALIFICATIONS FOR LICENSURE. (1) A person is qualified to receive a license to practice as a barber-stylist who:

- (a) Has two (2) years of high school or an equivalent education as determined by the board; ~~and~~
- (b) Is at least sixteen and one-half (16 1/2) years of age; ~~and~~
- (c) Is of good moral character; ~~and~~
- (d) Has completed and graduated from a course of instruction of at least one thousand eight hundred (1,800) hours in a school of barbering approved by the board; and
- (e) Successfully passes an examination approved by the board.

(2) A person is qualified to receive a license to practice as a barber who:

- (a) Has two (2) years of high school or an equivalent education as determined by the board; ~~and~~
- (b) Is at least sixteen and one-half (16 1/2) years of age; ~~and~~
- (c) Is of good moral character; ~~and~~
- (d) Has completed and graduated from a course of instruction of at least nine hundred (900) hours in a school of barbering approved by the board; and
- (e) Successfully passes an examination approved by the board.

(3) A person is qualified to receive a license to practice as a barber instructor who:

- (a) Holds a current barber ~~or barber-stylist~~ license issued by the board; ~~and~~
- (b) Has satisfactorily completed a minimum six (6) month course of barber instructing as a student in a properly licensed barber college and has a minimum of one (1) year's experience in practical barbering as an apprentice in a licensed barber college, or as a barber in a licensed establishment, within the last three (3) years; and
- (c) Is of good moral character; and
- (d) Successfully passes an examination approved by the board.

(4) A person is qualified to be a student who:

- (a) Has attained the age of sixteen and one-half (16 1/2) years; ~~and~~
- (b) Has a tenth grade or an equivalent education as determined by the board; and
- (c) Registers as a student in a licensed barber college.

(5) A person is qualified to receive a license to practice as a barber-stylist instructor who:

- (a) Holds a current Idaho barber-stylist license or a registered cosmetologist license;
- (b) Has satisfactorily completed a minimum six (6) month course of barber-stylist instructing as a student in a properly licensed barber col-

lege and has a minimum of one (1) year's experience as an apprentice in a licensed barber college, or as a barber-stylist or registered cosmetologist in a licensed establishment, within the last three (3) years;
(c) Is of good moral character; and
(d) Successfully passes an examination approved by the board.

SECTION 2. That Section 54-507, Idaho Code, be, and the same is hereby amended to read as follows:

54-507. APPROVED BARBER COLLEGES -- REQUIREMENTS -- BOND. (1) No school teaching the art or science of barbering shall operate in Idaho or be licensed as a school of barbering, unless the entrance requirements are equal to those which are required under section 54-506, Idaho Code. An approved college may teach special courses, but as a prerequisite to graduation the college must provide:

(1a) A course of instruction for barber-stylists of not less than one thousand eight hundred (1,800) hours and include in its course of instruction the scientific fundamentals for barbering: hygiene; bacteriology; histology of the hair, skin, nails, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands and nails; massaging and manipulating the muscles of the upper body; hair cutting; shaving; and arranging, dressing, curling, waving, straightening, coloring, bleaching and tinting of the hair; and

(2b) A course of instruction for barbers of not less than nine hundred (900) hours and include in its course of instruction the scientific fundamentals for barbering: hygiene; bacteriology; histology of the hair, skin, nails, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, glands and nails; massaging and manipulating the muscles of the upper body; hair cutting; shaving; and arranging and dressing of the hair.

(2) For the purpose of this chapter, a recognized approved barber school or college (hereinafter referred to as a college) shall be understood to be a college that has met the provisions of this chapter as approved by the board.

(3) No college in the state shall advertise or use any signs or terms to indicate that the college is approved, recognized, accredited, certified, or licensed unless said college is licensed by the board. Every college shall advertise as a college and make known to the public and customers that the work is being done by students.

(4) All instructors in an approved college must be licensed in the state of Idaho as a barber instructor or a cosmetology instructor.

(5) Every instructor in an Idaho licensed college shall devote his or her entire time during class hours to that of instructing the students and shall not apply his time to that of private or public practice during the school or class hours.

(6) A college furnishing satisfactory evidence that it is maintaining the requirements set forth in this chapter, within the state, shall, upon the payment of the required fee, be issued a license by the board.

(7) A license issued to a college must be renewed annually. Should a college fail or refuse to renew a license said college shall cease to operate, and be removed from the list of the approved colleges.

(8) The board may cancel or refuse to renew a license issued to a college upon proof that said college has failed or refused to meet with the requirements for approved colleges set forth in this chapter.

(9) One (1) instructor must be employed to each ~~fifteen~~ twenty (~~15~~20) students or fractional part thereof and one (1) barber instructor must be employed on a full-time basis in each school or college.

(10) Every school or college licensed by the board shall deliver to the board, a bond to the state of Idaho in the sum of twenty thousand dollars (\$20,000) in a form approved by the board, and provide a copy of the bond annually together with the application for school license renewal. The bond shall be executed by a corporate surety company duly authorized to do business in this state, conditioned that such school or college shall continue to give its courses of instruction, in accordance with the provision of this chapter, until it has completed all such courses for which students have enrolled, and conditioned that such school or college shall fully comply with all promises or representations made to enrolled students as an inducement to such students to enroll. Any student so enrolled who may be damaged by reason of the failure of such school or college to comply with such conditions, shall have a right of action in his or her own name, on such bonds, for such damage.

SECTION 3. That Section 54-521, Idaho Code, be, and the same is hereby amended to read as follows:

54-521. BOARD OF BARBER EXAMINERS -- POWERS AND DUTIES -- DESIGNATION OF PERSONS TO REPORT TO BOARD. There is hereby created, and established in the department of self-governing agencies, the board of barber examiners. The board may, by written agreement, authorize the bureau of occupational licenses as agent to act in the board's interest. In addition to the powers otherwise conferred by this chapter, it shall be the duty of the board:

(1) To conduct or approve examinations to ascertain the qualifications and fitness of applicants for licenses hereunder and to pass upon the qualifications of all applicants for licenses.

(2) To conduct hearings and proceedings in accordance with the provisions of chapter 52, title 67, Idaho Code, to revoke licenses issued under this chapter and to revoke such licenses subject to the provisions of this chapter.

(3) To designate what schools of barbering within and without the state are approved schools, and from time to time, to change such designations and to keep public records thereof.

(4) To prescribe rules in accordance with the provisions of chapter 52, title 67, Idaho Code, for a fair and wholly impartial method of examination of applicants for licenses hereunder and, subject to the provisions of chapter 52, title 67, Idaho Code, for conducting hearings for the revocation of licenses, defining the qualifications of an approved school of barbering and for the administration of this chapter in general.

Excepting the regulation of schools under section 54-507, Idaho Code, hereof, and the issuance of licenses under section 54-511, Idaho Code, none of the powers and duties specified in subsections (1) through (4) of this section, shall be exercised by the bureau except on the action of the board of barber examiners. When vacancies occur on the board, the governor shall appoint new members, but not more than a total of three (3) members, each of whom shall be a registered barber, and shall have been a resident of, and lawfully practicing barbering within the state of Idaho for a period of at least five (5) years next before his appointment, and who is neither directly nor indirectly in any way connected with or interested in the barber supply business nor in any institution offering instruction in barbering. In appointing the members of the board the governor shall give consideration to all nominations. The board and all assistants shall be compensated as provided by section 59-509 (~~kn~~), Idaho Code.

The regular term of office of a member of the board shall begin as of the first Monday of July of the year in which he is appointed and shall continue for three (3) years thereafter. A member appointed to fill a vacancy occasioned otherwise than by expiration of a term shall serve the unexpired term of his predecessor.

A vacancy in membership in the board shall occur, and be declared by the governor, whenever the regular term of a member expires, or whenever a member dies, resigns, or is found by the governor to be mentally or physically incapable of acting, or to be neglecting or refusing to act, or to cease to have the qualifications of a member, or to have acquired disqualifications of a member, or to have been absent without reasonable cause from two (2) successive meetings of the board.

The board of barber examiners shall select from its members a chairman and vice chairman who shall serve at the pleasure of the board.

The action and report in writing of the board so designated shall be sufficient authority upon which the bureau may act.

Whenever the board is satisfied that substantial justice has not been done, either in examination or in revocation of a license or otherwise, it may order a reexamination or rehearing of the matter.

Approved April 8, 2010.

CHAPTER 258
(H.B. No. 542)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION AND CERTIFICATION; AMENDING SECTION 49-401B, IDAHO CODE, TO PROVIDE THAT CERTAIN BUSINESSES, TRUSTS OR OTHER STATUTORILY CREATED ENTITIES SHALL PROVIDE A WRITTEN STATEMENT; AMENDING SECTION 49-504, IDAHO CODE, TO PROVIDE THAT CERTAIN BUSINESSES, TRUSTS OR OTHER STATUTORILY CREATED ENTITIES SHALL PROVIDE A WRITTEN STATEMENT AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-401B, Idaho Code, be, and the same is hereby amended to read as follows:

49-401B. APPLICATION FOR REGISTRATION -- RECEIPT FOR FEE -- RECORD OF APPLICANTS. (1) Application for the registration of a vehicle required to be registered under the provisions of section 49-401A, Idaho Code, shall be made to the assessor or the department as specified in that section, by the owner upon the appropriate form. Every application shall contain the owner's Idaho driver's license number, Idaho identification card number, or social security number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, or Idaho identification card number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. In the event that a business, trust or other statutorily created entity is not required to have and does not possess an employer tax identification number, the applicant shall provide a written statement certifying that the entity does not possess an employer tax identification number. Such application must be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, and the identification number. Upon registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department. The assessor shall issue to the applicant a receipt for any fee paid. Social security numbers collected

shall not appear on certificates of registration, and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of vehicles residing in the county who make application for registration, together with the amounts of the fees paid by such owners.

(3) When application for registration is made by any motor carrier, the assessor or the department shall require each such applicant to execute a certification of safety compliance.

(4) Vehicles registered under the proportional registration provisions of section 49-435, Idaho Code, shall be registered by the department.

(5) Every owner of a vehicle registered by a county assessor shall give his physical domicile residence address or the business' physical principal address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of sections 40-827 and 40-1416, Idaho Code, shall be separately identified and accounted for, and paid to the highway district for which collected. For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domicile shall not be a person's workplace, vacation, or part-time residence.

(6) A violation of the provisions of this section shall be an infraction.

SECTION 2. That Section 49-504, Idaho Code, be, and the same is hereby amended to read as follows:

49-504. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE -- IDENTIFICATION NUMBERS. (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain the owner's Idaho driver's license number, Idaho identification card number or social security number. In the case of a business, the employer tax identification number is required. Every application shall also contain the owner's true and full legal name. In the event that the owner does not possess a social security number, Idaho driver's license number, or Idaho identification card number, the owner shall present written documentation sufficient to the department to determine that no social security number has been issued. In the event that a business, trust, or other statutorily created entity is not required to have and does not possess an employer tax identification number, the applicant shall provide a written statement certifying that the entity does not possess an employer tax identification number. The form must contain the owner's physical domicile address or in the case of a business, ~~the business~~ trust or other statutorily created entity, such entity's physical address and any mailing address if different from the physical address. Such application must be signed by the owner and contain a full description of the vehicle including the make, identification numbers, and the odometer reading at the time of sale or transfer, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules to provide for exceptions to the odometer requirement. Social se-

curity numbers collected shall not appear on certificates of title and all applications on file shall be exempt from disclosure, except as provided in sections 49-202, 49-203 and 49-203A, Idaho Code.

(2) If a certificate of title has not previously been issued for the vehicle in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or a duly certified copy thereof, or by a certificate of title, bill of sale or other evidence of ownership required by the law of any other state from which the vehicle was brought into this state, and a vehicle identification number inspection completed by any city, county or state peace officer or other special agent authorized by the department.

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is indorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each application shall be accompanied by a manufacturer's certificate of origin or manufacturer's statement of origin executed by the manufacturer and delivered to his agent or his franchised vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject.

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an identification numbers index of registered vehicles, and upon receiving an application for a certificate of title, shall first check the identification number shown in the application against the index. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(5) In all cases of transfer of vehicles the application for certificates of title shall be filed within thirty (30) calendar days after the delivery of the vehicles. Licensed dealers need not apply for certificate of title for vehicles in stock or when they are acquired for stock purposes.

(6) In the case of the sale of a vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. If a lien is to be recorded, the title documentation as required in this section shall be submitted to the department by the dealer or the lienholder upon application signed by the purchaser. A copy of this application shall be given to the purchaser to be used as a seventy-two (72) hour temporary permit. In all other cases the certificates shall be obtained by the purchaser and the seller's bill of sale shall serve as a seventy-two (72) hour permit. The seventy-two (72) hour time period for temporary permits shall be calculated excluding weekend days and legal holidays observed by the state of Idaho. This temporary permit allows operation of any noncommercial vehicle or unladen commercial vehicle or vehicle combination without license plates for the period of time specified in the permit. A laden commercial vehicle or vehicle combination may also operate without license plates for the period of time specified in the temporary permit provided that the owner or operator has also obtained a permit issued under the provisions of section 49-432, Idaho Code.

(7) If the vehicle has no identification number, then the department shall designate an identification number for that vehicle at the time of issuance of the certificate of title. The identification number shall be permanently affixed to or indented upon the frame of the vehicle and legibly maintained by the owner at all times while a certificate of title to the vehicle shall be issued and outstanding.

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

Approved April 8, 2010.

CHAPTER 259
(H.B. No. 398)

AN ACT

RELATING TO VEHICLE EQUIPMENT; AMENDING SECTION 49-959, IDAHO CODE, TO PERMIT THE USE OF CERTAIN REFRIGERANTS APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS AN ALTERNATIVE MOTOR VEHICLE AIR-CONDITIONING SUBSTITUTE FOR CHLOROFLUOROCARBON-12.

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

SECTION 1. That Section 49-959, Idaho Code, be, and the same is hereby amended to read as follows:

49-959. AIR-CONDITIONING EQUIPMENT. (1) Air-conditioning equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable at or below one thousand degrees (1000°) Fahrenheit, unless the refrigerant is included in the list published by the United States environmental protection agency as an approved alternative motor vehicle air-conditioning substitute for chlorofluorocarbon-12 under 42 U.S.C. section 7671k(c).

(2) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any air-conditioning equipment unless it complies with the requirements of this section.

(3) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless the equipment complies with the requirements of this section.

Approved April 8, 2010.

CHAPTER 260
(H.B. No. 438)

AN ACT

RELATING TO HAZARDOUS MATERIALS/HAZARDOUS WASTE TRANSPORTATION ENFORCEMENT; AMENDING SECTION 49-2203, IDAHO CODE, TO REVISE ENDORSEMENT REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS MATERIALS, TO INCREASE THE ANNUAL FEE FOR THE VEHICLE REGISTRATION ENDORSEMENT FOR THE TRANSPORTATION OF HAZARDOUS MATERIALS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 49-2203, Idaho Code, be, and the same is hereby amended to read as follows:

49-2203. ENDORSEMENT REQUIREMENTS FOR TRANSPORTERS OF HAZARDOUS MATERIALS. (1) Every person, including a private carrier or a common or contract carrier, who operates a vehicle on any highway of this state transporting hazardous material in such quantity and under such conditions that such vehicle is required to be placarded pursuant to ~~title 49, code of federal regulations,~~ CFR part 172, or such vehicle's cargo is regulated by ~~title 49, code of federal regulations,~~ CFR part 171, or is required to meet the manifest requirements as set forth under the rules of the department of environmental quality, shall first procure from the department an annual vehicle registration endorsement ~~or single trip vehicle registration endorsement for each vehicle so driven.~~ This registration endorsement shall be available for examination, unless procured via the state web portal, and shall be displayed in accordance with rules adopted by the department. The provisions of this section shall not apply to vehicles owned by any city, county, state or federal governmental department or agency or special purpose district created pursuant to law.

(2) The fee for an annual vehicle registration endorsement for the transportation of hazardous materials shall be ~~three ten~~ ten dollars (~~\$310.00~~) ~~if purchased at the time of registration or renewal, or five dollars (\$5.00) if purchased at any time thereafter and the fee for a single trip vehicle registration endorsement shall be five dollars (\$5.00).~~ Any carrier required to pay the fee assessed pursuant to this section is authorized to pass along such fee to the shipping party. Vendors selling endorsements on behalf of the board shall be reimbursed at the rate of forty cents (40¢) per endorsement. No portion of the annual endorsement fee shall be prorated, reduced or transferred to another vehicle.

(3) The operation of a vehicle, which is subject to the endorsement requirements of this section, in a negligent manner is a violation of the provisions of this chapter.

Approved April 8, 2010.

CHAPTER 261
(H.B. No. 543)

AN ACT

RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; AMENDING SECTION 18-3318, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3319A, IDAHO CODE, TO PROVIDE FOR UNLAWFUL ACTS RELATING TO A HOAX DESTRUCTIVE DEVICE AND TO PROVIDE PENALTIES.

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

SECTION 1. That Section 18-3318, Idaho Code, be, and the same is hereby amended to read as follows:

18-3318. DEFINITIONS. Definitions as used in sections 18-3319, 18-3319A, 18-3320, 18-3320A and 18-3321, Idaho Code:

(1) "Bomb" means any chemical or mixture of chemicals contained in such a manner that it can be made to explode with fire or force, and combined with the method or mechanism intended to cause its explosion. The term includes components of a bomb only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed bomb can be readily assembled. "Bomb"

does not include: rifle, pistol or shotgun ammunition and their components; fireworks; boating, railroad and other safety flares or propellants used in model rockets or similar hobby activities.

(2) "Destructive device" means:

(a) Any explosive, incendiary or poisonous gas:

(i) Bomb;

(ii) Grenade;

(iii) Rocket having a propellant charge of more than four (4) ounces;

(iv) Missile having an explosive or incendiary charge of more than one-fourth (1/4) ounce;

(v) Mine;

(vi) Similar device.

(b) Any type of weapon, by whatever name known, which will, or which may be imminently converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than .700 inches in diameter, except rifled and unrifled shotguns or shotgun shells.

(c) Components of a destructive device only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed destructive device can be readily assembled.

(d) The term "destructive device" shall not include:

(i) Any device which is neither designed nor redesigned for use as a weapon;

(ii) Any device which, although originally designed for use as a weapon, has been redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(iii) Otherwise lawfully owned surplus military ordnance;

(iv) Antiques or reproductions thereof and rifles held for sporting, recreational, investment or display purposes;

(v) Rifle, pistol or shotgun ammunition and their components.

(3) "Hoax destructive device" means any object that:

(a) Under the circumstances, reasonably appears to be a destructive device as defined in subsection (2) of this section, but is an inoperative imitation of a destructive device; or

(b) Is proclaimed to contain a destructive device as defined in subsection (2) of this section, but does not in fact contain a destructive device.

(4) "Shrapnel" means any metal, ceramic, glass, hard plastic or other material of sufficient hardness to puncture human skin when propelled by force of the bomb or destructive device to which it is attached or in which it is contained.

SECTION 2. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3319A, Idaho Code, and to read as follows:

18-3319A. UNLAWFUL ACTS -- HOAX DESTRUCTIVE DEVICE. (1) A person is guilty of a felony if such person intentionally causes a reasonable person to be in fear of serious bodily injury or death by:

(a) Possessing, manufacturing, selling, giving, mailing, sending or causing to be sent to another person a hoax destructive device; or

(b) Placing or causing to be placed a hoax destructive device at any location; or

(c) Conspiring to use, using or causing to be used a hoax destructive device in the commission of or an attempt to commit a felony.

(2) A violation of the provisions of paragraph (a) or (b) of subsection (1) of this section is punishable by imprisonment in the state prison not to exceed five (5) years.

(3) A violation of the provisions of paragraph (c) of subsection (1) of this section is punishable by imprisonment in the state prison not to exceed fifteen (15) years and by a fine not exceeding fifteen thousand dollars (\$15,000).

Approved April 8, 2010.

CHAPTER 262
(H.B. No. 574)

AN ACT

RELATING TO VEHICLE RENTALS; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-451, IDAHO CODE, TO PROVIDE FOR THE INCLUSION OF CERTAIN FEES AND CHARGES IN VEHICLE RENTAL AGREEMENTS, TO PROVIDE FOR THE AMOUNT OF VEHICLE LICENSE COST RECOVERY FEE THAT MAY BE INCLUDED, TO PROVIDE FOR ADJUSTMENTS IN THE AMOUNT OF VEHICLE LICENSE COST RECOVERY FEES AND TO DEFINE A TERM.

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

SECTION 1. That Chapter 4, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-451, Idaho Code, and to read as follows:

49-451. VEHICLE LICENSE COST RECOVERY FEE -- LIMITATIONS. (1) A car rental company may include separately stated surcharges, fees or charges in a rental agreement, which may include, but shall not be limited to, vehicle license cost recovery fees, airport access fees, airport concession fees and all applicable taxes.

(2) If a car rental company includes a vehicle license cost recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the car rental company's good-faith estimate of the car rental company's daily charge as calculated by the car rental company to recover its actual total annual motor vehicle licensing, titling, registration, plating and inspection costs.

(3) If the total amount of the vehicle license cost recovery fees collected by a car rental company under this section in any calendar year exceeds the car rental company's actual costs to license, title, register and plate motor vehicles and have the same inspected for that calendar year, the car rental company shall retain the excess amount and adjust the estimated average per vehicle licensing, titling, registration, plating and inspection charge for the following calendar year by a corresponding amount.

(4) For purposes of this section, "vehicle license cost recovery fee" means a charge that may be separately stated and charged on the rental contract in a vehicle rental transaction originating in this state to recover costs incurred by a car rental company to license, title, register, plate and inspect rental vehicles.

Approved April 8, 2010.

CHAPTER 263

(H.B. No. 699, As Amended in the Senate)

AN ACT

RELATING TO SCHOOL DISTRICTS; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 3, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-357, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE FOR SCHOOL DISTRICTS AND OTHER EDUCATION PROVIDERS TO CREATE AN INTERNET BASED EXPENDITURE SITE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. LEGISLATIVE INTENT. The Legislature finds that taxpayers should have easy access to the details of how our public schools are spending both taxpayer dollars and revenue raised from other sources. Access to this financial data in an electronic form should facilitate increasing transparency in public school financial matters. Therefore, it is the intent of the Legislature to direct each Idaho school district and education provider to create an internet based website to detail the expenditures of school districts and other education providers.

SECTION 2. That Chapter 3, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-357, Idaho Code, and to read as follows:

33-357. CREATION OF INTERNET BASED EXPENDITURE WEBSITE. (1) As used in this section, unless otherwise required:

(a) "Education provider" means:

- (i) A school district, including a specially chartered district organized and existing pursuant to law;
- (ii) A cooperative services agency or intermediate school district;
- (iii) A public charter school authorized pursuant to state law;
- (iv) A publicly funded governmental entity established by the state for the express purpose of providing online courses.

(b) "Entity" means a corporation, association, union, limited liability company, limited liability partnership, grantee, contractor, local government or other legal entity, including a nonprofit corporation or an employee of the education provider.

(c) "Public record" shall have the same meaning as set forth in chapter 3, title 9, Idaho Code.

(2) (a) No later than December 1, 2011, each education provider shall develop and maintain a publicly available website where the education provider's expenditures are posted in a nonsearchable PDF format, a searchable PDF format, a spreadsheet or in a database format.

(b) The internet based website shall include the following data concerning all expenditures made by the education provider:

- (i) The name and location or address of the entity receiving moneys;
- (ii) The amount of expended moneys;
- (iii) The date of the expenditure;
- (iv) A description of the purpose of the expenditure, unless the expenditure is self-describing;
- (v) Supporting contracts and performance reports upon which the expenditure is related when these documents already exist; and
- (vi) To the extent possible, a unique identifier for each expenditure.

(c) The expenditure data shall be provided in an open structured data format that may be downloaded by the user.

(d) The internet based website shall contain only information that is a public record or that is not confidential or otherwise exempt from public disclosure pursuant to state or federal law.

(3) The education provider shall:

(a) Update the expenditures contained on the internet based website at least monthly;

(b) Archive all expenditures, which shall remain accessible and on the internet based website for a number of years, consistent with state law regarding keeping and retention of records;

(c) Make the internet based website easily accessible from the main page of the education provider's website; and

(d) The website shall include those records beginning on the effective date of this act on July 1, 2011, and all data prior to that date shall be available by way of a public records request.

SECTION 3. This act shall be in full force and effect on and after July 1, 2011.

Approved April 8, 2010.

CHAPTER 264

(H.B. No. 692, As Amended)

AN ACT

RELATING TO COMPENSATION OF ELECTIVE OFFICERS; AMENDING SECTION 59-501, IDAHO CODE, TO PROVIDE COMPENSATION FOR ELECTIVE OFFICERS COMMENCING ON THE FIRST MONDAY IN JANUARY 2011 UNTIL THE FIRST MONDAY IN JANUARY 2012, TO PROVIDE COMPENSATION FOR ELECTIVE OFFICERS COMMENCING ON THE FIRST MONDAY IN JANUARY 2012 UNTIL THE FIRST MONDAY IN JANUARY 2013, TO PROVIDE COMPENSATION FOR THE GOVERNOR AND TO PROVIDE COMPENSATION FOR CERTAIN OTHER ELECTIVE OFFICERS AS A PERCENTAGE OF THE GOVERNOR'S COMPENSATION COMMENCING ON THE FIRST MONDAY IN JANUARY 2013 UNTIL THE FIRST MONDAY IN JANUARY 2014, TO PROVIDE COMPENSATION FOR THE GOVERNOR AND TO PROVIDE COMPENSATION FOR CERTAIN OTHER ELECTIVE OFFICERS AS A PERCENTAGE OF THE GOVERNOR'S COMPENSATION COMMENCING ON THE FIRST MONDAY IN JANUARY 2014 UNTIL THE FIRST MONDAY IN JANUARY 2015.

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

SECTION 1. That Section 59-501, Idaho Code, be, and the same is hereby amended to read as follows:

59-501. SALARIES OF STATE ELECTIVE OFFICERS -- REGULAR PAYMENT -- TRAVELING EXPENSES -- FEES PROPERTY OF STATE. (1) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general and superintendent of public instruction shall, during their continuance in office, receive for their services compensation as follows:

Commencing on the first Monday in January ~~2002~~ 2011, until the first Monday in January ~~2007~~ 2012:

Governor, ~~\$101,500~~ 110,734 per annum;

Lieutenant governor, ~~\$26,750~~ 29,184 per annum;

Secretary of state, ~~\$82,500~~ 90,006 per annum;

State controller, ~~\$82,500~~ 90,006 per annum; said salary compensation to be audited by the legislative council;

Attorney general, ~~\$91,500~~ 99,825 per annum;

State treasurer, ~~\$82,500~~ 90,006 per annum; and
State superintendent of public instruction, ~~\$82,500~~ 90,006 per annum.

(2) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general and superintendent of public instruction shall, during their continuance in office, receive for their services compensation as follows:

Commencing on the first Monday in January 2012, until the first Monday in January 2013:

Governor, \$115,348 per annum;

Lieutenant governor, \$30,400 per annum;

Secretary of state, \$93,756 per annum;

State controller, \$93,756 per annum; said compensation to be audited by the legislative council;

Attorney general, \$103,984 per annum;

State treasurer, \$93,756 per annum; and

State superintendent of public instruction, \$93,756 per annum.

(3) Commencing on the first Monday in January ~~2007~~ 2013, until the first Monday in January 2014, the salary then in effect for governor shall receive for his services compensation of \$117,000 per annum; and each officer named in subsection ~~(12)~~ of this section shall be increased by four percent (4%) per annum, and then again by three percent (3%) per annum on each of the first Mondays in January of ~~2008, 2009 and 2010~~, except for the governor, shall receive the following compensation for their services:

Lieutenant governor, thirty percent (30%) of the governor's compensation as provided for in this subsection, per annum;

Secretary of state, eighty-five percent (85%) of the governor's compensation as provided for in this subsection, per annum;

State controller, eighty-five percent (85%) of the governor's compensation as provided for in this subsection, per annum; said compensation to be audited by the legislative council;

Attorney general, ninety percent (90%) of the governor's compensation as provided for in this subsection, per annum;

State treasurer, eighty-five percent (85%) of the governor's compensation as provided for in this subsection, per annum; and

State superintendent of public instruction, eighty-five percent (85%) of the governor's compensation as provided for in this subsection, per annum.

(4) Commencing on the first Monday in January 2014, until the first Monday in January 2015, the governor shall receive for his services compensation of \$119,000 per annum; and each officer named in subsection (3) of this section, except for the governor, shall receive the following compensation for their services:

Lieutenant governor, thirty percent (30%) of the governor's compensation as provided for in this subsection, per annum;

Secretary of state, eighty-five percent (85%) of the governor's compensation as provided for in this subsection, per annum;

State controller, eighty-five percent (85%) of the governor's compensation as provided for in this subsection, per annum; said compensation to be audited by the legislative council;

Attorney general, ninety percent (90%) of the governor's compensation as provided for in this subsection, per annum;

State treasurer, eighty-five percent (85%) of the governor's compensation as provided for in this subsection, per annum; and

State superintendent of public instruction, eighty-five percent (85%) of the governor's compensation as provided for in this subsection, per annum.

(35) Such compensation shall be paid on regular pay periods as due out of the state treasury, and shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office; but no increase in the rate of compensation shall be made during the terms of such officers; provided, however, that the actual and necessary expenses of the governor, lieutenant governor, secretary of state, attorney general, state controller, state treasurer, and superintendent of public instruction while traveling within the state, or between points within the state, in the performance of official duties, shall be allowed and paid by the state; not however, exceeding such sum as shall be appropriated for such purpose.

(46) Actual and necessary subsistence expenses of the governor while traveling in connection with the performance of official duties are hereby expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code. (Standard Travel Pay and Allowance Act of 1949).

(57) No officer named in this section shall receive, for the performance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them, of any official duty, shall be collected in advance and deposited with the state treasurer to the credit of the state.

Approved April 8, 2010.

CHAPTER 265
(H.B. No. 697)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE DEPARTMENT FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 301, Laws of 2009, to the Department of Water Resources is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:				
FROM:				
General Fund	\$62,000	\$54,700		\$116,700
II. PLANNING AND TECHNICAL SERVICES:				
FROM:				
General Fund	\$313,300	\$47,000	\$42,200	\$402,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. WATER MANAGEMENT:				
FROM:				
General Fund	\$318,600	\$212,300		\$530,900
IV. NORTHERN IDAHO ADJUDICATION:				
FROM:				
General Fund		\$29,800		\$29,800
GRAND TOTAL	\$693,900	\$343,800	\$42,200	\$1,079,900

SECTION 2. In addition to the appropriation made in Section 1, Chapter 301, Laws of 2009, there is hereby appropriated to the Department of Water Resources the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. PLANNING AND TECHNICAL SERVICES:			
FROM:			
Aquifer Planning and Management Fund	\$566,000		\$566,000
II. NORTHERN IDAHO ADJUDICATION:			
FROM:			
Northern Idaho Adjudication Fund		\$35,000	\$35,000
GRAND TOTAL	\$566,000	\$35,000	\$601,000

SECTION 3. There is hereby appropriated to the Department of Water Resources the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT AND SUPPORT SERVICES:				
FROM:				
General Fund	\$768,200	\$671,200		\$1,439,400
Indirect Cost Recovery Fund	292,500	110,100		402,600
Water Administration Fund	<u>41,100</u>	<u>21,900</u>		<u>63,000</u>
TOTAL	\$1,101,800	\$803,200		\$1,905,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. PLANNING AND TECHNICAL SERVICES:				
FROM:				
General Fund	\$2,061,300	\$582,500	\$560,500	\$3,204,300
Indirect Cost Recovery				
Fund	66,700	15,300		82,000
Aquifer Planning and Management				
Fund	358,100	2,384,500		2,742,600
Miscellaneous Revenue				
Fund		145,000		145,000
Federal Grant Fund	<u>473,600</u>	<u>2,288,400</u>		<u>2,762,000</u>
TOTAL	\$2,959,700	\$5,415,700	\$560,500	\$8,935,900
III. WATER MANAGEMENT:				
FROM:				
General Fund	\$3,858,000	\$1,908,900		\$5,766,900
Indirect Cost Recovery				
Fund	50,400	6,200		56,600
Water Administration				
Fund	1,026,600	218,900		1,245,500
Miscellaneous Revenue				
Fund	647,800	246,800		894,600
Federal Grant Fund	<u>480,500</u>	<u>312,100</u>		<u>792,600</u>
TOTAL	\$6,063,300	\$2,692,900		\$8,756,200
IV. NORTHERN IDAHO ADJUDICATION:				
FROM:				
General Fund	\$212,600	\$157,800		\$370,400
Northern Idaho Adjudication				
Fund	<u>67,800</u>	<u>35,000</u>		<u>102,800</u>
TOTAL	\$280,400	\$192,800		\$473,200
GRAND TOTAL	\$10,405,200	\$9,104,600	\$560,500	\$20,070,300

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Water Resources is authorized no more than one hundred fifty-nine (159) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. EXEMPTIONS FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS. To provide maximum flexibility in dealing with reduced appropriations for fiscal year 2011, the Department of Water Resources is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 8, 2010.

CHAPTER 266
(H.B. No. 698)

AN ACT

REDUCING THE APPROPRIATION TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT REGARDING A SOFTWARE CONTRACT; EXPRESSING LEGISLATIVE INTENT REQUIRING QUARTERLY TAX COMPLIANCE REPORTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the State Tax Commission in Section 1, Chapter 179, Laws of 2009, is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. GENERAL SERVICES:			
FROM:			
General Fund	\$153,700	\$225,700	\$379,400
II. AUDIT AND COLLECTIONS:			
FROM:			
General Fund	\$867,700	\$95,200	\$962,900
III. REVENUE OPERATIONS:			
FROM:			
General Fund	\$196,400	\$15,200	\$211,600
IV. COUNTY SUPPORT:			
FROM:			
General Fund	\$95,100	\$112,400	\$207,500
GRAND TOTAL	\$1,312,900	\$448,500	\$1,761,400

SECTION 2. In addition to the appropriation made in Section 1, Chapter 179, Laws of 2009, there is hereby appropriated to the State Tax Commission the following amount to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. GENERAL SERVICES:			
FROM:			
General Fund	\$115,300	\$102,500	\$217,800
II. AUDIT AND COLLECTIONS:			
FROM:			
General Fund	\$357,800		\$357,800
III. REVENUE OPERATIONS:			
FROM:			
General Fund	\$89,200	\$41,000	\$130,200
IV. COUNTY SUPPORT:			
FROM:			
General Fund	\$77,200	\$17,000	\$94,200
GRAND TOTAL	\$639,500	\$160,500	\$800,000

SECTION 3. There is hereby appropriated to the State Tax Commission in the Department of Revenue and Taxation the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
General Fund	\$3,389,100	\$2,718,000		\$6,107,100
Multistate Tax Compact				
Fund		48,700	\$29,700	78,400
Administration and Accounting				
Fund	5,900	31,300		37,200
Administration Services for Transportation				
Fund	427,300	423,900	105,200	956,400
Seminars and Publications				
Fund		9,100		9,100
Abandoned Property Trust - Unclaimed Property				
Fund		<u>100,300</u>	<u>15,300</u>	<u>115,600</u>
TOTAL	\$3,822,300	\$3,331,300	\$150,200	\$7,303,800
II. AUDIT AND COLLECTIONS:				
FROM:				
General Fund	\$11,192,700	\$1,561,800	\$52,000	\$12,806,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Multistate Tax Compact				
Fund	1,242,400	475,500		1,717,900
Administration and Accounting				
Fund	11,700	24,400		36,100
Administration Services for Transportation				
Fund	1,545,400	345,500		1,890,900
Abandoned Property Trust - Unclaimed Property				
Fund	<u>462,200</u>	<u>206,100</u>	_____	<u>668,300</u>
TOTAL	\$14,454,400	\$2,613,300	\$52,000	\$17,119,700
III. REVENUE OPERATIONS:				
FROM:				
General Fund	\$2,913,600	\$1,457,500	\$3,900	\$4,375,000
Multistate Tax Compact				
Fund		500		500
Administration and Accounting				
Fund	95,200	88,400		183,600
Administration Services for Transportation				
Fund	509,500	212,200	2,300	724,000
Seminars and Publications				
Fund		14,400		14,400
Abandoned Property Trust - Unclaimed Property				
Fund	<u>67,000</u>	<u>500</u>	_____	<u>67,500</u>
TOTAL	\$3,585,300	\$1,773,500	\$6,200	\$5,365,000
IV. COUNTY SUPPORT:				
FROM:				
General Fund	\$2,283,100	\$371,300		\$2,654,400
Seminars and Publications				
Fund	_____	<u>131,000</u>	<u>\$8,800</u>	<u>139,800</u>
TOTAL	\$2,283,100	\$502,300	\$8,800	\$2,794,200
GRAND TOTAL	\$24,145,100	\$8,220,400	\$217,200	\$32,582,700

SECTION 4. In accordance with Section 67-3519, Idaho Code, the State Tax Commission is authorized no more than four hundred four and five-tenths (404.5) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that state funding of the ProVal tax software maintenance contract be reduced by \$50,000 this year. Funding will not be restored until the State Tax Commission has reported progress in resolving the issue of perceived unfair competition between vendors providing property tax administration and mass appraisal services to the counties on behalf of the State Tax Commission.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that the State Tax Commission provide quarterly reports to the Governor and the Joint Finance-Appropriations Committee comparing the total costs from all funding sources used for compliance efforts and the collections related to those efforts. Line items contained in the appropriation in Section 3 of this act shall be tracked and accounted for as separate components of the total tax compliance effort. Should the Governor determine his quarterly threshold for the Phase 2 Compliance Initiative is not met, the funding of temporary employees assigned to expand collection efforts related to the Tax Gap will revert to the General Fund for the subsequent quarter. Furthermore, it is the intent of the Legislature that for the period from July 1, 2010, through June 30, 2011, temporary appointments assigned to the Phase 2 Compliance Initiative are exempt from the 1,385 hour per twelve (12) month limitation imposed by Section 67-5302(33), Idaho Code.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 8, 2010.

CHAPTER 267

(H.B. No. 631, As Amended)

AN ACT

RELATING TO FIREARMS; AMENDING CHAPTER 3, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-356, IDAHO CODE, TO PROVIDE THAT COURTS SHALL MAKE A FINDING AS TO WHETHER CERTAIN FEDERAL LAW APPLIES TO PERSONS IN SPECIFIED CASES, TO PROVIDE FOR DISSEMINATION OF ORDERS, TO PROVIDE FOR PETITIONS FOR RELIEF AND TO REMOVE FIREARMS-RELATED DISABILITIES, TO PROVIDE FOR PARTICIPATION IN THE PROCEEDINGS BY THE DEPARTMENT OF HEALTH AND WELFARE AND THE PROSECUTING ATTORNEY, TO PROVIDE FOR CONSIDERATION OF CERTAIN EVIDENCE BY THE COURT, TO PROVIDE A STANDARD OF PROOF, TO PROVIDE FOR APPEAL, TO PROVIDE A LIMITATION REGARDING FILING PETITIONS FOR RELIEF, TO PROVIDE FOR DISSEMINATION OF ORDERS GRANTING PETITIONS FOR RELIEF; AND AMENDING SECTION 67-3003, IDAHO CODE, TO PROVIDE THAT THE BUREAU OF CRIMINAL IDENTIFICATION OF THE IDAHO STATE POLICE SHALL OBTAIN AND TRANSMIT SPECIFIED INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS) IN ACCORDANCE WITH FEDERAL LAW, TO PROVIDE FOR NOTIFICATION OF CHANGES REGARDING THE INFORMATION AND TO PROVIDE FOR THE UPDATE, CORRECTION, MODIFICATION OR REMOVAL OF THE INFORMATION FROM THE NICS DATABASE.

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

SECTION 1. That Chapter 3, Title 66, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 66-356, Idaho Code, and to read as follows:

66-356. RELIEF FROM FIREARMS DISABILITIES. (1) A court that:

- (a) Orders commitment pursuant to section 66-329, Idaho Code;
- (b) Orders commitment or treatment pursuant to section 66-406, Idaho Code;
- (c) Appoints a guardian pursuant to section 66-322, Idaho Code, or section 15-5-304, Idaho Code;
- (d) Appoints a conservator pursuant to section 15-5-407(b), Idaho Code;

(e) Appoints a guardian or conservator pursuant to section 66-404, Idaho Code; or

(f) Finds a defendant incompetent to stand trial pursuant to section 18-212, Idaho Code, shall make a finding as to whether the subject of the proceeding is a person to whom the provisions of 18 U.S.C. 922(d) (4) and (g) (4) apply. If the court so finds, the clerk of the court shall forward a copy of the order to the Idaho state police, which in turn shall forward a copy to the federal bureau of investigation, or its successor agency, for inclusion in the national instant criminal background check system database.

(2) A person who is subject to an order, including an appointment or finding described in subsection (1) of this section, may petition the magistrate division of the court that issued such order, or the magistrate division of the district court of the county where the individual resides, to remove the person's firearms-related disabilities as provided in section 105(a) of P.L. 110-180. A copy of the petition for relief shall also be served on the director of the department of health and welfare and the prosecuting attorney of the county in which the original order, appointment or finding occurred, and such department and office may, as it deems appropriate, appear, support, object to and present evidence relevant to the relief sought by the petitioner. The court shall receive and consider evidence, including evidence offered by the petitioner, concerning:

- (a) The circumstances of the original order, appointment or finding;
- (b) The petitioner's mental health and criminal history records, if any;
- (c) The petitioner's reputation; and
- (d) Changes in the petitioner's condition or circumstances relevant to the relief sought.

The court shall grant the petition for relief if it finds by a preponderance of the evidence that the petitioner will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. The petitioner may appeal a denial of the requested relief, and review on appeal shall be de novo. A person may file a petition for relief under this section no more than once every two (2) years.

(3) When a court issues an order granting a petition for relief under subsection (2) of this section, the clerk of the court shall immediately forward a copy of the order to the Idaho state police, which in turn shall immediately forward a copy to the federal bureau of investigation, or its successor agency, for inclusion in the national instant criminal background check system database.

SECTION 2. That Section 67-3003, Idaho Code, be, and the same is hereby amended to read as follows:

67-3003. DUTIES OF THE DEPARTMENT. (1) The department shall establish a bureau of criminal identification to:

- (a) Serve as the state's central repository of criminal history records;
- (b) Conduct criminal background checks as authorized by law or rule and provide fingerprint identification services;
- (c) Obtain and electronically file information relating to in-state stolen vehicles and in-state wanted persons;
- (d) Establish and maintain an automated fingerprint identification system;
- (e) Establish a uniform crime reporting system for the periodic collection and reporting of crimes, and compile and publish statistics and other information on the nature and extent of crime in the state;

(f) Maintain, pursuant to department rule, other identification information, which may include, but is not limited to, palm prints and photographs;

(g) Cooperate with other criminal justice agencies of the state, state and federal courts, the criminal records repositories of other states, the federal bureau of investigation criminal justice information services, the national law enforcement telecommunications system, and other appropriate agencies and systems, in the operation of an effective interstate and national system of criminal identification, records and statistics; ~~and~~

(h) Develop and implement a training program to assist criminal justice agencies with the recordkeeping and reporting requirements of this chapter; ~~and~~

(i) Obtain and electronically transmit to the national instant criminal background check system (NICS), in accordance with federal law, information relating to eligibility to receive or possess a firearm pursuant to state or federal law. Upon notification to the department that the basis for which any such information previously transmitted to the NICS does not apply or no longer applies, the department shall, as soon as practicable, notify the NICS of such change and shall update, correct, modify or remove such information from the NICS database.

(2) In accordance with chapter 52, title 67, Idaho Code, the department may adopt rules necessary to implement the provisions of this chapter. Rules relating to information maintained and reported by the court shall be made after consultation with and approval by the Idaho supreme court.

Approved April 8, 2010.

CHAPTER 268
(H.B. No. 701)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MEDICAL ASSISTANCE SERVICES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; AUTHORIZING THE EXPENDITURE OF ALL DEDICATED FUNDS COLLECTED; AUTHORIZING A TRANSFER OF CERTAIN MONEYS APPROPRIATED FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING FOR REAPPROPRIATION OF GENERAL FUNDS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; PROVIDING LEGISLATIVE INTENT FOR MEDICAID PRICING FREEZES; PROVIDING LEGISLATIVE INTENT FOR MEDICAID PROGRAM FLEXIBILITY FOR FISCAL YEAR 2011; PROVIDING LEGISLATIVE INTENT FOR COST CONTAINMENT MEASURES; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 264, Laws of 2009, to the Department of Health and Welfare for Medical Assistance Services is hereby reduced by the following amounts for the designated programs, according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MEDICAID ADMINISTRATION & MEDICAL MANAGEMENT:				
FROM:				
Cooperative Welfare (General)				
Fund	\$477,200	\$631,600	\$91,800	\$1,200,600
II. COORDINATED MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$6,665,400	\$6,665,400
III. ENHANCED MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$9,340,100	\$9,340,100
IV. BASIC MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$4,436,300	\$4,436,300
GRAND TOTAL	\$477,200	\$631,600	\$20,533,600	\$21,642,400

SECTION 2. In addition to the appropriation made in Section 1, Chapter 264, Laws of 2009, there is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amount to be expended for the designated programs according to the designated expense class from the listed funds for the period July 1, 2009, through June 30, 2010:

I. COORDINATED MEDICAID PLAN:	
FOR:	
Trustee and Benefit Payments	\$19,569,100
FROM:	
Hospital Assessment Fund	\$4,069,100
Cooperative Welfare (Federal) Fund	<u>15,500,000</u>
TOTAL	\$19,569,100
II. BASIC MEDICAID PLAN:	
FOR:	
Trustee and Benefit Payments	\$262,200
FROM:	
Hospital Assessment Fund	\$262,200
GRAND TOTAL	\$19,831,300

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for Medical Assistance Services the following amounts to be expended according to the designated programs for the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MEDICAID ADMINISTRATION & MEDICAL MANAGEMENT:				
FROM:				
Cooperative Welfare (General)				
Fund	\$6,352,200	\$6,688,700	\$1,219,200	\$14,260,100
Idaho Health Insurance Access Card				
Fund		152,000		152,000
Cooperative Welfare (Dedicated)				
Fund		5,983,800		5,983,800
Cooperative Welfare (Federal)				
Fund	<u>11,084,600</u>	<u>19,116,700</u>	<u>1,638,600</u>	<u>31,839,900</u>
TOTAL	\$17,436,800	\$31,941,200	\$2,857,800	\$52,235,800
II. COORDINATED MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$90,168,900	\$90,168,900
Hospital Assessment				
Fund			4,234,700	4,234,700
Cooperative Welfare (Dedicated)				
Fund			10,688,400	10,688,400
Cooperative Welfare (Federal)				
Fund			<u>356,151,700</u>	<u>356,151,700</u>
TOTAL			\$461,243,700	\$461,243,700
III. ENHANCED MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$131,343,700	\$131,343,700
Idaho Health Insurance Access Card				
Fund			1,551,400	1,551,400
Medical Assistance				
Fund			2,500	2,500
Hospital Assessment				
Fund			2,537,900	2,537,900
Cooperative Welfare (Dedicated)				
Fund			38,131,000	38,131,000
Cooperative Welfare (Federal)				
Fund			<u>450,176,000</u>	<u>450,176,000</u>
TOTAL			\$623,742,500	\$623,742,500
IV. BASIC MEDICAID PLAN:				
FROM:				
Cooperative Welfare (General)				
Fund			\$62,463,600	\$62,463,600

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Idaho Health Insurance Access Card				
Fund			4,077,100	4,077,100
Hospital Assessment				
Fund			6,558,900	6,558,900
Cooperative Welfare (Dedicated)				
Fund			31,536,600	31,536,600
Cooperative Welfare (Federal)				
Fund			<u>312,971,700</u>	<u>312,971,700</u>
TOTAL			\$417,607,900	\$417,607,900
 GRAND TOTAL	\$17,436,800	\$31,941,200	\$1,505,451,900	\$1,554,829,900

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred eighty-three (283) full-time equivalent positions for the Medical Assistance Services Division during the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the Department of Health and Welfare's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 6. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during the fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 7. TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners that currently designates the responsibility to the Division of Financial Management.

SECTION 8. EXPENDITURES OF COLLECTED RECEIPTS. Notwithstanding the provisions of Section 67-3516(2), Idaho Code, the Department of Health and Welfare is hereby authorized to expend all dedicated funds collected on behalf of the Coordinated, Enhanced, and Basic Medicaid Plans, as noncognizable funds for the period July 1, 2010, through June 30, 2011.

SECTION 9. TRANSFER OF APPROPRIATIONS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funding provided for provider payments in the trustee and benefit payments expenditure class in the budgeted Medical Assistance Services may be transferred in excess of ten percent (10%) among the Coordinated Medicaid Plan, Enhanced Medicaid Plan and the Basic Medicaid Plan, but shall not be transferred to any other budgeted programs or expenditure class within the Department of Health and Welfare during fiscal year 2011.

SECTION 10. REAPPROPRIATION OF THE COOPERATIVE WELFARE FUND FOR PROVIDER PAYMENTS. There is hereby reappropriated to the Department of Health and Welfare any unexpended and unencumbered balances in the Cooperative Welfare Fund as appropriated to the Coordinated Medicaid Plan, Enhanced Medicaid Plan and the Basic Medicaid Plan for provider payments for fiscal year 2010, to be used for trustee and benefit payments for the period July 1, 2010, through June 30, 2011. The reappropriation shall be computed by the Department of Health and Welfare and for budgeting purposes any General Fund portion of the balance in the Cooperative Welfare Fund shall be identified as part of the General Fund.

SECTION 11. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 12. MEDICAID PRICING FREEZE. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare Medicaid Division freeze all price increases, regardless of calculation basis, in all categories with the exception of those increases that are mandated by federal law and provided for in the appropriation for the Medicaid program.

SECTION 13. FISCAL YEAR 2011 MEDICAID PROGRAM FLEXIBILITY. Notwithstanding any other provision of Idaho law related to Medicaid, Title XIX of the Social Security Act, the Department of Health and Welfare, by temporary rule promulgated under procedures of chapter 52, title 67, Idaho Code, and based upon its finding that it is necessary to do so to ensure that the Medicaid programs administered by the department do not exceed the appropriations provided by Section 3 of this act, may impose requirements for Medicaid programs funded by the General Fund for fiscal year 2011 in the following manner: The temporary rule must (1) list each requirement being imposed; (2) list each section of the Idaho Code affected by the temporary rule and state how it is being affected; (3) state the reason for each requirement being imposed; and (4) state the time for which each requirement is to be in effect, provided that the requirement shall not extend beyond June 30, 2011. For this temporary rulemaking, the finding required by this section shall replace and supersede the alternative findings required by Section 67-5226(1)(a) through (c), Idaho Code. Upon the adoption of a temporary rule as authorized in this section, the department shall immediately notify the members of the House and Senate Health and Welfare Committees and the Joint Finance-Appropriations Committee of the issuance of the temporary rule. Notwithstanding any other provision of law, the Legislature, by Concurrent Resolution, may terminate the temporary rulemaking authorized by this section at any time. The appropriation provided for in Section 3 of this act and the provisions of this section shall take precedence over any Idaho statute that is in conflict therewith for the period July 1, 2010, through June 30, 2011. The rulemaking authority granted to the department by the Legislature pursuant to this section is in addition to the rulemaking

authority granted to the department by Idaho law with regard to Medicaid law. Nothing in this section shall be deemed to repeal rulemaking authority granted to the Department of Health and Welfare by Idaho law with regard to Medicaid law.

SECTION 14. MEDICAID PLAN MODIFICATION POLICY DIRECTION. It is the intent of the Legislature to maintain a viable, but reduced Medicaid program for as many vulnerable Idaho citizens, and as similar in design as the current program as possible, within the fiscal climate. For that reason, rather than eliminating whole optional categories of Medicaid services or benefits or Medicaid plans, the Legislature directs the Idaho Department of Health and Welfare to reduce the Medicaid benefits package based on the following policy priorities in the order they are listed:

A. Pricing Modification Policy Priorities:

1. Review all current Medicaid pricing structures and make reductions to ensure that the state of Idaho Medicaid plan does not pay any reimbursable service rate at a rate higher than Medicare currently pays for the same service.
2. Adjust any rates that have in the past been determined to be overpaid within a Medicaid service category.
3. In order to try and maintain the availability of all Medicaid optional services at a lower cost, the Department of Health and Welfare is directed to work with all providers within the current Medicaid plans to review and reduce current pricing in all Medicaid service categories through negotiations with Medicaid providers. If pricing reductions cannot be agreed to, then future options for the Legislature to consider are removal of whole categories of optional services.
4. Finally, review any other pricing modifications that the Idaho Department of Health and Welfare and the Governor determine can assist in maintaining a lower cost, but still provide accessible and substantially similar Medicaid benefit plans for current eligibility populations.

B. Benefit Modification Policy Priorities:

1. The Idaho Department of Health and Welfare has reviewed many, if not all, of the benefits within the Medicaid plans to eliminate noneffective, non-outcome-based services; however, if there are still minor adjustments to benefits for minor items that have not been addressed, then those identified benefits should be the first to be changed in the benefit package adjustments.
2. Review and implement additional managed care (at-risk) contracts, or selective contracts, including implementing a formulary prescription drug plan as many private insurance carriers have already done.
3. Explore new waivers for mental health, developmental disability, and any other optional services for all Medicaid populations, including implementing waiting lists for nonessential services as a way to control costs.

4. Implement standardized, statewide assessments for mental health and developmental disability services that reduce the administrative burden on providers but still allow the Department of Health and Welfare to track service usage and outcomes. The department is also directed to start the process of eliminating self-referral by providers within the current Medicaid plans.

5. Finally, review any other benefit modifications that the Idaho Department of Health and Welfare and the Governor determine can assist in maintaining a lower cost, but still provide accessible and substantially similar Medicaid benefit plans for current eligibility populations.

If additional savings are needed after the previous policy reviews and modifications have been made, it is the intent of the Legislature that the Governor, through the flexibility of Section 13 of this act, can implement any additional changes identified by the Idaho Department of Health and Welfare to meet the Medicaid budget. Upon convening of the next legislative session, the Department of Health and Welfare shall present the temporary changes to the Idaho House and Senate Health and Welfare germane committees for review and recommendation of any ongoing permanent changes to the Idaho Medicaid program.

SECTION 15. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 8, 2010.

CHAPTER 269
(H.B. No. 702)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PHYSICAL HEALTH SERVICES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PUBLIC HEALTH SERVICES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; DIRECTING THAT FUNDS FOR TRUSTEE AND BENEFIT PAYMENTS SHALL NOT BE TRANSFERRED; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; EXPRESSING LEGISLATIVE INTENT RELATING TO CERTAIN MILLENNIUM INCOME FUND APPROPRIATIONS; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PHYSICAL HEALTH SERVICES FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PHYSICAL HEALTH SERVICES FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 243, Laws of 2009, to the Department of Health and Welfare for Public Health Services is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. PHYSICAL HEALTH SERVICES:				
FROM:				
Cooperative Welfare (General)				
Fund	\$101,300	\$116,900	\$96,900	\$315,100
II. LABORATORY SERVICES:				
FROM:				
Cooperative Welfare (General)				
Fund	\$97,800	\$29,400		\$127,200
GRAND TOTAL	\$199,100	\$146,300	\$96,900	\$442,300

SECTION 2. In addition to the appropriation made in Section 1, Chapter 243, Laws of 2009, there is hereby appropriated to the Department of Health and Welfare for Physical Health Services the following amount to be expended according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:		
Personnel Costs		\$79,200
Trustee and Benefit Payments		<u>3,930,000</u>
TOTAL		\$4,009,200
FROM:		
Cooperative Welfare (Federal)		
Fund		\$4,009,200

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for Public Health Services the following amounts for the designated programs to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. PHYSICAL HEALTH SERVICES:				
FROM:				
Cooperative Welfare				
(General) Fund	\$1,312,400	\$1,548,600	\$1,084,600	\$3,945,600
Cancer Control Fund	49,400	228,200	123,400	401,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Central Tumor Registry				
Fund			182,700	182,700
Cooperative Welfare				
(Dedicated) Fund	1,435,300	1,861,700	10,186,700	13,483,700
Cooperative Welfare				
(Federal) Fund	<u>5,171,300</u>	<u>7,760,500</u>	<u>42,997,900</u>	<u>55,929,700</u>
TOTAL	\$7,968,400	\$11,399,000	\$54,575,300	\$73,942,700
II. EMERGENCY MEDICAL SERVICES:				
FROM:				
Emergency Medical				
Services Fund	\$1,437,500	\$909,100	\$220,000	\$2,566,600
Emergency Medical				
Services III Fund			1,400,000	1,400,000
Cooperative Welfare				
(Dedicated) Fund	229,200	341,300		570,500
Cooperative Welfare				
(Federal) Fund	<u>289,000</u>	<u>450,000</u>	<u>175,000</u>	<u>914,000</u>
TOTAL	\$1,955,700	\$1,700,400	\$1,795,000	\$5,451,100
III. LABORATORY SERVICES:				
FROM:				
Cooperative Welfare				
(General) Fund	\$1,267,100	\$389,900		\$1,657,000
Cooperative Welfare				
(Dedicated) Fund	409,300	199,300		608,600
Cooperative Welfare				
(Federal) Fund	<u>663,300</u>	<u>1,140,400</u>		<u>1,803,700</u>
TOTAL	\$2,339,700	\$1,729,600		\$4,069,300
GRAND TOTAL	\$12,263,800	\$14,829,000	\$56,370,300	\$83,463,100

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than one hundred thirty-five and sixty-three hundredths (135.63) full-time equivalent positions for the Physical Health Services Program for the period July 1, 2010, through June 30, 2011. The Department of Health and Welfare is authorized no more than twenty-eight and seventy-six hundredths (28.76) full-time equivalent positions for the Emergency Medical Services Program for the period July 1, 2010, through June 30, 2011. The Department of Health and Welfare is authorized no more than forty and eight-tenths (40.8) full-time equivalent positions for the Laboratory Services Program for the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal

year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 6. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure class shall not be transferred to any other expense classes within the program budget during fiscal year 2011.

SECTION 7. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 8. TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners that currently designates the responsibility to the Division of Financial Management.

SECTION 9. MILLENNIUM INCOME FUND APPROPRIATIONS. It is legislative intent that \$700,000 of the funds from the Millennium Income Fund appropriated to the Department of Health and Welfare shall be designated for nicotine replacement therapy, and that expenditures appropriated from the Millennium Income Fund shall not be used for local programs identified in the application proposal since they may duplicate other programs funded by the Millennium Income Fund.

SECTION 10. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 11. In addition to the appropriation made in Section 1, Chapter 243, Laws of 2009, there is hereby appropriated to the Department of Health and Welfare for Physical Health Services the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Operating Expenditures	\$1,800,000
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FROM:

Idaho Immunization Dedicated Vaccine Fund	\$1,800,000
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SECTION 12. In addition to the appropriation made in Section 3 of this act, there is hereby appropriated to the Department of Health and Welfare for Physical Health Services the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2010, through June 30, 2011:

FOR:

Operating Expenditures	\$5,400,000
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FROM:

Idaho Immunization Dedicated Vaccine Fund	\$5,400,000
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SECTION 13. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2 and 11 of this act shall be in full force and effect on and after passage and approval.

Approved April 8, 2010.

CHAPTER 270
(H.B. No. 703)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF DRUG POLICY AND THE DEPARTMENT OF HEALTH AND WELFARE FOR SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME POSITIONS; AND PROVIDING LEGISLATIVE INTENT FOR WITS SYSTEM MODIFICATIONS AND ACCESS TO RECOVERY FUNDING.

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

SECTION 1. There is hereby appropriated to the Office of Drug Policy and the Department of Health and Welfare for substance abuse treatment and prevention the following amounts to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. OFFICE OF DRUG POLICY:				
FROM:				
Idaho Millennium Income Fund	\$221,500	\$173,900		\$395,400
II. DEPARTMENT OF HEALTH AND WELFARE:				
FROM:				
Idaho Millennium Income Fund			\$1,859,200	\$1,859,200
Federal Grant Fund		<u>\$384,600</u>	<u>365,400</u>	<u>750,000</u>
TOTAL		\$384,600	\$2,224,600	\$2,609,200
GRAND TOTAL	\$221,500	\$558,500	\$2,224,600	\$3,004,600

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Office of Drug Policy is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. INTENT FOR WITS SYSTEM MODIFICATIONS AND ACCESS TO RECOVERY FUNDING. It is the intent of the Legislature that the Office of Drug Policy use \$147,900 of the agency base operating budget towards the Web Infrastructure for Treatment System (WITS) development that in total is expected to cost \$221,400. The modifications shall ensure the system allows all providers to use WITS for treatment, authorization, outcome reporting, tracking, reauthorization and billing through the system to the current management services contractor and that all providers shall use WITS for state funded treatment. This year's funding amounts do not include costs for provider training.

If the Interagency Committee on Substance Abuse (ICSA) and the Department of Health and Welfare receive the applied for federal Access to Recovery (ATR) grant in fiscal year 2011, then the Department of Health and Welfare and ICSA are directed to complete full WITS system enhancements using federal ATR funding in the amount of \$221,400 plus one-time provider training costs. The Office of Drug Policy is directed to revert the Millennium Fund base appropriation in the amount of \$147,900 for fiscal year 2011 if an ATR grant is approved.

Approved April 8, 2010.

CHAPTER 271
(H.B. No. 704)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE DEPARTMENT FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 267, Laws of 2009, to the Department of Juvenile Corrections is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:			
FROM:			
General Fund	\$31,500		\$31,500

	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. COMMUNITY, OPERATIONS AND PROGRAM SERVICES:			
FROM:			
General Fund	\$3,500		\$3,500
III. INSTITUTIONS:			
FROM:			
General Fund	\$10,000	\$2,514,100	\$2,524,100
GRAND TOTAL	\$45,000	\$2,514,100	\$2,559,100

SECTION 2. There is hereby appropriated to the Department of Juvenile Corrections the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
General Fund	\$1,932,600	\$882,300		\$20,000	\$2,834,900
Miscellaneous Revenue Fund	66,400	22,300	\$50,000		138,700
State Juvenile Corrections Center Endowment Income Fund			<u>32,300</u>		<u>32,300</u>
TOTAL	\$1,999,000	\$904,600	\$82,300	\$20,000	\$3,005,900
II. COMMUNITY, OPERATIONS AND PROGRAM SERVICES:					
FROM:					
General Fund	\$1,132,700	\$190,100		\$4,243,900	\$5,566,700
Juvenile Corrections Fund	93,400	84,700			178,100
Juvenile Corrections - Cigarette/Tobacco Tax Fund				5,125,000	5,125,000
Miscellaneous Revenue Fund		117,300		327,000	444,300
Federal Grant Fund	<u>136,800</u>	<u>174,600</u>		<u>1,700,000</u>	<u>2,011,400</u>
TOTAL	\$1,362,900	\$566,700		\$11,395,900	\$13,325,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. INSTITUTIONS:					
FROM:					
General					
Fund	\$16,782,900	\$2,261,200		\$5,401,500	\$24,445,600
Miscellaneous Revenue					
Fund		328,000		460,000	788,000
State Juvenile Corrections Center Endowment Income					
Fund		790,600			790,600
Federal Grant					
Fund	<u>170,100</u>	<u>570,100</u>		<u>1,080,400</u>	<u>1,820,600</u>
TOTAL	\$16,953,000	\$3,949,900		\$6,941,900	\$27,844,800
GRAND TOTAL	\$20,314,900	\$5,421,200	\$82,300	\$18,357,800	\$44,176,200

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Juvenile Corrections is authorized no more than three hundred ninety-one and fifty-hundredths (391.50) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. EXEMPTIONS FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS. To provide maximum flexibility in dealing with reduced appropriations for fiscal year 2011, the Department of Juvenile Corrections is hereby exempted from the provisions of Section 67-3511(1) and (2), Idaho Code, for all moneys appropriated to it for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 8, 2010.

CHAPTER 272
(H.B. No. 705)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE IDAHO STATE CAPITOL COMMISSION FOR FISCAL YEAR 2011; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Idaho State Capitol Commission the following amounts to be expended according to the designated expense class from the listed fund for the period July 1, 2010, through June 30, 2011:

FOR:	
Operating Expenditures	\$327,200
FROM:	
Capitol Endowment Income Fund	\$327,200

SECTION 2. There is hereby reappropriated to the Department of Administration for the Idaho State Capitol Commission the unexpended and unencumbered balance of any funds appropriated by Section 1, Chapter 319, Laws of 2009, to be used for the period July 1, 2010, through June 30, 2011.

Approved April 8, 2010.

CHAPTER 273
(H.B. No. 681, As Amended in the Senate)

AN ACT

RELATING TO THE MEDICALLY INDIGENT; AMENDING SECTION 31-3501, IDAHO CODE, TO PROVIDE AN ADDITIONAL POLICY STATEMENT AND TO REVISE TERMINOLOGY; AMENDING SECTION 31-3502, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 31-3503, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF THE COUNTY COMMISSIONERS AND TO REVISE TERMINOLOGY; AMENDING SECTION 31-3503A, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF THE CATASTROPHIC HEALTH CARE COST PROGRAM BOARD AND TO REVISE TERMINOLOGY; AMENDING SECTION 31-3503C, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3503E, IDAHO CODE, TO CLARIFY LANGUAGE AND TO PROVIDE FOR DEEMED CONSENT; AMENDING SECTION 31-3504, IDAHO CODE, TO REVISE A DEEMED CONSENT PROVISION, TO REVISE TERMINOLOGY, TO REVISE COUNTY CLERK DUTIES REGARDING DETERMINATION OF MEDICAID ELIGIBILITY, TO PROVIDE FOR A CERTAIN PROCEDURE DEPENDING ON WHETHER A PATIENT IS MEDICAID ELIGIBLE, TO PROVIDE FOR CERTAIN DISCRETION FOR THE COUNTY COMMISSIONERS AND THE BOARD AND TO PROVIDE CERTAIN PROCEDURES FOR HOSPITALS AND PROVIDERS SEEKING REIMBURSEMENT; AMENDING SECTION 31-3505, IDAHO CODE, TO CLARIFY AND REVISE TERMINOLOGY; AMENDING SECTION 31-3505A, IDAHO CODE, TO PROVIDE FOR CERTAIN PROCEDURES ESTABLISHED BY THE COUNTY COMMISSIONERS AND THE BOARD AND TO CLARIFY AND REVISE TERMINOLOGY; AMENDING SECTION 31-3505B, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3505C, IDAHO CODE, TO REVISE AND CLARIFY TERMINOLOGY, TO PROVIDE FOR THE SUSPENSION OF AN INITIAL DETERMINATION TO DENY AN APPLICATION ON SPECIFIED GROUNDS AND TO PROVIDE FOR A TOLLING OF CERTAIN TIME

LIMITATIONS IN THE EVENT OF A SUSPENSION; AMENDING SECTION 31-3505D, IDAHO CODE, TO PROVIDE FOR APPEAL OF THE INITIAL DETERMINATION OF THE DENIAL OF AN APPLICATION AND TO REVISE TERMINOLOGY; AMENDING SECTION 31-3505E, IDAHO CODE, TO REVISE AND CLARIFY TERMINOLOGY; AMENDING SECTION 31-3505F, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3505G, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3507, IDAHO CODE, TO REMOVE CERTAIN HOSPITAL NOTIFICATION REQUIREMENTS, TO CLARIFY AND REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3508, IDAHO CODE, TO REQUIRE PARTICIPATION IN CERTAIN PROGRAMS BY CERTAIN HOSPITALS AND PROVIDERS AND TO PROVIDE LIMITATION ON PAYMENT BY THE BOARD AND COUNTIES; AMENDING SECTION 31-3509, IDAHO CODE, TO PROVIDE FOR CERTAIN PAYMENT AND BILLING LIMITATIONS, TO REVISE CERTAIN REQUIREMENTS FOR HOSPITALS AND PROVIDERS MAKING CLAIMS FOR REIMBURSEMENT, TO REVISE TERMINOLOGY, TO PROVIDE PAYMENT PROCEDURES UNDER SPECIFIED CIRCUMSTANCES, TO PROVIDE FOR THE PRORATING OF A FIRST LIEN AND TO PROVIDE FOR THE RECOVERY OF CERTAIN OVERPAYMENTS; AMENDING SECTION 31-3510, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE FOR THE DETERMINATION OF ATTORNEY FEES; AMENDING SECTION 31-3510A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3511, IDAHO CODE, TO REVISE TO WHOM AND FROM WHOM CERTAIN RESPONSIBILITIES ARE OWING, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3512, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 31-3513, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO REVISE TERMINOLOGY; AMENDING SECTION 31-3514, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3515, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3515A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3517, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3518, IDAHO CODE, TO PROVIDE CERTAIN PAYMENTS, PROCEDURES AND LIMITATIONS REGARDING HOSPITALS, TO REVISE TERMINOLOGY; AMENDING SECTION 31-3519, IDAHO CODE, TO REVISE THE SERVICES FOR WHICH PAYMENT IS TO BE MADE, TO REVISE PROCEDURES FOR MAKING CERTAIN PAYMENTS AND TO REVISE TERMINOLOGY; AMENDING SECTION 31-3520, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING SECTION 31-3521, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 31-3501, Idaho Code, be, and the same is hereby amended to read as follows:

31-3501. DECLARATION OF POLICY. (1) It is the policy of this state that each person, to the maximum extent possible, is responsible for his or her own medical care and to that end, shall be encouraged to purchase his or her own medical insurance with coverage sufficient to prevent them from needing to request assistance pursuant to this chapter. However, in order to safeguard the public health, safety and welfare, and to provide suitable facilities and provisions for the care and hospitalization of persons in this state, and, in the case of medically indigent persons, to provide for the payment thereof, the respective counties of this state, ~~and the administrator board~~ and the department shall have the duties and powers as hereinafter provided.

(2) The county medically indigent program and the catastrophic health care cost program are payers of last resort. Therefore, applicants or third party applicants seeking financial assistance under the county medically indigent program and the catastrophic health care cost program shall be subject to the limitations and requirements as set forth herein.

SECTION 2. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) ~~"Administrator" means the board of the catastrophic health care cost program, as provided in section 31-3517, Idaho Code.~~

~~(2)~~ "Applicant" means any person who is requesting financial assistance under this chapter.

~~(3)~~ "Application" means an application for financial assistance pursuant to section 31-3504, Idaho Code, and the uniform form used for the initial review and the department's medicaid eligibility determination described in section 31-3503C(4), Idaho Code.

~~(4)~~ "Board" means the board of ~~county commissioners~~ the catastrophic health care cost program, as established in section 31-3517, Idaho Code.

~~(5)~~ "Case management" means coordination of services to help meet a patient's health care needs, usually when the patient has a condition that requires multiple services.

~~(6)~~ "Catastrophic health care costs" means the cost of medically necessary drugs, devices and services received by a recipient that, when paid at the then existing reimbursement rate, in aggregate exceed the sum of eleven thousand dollars (\$11,000) in any twelve (12) consecutive month period.

~~(7)~~ "Clerk" means the clerk of the ~~board~~ respective counties or his or her designee.

~~(8)~~ "County commissioners" means the board of county commissioners in their respective counties.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Department" means the department of health and welfare ~~or its contractor.~~

(10) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(11) "Emergency service" means a service provided for a medical condition in which sudden, serious and unexpected symptoms of illness or injury are sufficiently severe to necessitate or call for immediate medical care, including, but not limited to, severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent person who possesses an average knowledge of health and medicine, to result in:

(a) Placing the patient's health in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of any bodily organ or part.

(12) "Hospital" means a facility licensed and regulated pursuant to sections 39-1301 through 39-1314, Idaho Code, excluding state institutions.

(13) "Medicaid eligibility review" means the process used by the department to determine whether a person meets the criteria for medicaid coverage.

(14) "Medical home" means a model of primary and preventive care delivery in which the patient has a continuous relationship with a personal physician in a physician directed medical practice that is whole person oriented and where care is integrated and coordinated.

(15) "Medically indigent" means any person who is in need of necessary medical services and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor, does not have income and other resources available to him from whatever source sufficient to pay for necessary medical services. Nothing in this definition shall prevent the ~~board of and the county commissioners and administrator~~ from requiring the applicant and obligated persons to reimburse the county and the catastrophic health care costs program, where appropriate, for all or a portion of their

medical expenses, when investigation of their application pursuant to this chapter, determines their ability to do so.

(16) A. "Necessary medical services" means health care services and supplies that:

(a) Health care providers, exercising prudent clinical judgment, would provide to a person for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms;

(b) Are in accordance with generally accepted standards of medical practice;

(c) Are clinically appropriate, in terms of type, frequency, extent, site and duration and are considered effective for the covered person's illness, injury or disease;

(d) Are not provided primarily for the convenience of the person, physician or other health care provider; and

(e) Are not more costly than an alternative service or sequence of services or supply, and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the person's illness, injury or disease.

B. Necessary medical services shall not include the following:

(a) Bone marrow transplants;

(b) Organ transplants;

(c) Elective, cosmetic and/or experimental procedures;

(d) Services related to, or provided by, residential, skilled nursing, assisted living and/or shelter care facilities;

(e) Normal, uncomplicated pregnancies, excluding caesarean section, and childbirth well-baby care;

(f) Medicare copayments and deductibles;

(g) Services provided by, or available to, an applicant from state, federal and local health programs; ~~and~~

(h) Medicaid copayments and deductibles; and

(i) Drugs, devices or procedures primarily utilized for weight reduction and complications directly related to such drugs, devices or procedures.

(17) "Obligated person" means the person or persons who are legally responsible for an applicant.

(18) "Primary and preventive health care" means the provision of professional health services that include health education and disease prevention, initial assessment of health problems, treatment of acute and chronic health problems and the overall management of an individual's health care services.

(19) "Provider" means any person, firm, or corporation certified or licensed by the state of Idaho or holding an equivalent license or certification in another state, that provides necessary medical services to a patient requesting a medically indigent status determination or filing an application for financial assistance.

(20) "Recipient" means an individual determined eligible for ~~necessary medical services~~ financial assistance under this chapter.

(21) "Reimbursement rate" means the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended.

(22) "Resident" means a person with a home, house, place of abode, place of habitation, dwelling or place where he or she actually lived for a consecutive period of thirty (30) days or more within the state of Idaho. A resident does not include a person who comes into this state for temporary purposes, including, but not limited to, education, vacation, or seasonal labor. Entry into active military duty shall not change a person's residence for the purposes of this chapter. Those physically present within the fol-

lowing facilities and institutions shall be residents of the county where they were residents prior to entering the facility or institution:

- (a) Correctional facilities;
- (b) Nursing homes or residential or assisted living facilities;
- (c) Other medical facility or institution.

(23) "Resources" means all property, whether tangible or intangible, real or personal, liquid or nonliquid, or pending, including, but not limited to, all forms of public assistance, crime victims compensation, worker's compensation, veterans benefits, medicaid, medicare, supplemental security income (SSI), third party insurance, other available insurance and any other property from any source for which an applicant and/or an obligated person may be eligible or in which he or she may have an interest. Resources shall include the ability of an applicant and obligated persons to pay for necessary medical services, excluding any interest charges, over a period of up to five (5) years. For purposes of determining approval for medical indigency only, resources shall not include the value of the homestead on the applicant or obligated person's residence, a burial plot, exemptions for personal property allowed in section 11-605(1) through (3), Idaho Code, and additional exemptions allowed by county resolution.

(24) "Third party applicant" means a person other than an obligated person who completes, signs and files an application on behalf of a patient. A third party applicant who files an application on behalf of a patient pursuant to section 31-3504, Idaho Code, shall, if possible, deliver a copy of the application to the patient within three (3) business days after filing the application.

(25) "Utilization management" means the evaluation of medical necessity, appropriateness and efficiency of the use of health care services, procedures and facilities and may include, but is not limited to, preadmission certification, the application of practice guidelines, continued stay review, discharge planning, case management, preauthorization of ambulatory procedures, retrospective review and claims review.

SECTION 3. That Section 31-3503, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503. POWERS AND DUTIES OF ~~BOARDS OF~~ COUNTY COMMISSIONERS. The ~~boards of~~ county commissioners in their respective counties shall, under such limitations and restrictions as are prescribed by law:

(1) Care for and maintain the medically indigent residents of their counties as provided in this chapter up to eleven thousand dollars (\$11,000) per claim in the aggregate over a consecutive twelve (12) month period with the remainder being paid by the state catastrophic health care cost program pursuant to section 31-3519, Idaho Code.

(2) Have the right to contract with providers, transfer patients, negotiate provider agreements, and all other powers incident to the county's duties created by this chapter.

(3) Cooperate with the department, the board and contractors retained by the department or the board to provide services including, but not limited to, medicaid eligibility review and utilization management on behalf of the counties and the ~~administrator~~ board.

(4) Have the jurisdiction and power to provide county hospitals and public general hospitals for the county and others who are sick, injured, maimed, aged and infirm and to erect, enlarge, purchase, lease, or otherwise acquire, and to officer, maintain and improve hospitals, hospital grounds, nurses' homes, shelter care facilities and residential or assisted living facilities as defined in section 39-3301, Idaho Code, superintendent's quarters, medical clinics, as that term is defined in section 39-1319, Idaho Code, medical clinic grounds or any other necessary buildings, and to equip the same, and to replace equipment, and for this purpose said ~~boards~~

commissioners may levy an additional tax of not to exceed six hundredths percent (.06%) of the market value for assessment purposes on all taxable property within the county. The term "public general hospitals" as used in this subsection shall be construed to include nursing homes.

SECTION 4. That Section 31-3503A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503A. POWERS AND DUTIES OF ~~ADMINISTRATOR~~ THE BOARD. The ~~ad-~~
~~ministrato~~ board shall, under such limitations and restrictions as are prescribed by law:

(1) Pay for necessary medical services for a resident medically indigent person where the reimbursement rate for the claim exceeds in aggregate the sum of eleven thousand dollars (\$11,000) during a consecutive twelve (12) month period;

(2) Cooperate with the department, respective counties of the state and contractors retained by the department or county commissioners to provide services including, but not limited to, eligibility review and utilization management on behalf of the counties and the ~~administrator~~ board;

(3) Require, as the ~~administrator~~ board deems necessary, annual reports from each county and each hospital and provider including, but not limited to, the following:

(a) From each county and for each applicant:

(i) Case number and the date services began;

(ii) Age;

(iii) Residence;

(iv) Sex;

(v) Diagnosis;

(vi) Income;

(vii) Family size;

(viii) Amount of costs incurred including provider, legal and administrative charges;

(ix) Approval or denial; and

(x) Reasons for denial.

(b) From each hospital:

(i) 990 tax forms or comparable information;

(ii) Cost of charges where charitable care was provided; and

(iii) Administrative and legal costs incurred in processing claims under this chapter.

SECTION 5. That Section 31-3503C, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503C. POWERS AND DUTIES OF THE DEPARTMENT. The department shall:

(1) Design and manage a utilization management program and third party recovery system for the medically indigent program.

(2) Have the authority to engage one (1) or more contractors or third party administrators to perform the duties assigned to it pursuant to this chapter including, but not limited to, utilization management and third party recovery for the medically indigent program.

(3) Implement a medicaid eligibility determination process for all potential applicants.

(4) Develop and implement by July 1, 2010, in cooperation with the Idaho association of counties and the Idaho hospital association, a uniform form to be used for both the initial review, pursuant to section 31-3503E, Idaho Code, and the application for financial assistance pursuant to section 31-3504, Idaho Code.

(5) Cooperate with the counties and the ~~administrator~~ board in providing the services required of it pursuant to this chapter.

(6) Promulgate rules to implement its duties and responsibilities under the provisions of this chapter.

SECTION 6. That Section 31-3503E, Idaho Code, be, and the same is hereby amended to read as follows:

31-3503E. MEDICAID ELIGIBILITY DETERMINATION. The department shall:

(1) Require the hospital to undertake an initial review of a patient upon stabilization to determine whether the patient may be eligible for medicaid or may be medically indigent. If the hospital's initial review determines that the patient may be eligible for medicaid or may be medically indigent, require that the hospital transmit the initial review and a written request for medicaid eligibility determination to the department within one (1) working day of the completion of the initial review.

(2) Undertake a determination of possible medicaid eligibility upon receipt from the hospital of the initial review and written request for medicaid eligibility determination. The department will use the medicaid eligibility guidelines in place as of the date of submission of the written request, apply categorical and financial eligibility requirements and use all sources available to the department to obtain verification in making the determination.

(3) In order to ascertain medicaid eligibility, require the patient or the obligated person to cooperate with the department according to its rules in investigating, providing documentation, submitting to an interview and notifying the department of the receipt of resources after the initial review form has been submitted to the department.

(4) Promptly notify the hospital and clerk of potential medicaid eligibility and the basis of possible eligibility.

(5) Act on the initial review form as an application for medicaid if it appears that the patient may be eligible for medicaid. An application for medicaid shall not be an application for financial assistance pursuant to section 31-3504, Idaho Code.

(6) Utilize the verification and cooperation requirement in department rule to complete the eligibility determination.

(7) Notify the patient or the obligated person, the hospital and the clerk of a denial and the reason therefor if the applicant fails to cooperate, fails to provide documentation necessary to complete the determination or is determined to be categorically or financially ineligible for medicaid. If, based on its medicaid eligibility review, the department determines that the patient is not eligible for medicaid but may be medically indigent, transmit a copy of the initial review to the clerk. The transmitted copy of the initial review shall be treated by the clerk as an application for financial assistance pursuant to section 31-3504, Idaho Code. Denial of medicaid eligibility is not a determination of medical indigence.

(8) Make income and resource information obtained from the medicaid eligibility determination process available to the county to assist in determination of medical indigency at the time the department notifies the county of the final medicaid eligibility determination.

The initial review form shall be deemed consent for providers, the hospital, the department, respective counties and the board to exchange information pertaining to the applicant's health and finances for the purposes of determining medicaid eligibility or medical indigency.

SECTION 7. That Section 31-3504, Idaho Code, be, and the same is hereby amended to read as follows:

31-3504. APPLICATION FOR FINANCIAL ASSISTANCE. (1) Except as provided for in section 31-3503E, Idaho Code, an applicant requesting assistance under this chapter shall complete a written application. The truth of the matters contained in the application shall be sworn to by the applicant. The application shall be deemed consent for the providers, hospital, department, respective counties and administrator board to exchange information pertaining to the applicant's health and finances for the purposes of determining medicaid eligibility or medical indigency. The application shall be signed by the applicant or on the applicant's behalf and filed in the clerk's office. If the clerk determines that the patient may be eligible for medicaid, wWithin one (1) business day of the filing of the application in the clerk's office, the clerk shall transmit a copy of the application and a written request for medicaid eligibility determination to the department.

(a) If, based on its medicaid eligibility review, the department determines that the patient is eligible for medicaid, the department shall act on the application as an application for medicaid.

(b) If, based on its medicaid eligibility review, the department determines that the patient is not eligible for medicaid, the department shall notify the clerk of the denial and the reason therefor, in accordance with section 31-3503E, Idaho Code. Denial of medicaid eligibility is not a determination of medical indigence.

(2) If a third party application is filed, the application shall be as complete as practicable and presented in the same form and manner as set forth in subsection (1) of this section.

(3) Follow-up necessary medical services based on a treatment plan, for the same condition, preapproved by the ~~board~~ county commissioners, may be provided for a maximum of six (6) months from the date of the original application without requiring an additional application; however, a request for additional treatment not specified in the approved treatment plan shall be filed with the clerk ten (10) days prior to receiving services. Beyond the six (6) months, requests for additional treatment related to an original diagnosis in accordance with a preapproved treatment plan shall be filed ten (10) days prior to receiving services and an updated application may be requested by the ~~board~~ county commissioners.

(4) Upon application for financial assistance pursuant to this chapter an automatic lien shall attach to all real and personal property of the applicant and on insurance benefits to which the applicant may become entitled. The lien shall also attach to any additional resources to which it may legally attach not covered in this section. The lien created by this section may be, in the discretion of the county commissioners and the board, perfected as to real property and fixtures by recording, in any county recorder's office in this state in which the applicant and obligated person own property, a notice of application for medical indigency benefits on a uniform form agreed to by the Idaho association of counties and the Idaho hospital association, which form shall be recorded as provided herein within thirty (30) days from receipt of an application, and such lien, if so recorded, shall have a priority date as of the date the necessary medical services were provided. The lien created by this section may also be, in the discretion of the county commissioners and the board, perfected as to personal property by filing with the secretary of state within thirty (30) days of receipt of an application, a notice of application in substantially the same manner as a filing under chapter 9, title 28, Idaho Code, except that such notice need not be signed and no fee shall be required, and, if so filed, such lien shall have the priority date as of the date the necessary medical services were provided. An application for assistance pursuant to this

chapter shall waive any confidentiality granted by state law to the extent necessary to carry out the intent of this section.

(5) In accordance with rules and procedures promulgated by the department, each hospital and provider seeking reimbursement under this chapter shall submit all known billings for necessary medical services provided for each applicant in a standard or uniform format to the department's contractor for its utilization management review within ten (10) business days of receiving notification that the patient is not eligible for medicaid; provided that, upon a showing of good cause, the time period may be extended. A copy of the results of the reviewed billings shall be transmitted by the department's contractor to the clerk of the obligated county.

SECTION 8. That Section 31-3505, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505. TIME AND MANNER OF FILING APPLICATIONS AND REQUESTS FOR FINANCIAL ASSISTANCE. Applications and requests for ~~necessary medical services~~ financial assistance shall be filed with the clerk according to the following time limits. Filing is complete upon receipt by the clerk.

(1) An application for nonemergency necessary medical services shall be filed ten (10) days prior to receiving services from the provider.

(2) An application for emergency necessary medical services shall be made any time within thirty-one (31) days beginning with the first day of the provision of necessary medical services from the provider or in the case of hospitalization, thirty-one (31) days beginning with the date of admission, or if a request for medicaid eligibility determination has been denied by the department pursuant to section 31-3503E, Idaho Code, within thirty-one (31) days of receiving notice of the denial.

(3) Requests for additional treatment related to an original diagnosis in accordance with a preapproved treatment plan shall be filed ten (10) days prior to receiving services.

(4) A delayed application for necessary medical services may be filed up to one hundred eighty (180) days beginning with the first day of the provision of necessary medical services provided that:

(a) Written documentation is included with the application or no later than forty-five (45) days after an application has been filed showing that a bona fide application or claim has been filed for social security disability insurance, supplemental security income, third party insurance, medicaid, medicare, crime victim's compensation, and/or worker's compensation. A bona fide application means that:

(i) The application was timely filed within the appropriate agency's application or claim time period; and

(ii) Given the circumstances of the patient and/or obligated persons, the patient and/or obligated persons, and given the information available at the time the application or claim for other resources is filed, would reasonably be expected to meet the eligibility criteria for such resources; and

(iii) The application was filed with the appropriate agency in such a time and manner that, if approved, it would provide for payment coverage of the bills included in the county application; and

(iv) In the discretion of the ~~board~~ county commissioners, bills on a delayed application which would not have been covered by a successful application or timely claim to the other resource(s) may be denied by the ~~board~~ county commissioners as untimely; and

(v) In the event an application is filed for supplemental security income, an Idaho medicaid application must also have been filed within the department of health and welfare's application or claim

time period to provide payment coverage of eligible bills included in the county application.

(b) Failure by the patient and/or obligated persons to complete the application process described in this section, up to and including any reasonable appeal of any denial of benefits, with the applicable program noted in paragraph (a) of this subsection, shall result in denial of the county assistance application.

(5) Any application or request which fails to meet the provisions of this section, and/or other provisions of this chapter, shall be denied.

(6) In the event that a county determines that a different county is the obligated county, an application may be filed in the other county within thirty (30) days of the date of the initial county denial.

SECTION 9. That Section 31-3505A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505A. INVESTIGATION OF APPLICATION ~~OR REQUEST~~. (1) The clerk shall interview the applicant and investigate the information provided on the application, along with all other required information, in accordance with the procedures established by the county commissioners, the board and this chapter. The clerk shall promptly notify the applicant, or third party filing an application on behalf of an applicant, of any material information missing from the application which, if omitted, may cause the application to be denied for incompleteness. In addition, any provider requesting notification shall be notified at the same time. When necessary, such persons as may be deemed essential, may be compelled by the clerk to give testimony and produce documents and other evidence under oath in order to complete the investigation. The clerk is hereby authorized to issue subpoenas to carry out the intent of this provision and to otherwise compel compliance in accordance with provisions of Idaho law.

(2) The applicant or third party filing an application on behalf of an applicant to the extent they have knowledge, shall have a duty to cooperate with the ~~county clerk~~ in investigating, providing documentation, submitting to an interview and ascertaining eligibility and shall have a continuing duty to notify the ~~responsible obligated~~ county of the receipt of resources after an application has been filed.

(3) The clerk shall have twenty (20) days to complete the investigation of an application for nonemergency necessary medical services.

(4) The clerk shall have forty-five (45) days to complete the investigation of an application for emergency necessary medical services.

(5) In the case of follow-up treatment, the clerk shall have ten (10) days to complete an interview on a request for additional treatment to update the financial and other information contained in a previous application for an original diagnosis in accordance with a treatment plan previously approved by the ~~board~~ county commissioners.

(6) Upon completion of the interview and investigation of the application or request, a statement of the clerk's findings shall be filed with the ~~board~~ county commissioners.

SECTION 10. That Section 31-3505B, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505B. APPROVAL. The ~~board~~ county commissioners shall approve an application for assistance if it determines that necessary medical services have been or will be provided to a medically indigent person in accordance with this chapter; provided, the amount paid by the county for any medically indigent resident shall not exceed in aggregate the sum of eleven thousand dollars (\$11,000) per applicant for any consecutive twelve (12) month period.

SECTION 11. That Section 31-3505C, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505C. INITIAL DECISION BY THE BOARD COUNTY COMMISSIONERS. (1) Except as otherwise provided in subsection (2) of this section, the board county commissioners shall make an initial determination ~~on~~ to approve or deny an application within fifteen (15) days from receipt of the clerk's statement and within five (5) days from receiving the clerk's statement on a request. The initial determination to approve or deny an application shall be mailed to the applicant or the third party making application on behalf of the applicant, as the case may be, and each provider listed on the application within five (5) days of the initial determination.

(2) The county commissioners shall hold in suspension an initial determination to deny an application, if the sole basis for the denial is that the applicant may be eligible for other forms of public assistance, crime victims compensation, worker's compensation, veterans benefits, medicaid, medicare, supplemental security income, third party insurance or other available insurance. The decision to hold an initial determination to deny an application in suspension shall be mailed to the applicant or the third party making application on behalf of the applicant, as the case may be, and each provider listed on the application within five (5) days of the decision to suspend.

(a) If an applicant is subsequently determined to be eligible for other forms of public assistance, crime victims compensation, worker's compensation, veterans benefits, medicaid, medicare, supplemental security income, third party insurance or other available insurance, the application shall be denied. The applicant or the third party making application on behalf of the applicant, as the case may be, and each provider listed on the application shall be notified within five (5) days of the denial.

(b) If an applicant is subsequently determined not to be eligible for other forms of public assistance, crime victims compensation, worker's compensation, veterans benefits, medicaid, medicare, supplemental security income, third party insurance or other available insurance, the application for financial assistance shall be approved. The applicant or the third party making application on behalf of the applicant, as the case may be, and each provider listed on the application shall be notified within five (5) days of the approval.

(3) If the county commissioners hold in suspension an initial determination to deny an application, any time limitation used in this chapter shall be tolled and not deemed to run during the period of suspension.

SECTION 12. That Section 31-3505D, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505D. APPEAL OF INITIAL DETERMINATION DENYING AN APPLICATION. An applicant or provider may appeal an adverse initial determination of the board county commissioners denying an application by filing a written notice of appeal with the board county commissioners within twenty-eight (28) days of the date of the initial determination denial. If no appeal is filed within the time allowed, the initial determination of the board county commissioners denying an application shall become final.

SECTION 13. That Section 31-3505E, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505E. HEARING ON APPEAL OF INITIAL DETERMINATION DENYING AN APPLICATION. The ~~board~~ county commissioners shall hold a hearing on the appeal within seventy-five (75) days of receipt of the notice of appeal. The hearing may be continued by the ~~board~~ county commissioners for not more than forty-five (45) days from the date of the hearing to allow the applicant to produce additional information, documents, records, testimony or other evidence required in the discretion of the ~~board~~ county commissioners or to allow a decision on eligibility of the applicant for benefits to be reached by another agency such as, but not limited to, the social security administration or the ~~state of Idaho~~ department of health and welfare. The hearing may be continued for additional periods by mutual stipulation of the ~~board~~ county commissioners and the applicant. The ~~board~~ county commissioners shall make a final determination within thirty (30) days of the conclusion of the hearing. The final determination of the ~~board~~ county commissioners denying an application shall be mailed to the applicant, or the third party making application on behalf of an applicant, as the case may be and each provider listed on the application, within five (5) days of the date of the final determination.

SECTION 14. That Section 31-3505F, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505F. ARBITRATION. In the event that a county determines that a service is not a necessary medical service, a provider may submit the issue to a panel for arbitration as follows:

(1) Within thirty (30) days of the determination, the ~~board~~ county commissioners and the provider shall each appoint one (1) licensed medical or osteopathic doctor with expertise in the condition treated or to be treated. The two (2) appointees shall jointly select a third medical or osteopathic licensed doctor with equivalent expertise. The panel shall review such information as it deems necessary and render a decision within thirty (30) days as to whether the covered service is a necessary medical service.

(2) There shall be no judicial or other review or appeal of the findings of the panel. No party shall be obligated to comply with or otherwise be affected or prejudiced by the proposals, conclusions or suggestions of the panel or any member or segment thereof; however, in the interest of due consideration being given to such proceedings and in the interest of encouraging consideration of claims informally and without the necessity of litigation, the applicable statute of limitations shall be tolled and not deemed to run during the time that such a claim is pending before the panel and for thirty (30) days thereafter.

(3) Expenses incurred by the members of the panel in the performance of their duties will be borne by the respective parties making their appointment, and expenses of the third member shall be divided equally among the respective parties.

SECTION 15. That Section 31-3505G, Idaho Code, be, and the same is hereby amended to read as follows:

31-3505G. PETITION FOR JUDICIAL REVIEW OF FINAL DETERMINATION. If, after a hearing as provided in section 31-3505E, Idaho Code, the final determination of the ~~board~~ county commissioners is to deny an application for financial assistance with necessary medical services, the applicant, or a third party making application on an applicant's behalf, may seek judicial review of the final determination of the ~~board~~ county commissioners in the manner provided in section 31-1506, Idaho Code.

SECTION 16. That Section 31-3507, Idaho Code, be, and the same is hereby amended to read as follows:

31-3507. ~~NOTICE OF ADMISSION AND TRANSFER OF A MEDICALLY INDIGENT PATIENT. (1) A hospital shall notify the department and the clerk of the county or counties responsible within one (1) working day of its initial review determination pursuant to section 31-3503E, Idaho Code, that the patient is potentially medically indigent. The notice shall include the following if available:~~

- ~~(a) Name, address, telephone number, date of birth, social security number and date of admission of the patient;~~
- ~~(b) Name, address and telephone number of responsible party;~~
- ~~(c) Name of attending physician;~~
- ~~(d) Diagnosis and/or reason for admission;~~
- ~~(e) Name, address and telephone number of the person completing the notice of admission.~~

~~(2) The department,~~ a An obligated county or administrator the board shall have the right to have an approved medically indigent person transferred to a hospital or facility, in accordance with requirements of the federal emergency medical treatment and active labor act, 42 U.S.C., section 1395d-d-; provided however, treatment for the necessary medical service must be available at the designated facility, and ~~the department and the county contract physician, or the attending physician if no county contract physician is available,~~ must certify that the transfer of such person would not present a significant risk of further injury. ~~The department, the obligated county, the administrator board,~~ and hospital from which or to which a person is taken or removed as herein provided, as well as the attending physician(s), shall not be liable in any manner whatsoever and shall be immune from suit for any causes of action arising from a transfer performed in accordance with this section. The immunities and freedom from liability granted pursuant to this section shall extend to any person, firm or corporation acting in accordance with this section.

SECTION 17. That Section 31-3508, Idaho Code, be, and the same is hereby amended to read as follows:

31-3508. AMOUNT OF AID LIMITATIONS ON PAYMENTS FOR NECESSARY MEDICAL SERVICES. (1) Each hospital and provider seeking reimbursement under the provisions of this chapter shall fully participate in the utilization management program and third party recovery system.

(2) The board and the county responsible for payment of necessary medical services of a medically indigent person shall pay an amount not to exceed the amount recommended by the utilization management program and the current medicaid rate. The bill submitted for payment shall show the total provider charges less any amounts which have been received under any other federal or state law. Bills of less than twenty-five dollars (\$25.00) shall not be presented for payment.

SECTION 18. That Section 31-3509, Idaho Code, be, and the same is hereby amended to read as follows:

31-3509. ADMINISTRATIVE OFFSETS AND COLLECTIONS BY HOSPITALS AND PROVIDERS. (1) Providers shall accept payment made by an obligated county or the board as payment in full. Providers shall not bill an applicant or any other obligated person for services that have been paid by an obligated county or the board pursuant to the provisions of this chapter for any balance on the amount paid.

(2) Hospitals and providers making claims for reimbursement of necessary medical services provided for medically indigent persons shall make all reasonable efforts to determine liability and attempt to collect for the account so incurred from any available insurance or other sources available for payment of such expenses all resources prior to submitting the bill to the department county commissioners for review. In the event that a hospital or a provider has been notified that an individual a recipient is retrospectively eligible for benefits or that a recipient qualifies for approval of benefits, such hospital(s) or provider(s) shall submit or resubmit a bill to third party insurance, medicaid, medicare, supplemental security income, crime victims compensation and/or worker's compensation for payment within thirty (30) days of such notice. In the event any payments are thereafter received for charges which have been paid by a county and/or the administrator board pursuant to the provisions of this chapter, said sums up to the amount actually paid by the county and/or the administrator board shall be paid over to the department such county and/or board within sixty (60) days of receiving such payment from other resources. The department shall distribute the payment to the county and/or administrator pursuant to section 31-3510A, Idaho Code.

(3) Any amount paid by an obligated county or the board under the provisions of this chapter, which amount is subsequently determined to have been an overpayment, shall be an indebtedness of the hospital or provider due and owing to the obligated county and the board. Such indebtedness may include circumstances where the applicant is subsequently determined to be eligible for third party insurance, medicaid, medicare, supplemental security income, crime victims compensation, worker's compensation, other available insurance or other third party sources.

(4) The obligated county and the board shall have a first lien prorated between such county and the board in proportion to the amount each has paid. The obligated county and the board may request a refund from a hospital or provider in the amount of the overpayment, or after notice, recover such indebtedness by deducting from and setting off the amount of the overpayment to a hospital or provider from any outstanding amount or amounts due and payable to the same hospital or provider pursuant to the provisions of this chapter.

SECTION 19. That Section 31-3510, Idaho Code, be, and the same is hereby amended to read as follows:

31-3510. RIGHT OF SUBROGATION. (1) Upon payment of a claim for necessary medical services pursuant to this chapter, the obligated county and the catastrophic health care costs program board making such payment shall become subrogated to all the rights of the hospital and other providers and to all rights of the medically indigent person against any third parties who may be the cause of or liable for such necessary medical services. The department board may pursue collection of the county's and the administrator's board's subrogation interests.

(2) Upon any recovery by the recipient against a third party, the obligated county and the board shall pay or have deducted from their respective subrogated portion thereof, a proportionate share of the costs and attorney's fees incurred by the recipient in obtaining such recovery, provided that such proportionate share shall not exceed twenty-five percent (25%) of the subrogated interest unless one (1) or more of the following circumstances exist:

(a) Otherwise agreed;

(b) If prior to the date of a written retention agreement between the recipient and an attorney, the obligated county and the board have reached an agreement with the third party, in writing, agreeing to pay in full the county and the board's subrogated interest.

SECTION 20. That Section 31-3510A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3510A. REIMBURSEMENT. (1) Receipt of financial assistance pursuant to this chapter shall obligate an applicant to reimburse the county from which assistance is received and the ~~catastrophic health care costs program board~~ board for such reasonable portion of the financial assistance paid on behalf of the applicant as the board county commissioners may determine that the applicant is able to pay from resources over a reasonable period of time. Cash amounts received shall be prorated between the county and the state board in proportion to the amount each has paid.

(2) A final determination shall not relieve the applicant's duty to make additional reimbursement from resources if the board county commissioners subsequently finds within a reasonable period of time that there has been a substantial change in circumstances such that the applicant is able to pay additional amounts up to the total claim paid on behalf of the applicant.

(3) A final determination shall not prohibit the board county commissioners from reviewing a petition from an applicant to reduce an order of reimbursement based on a substantial change in circumstances.

(4) The automatic lien created pursuant to the chapter may be filed and recorded in any county of this state wherein the applicant has resources and may be liquidated or unliquidated in amount. Nothing herein shall prohibit an applicant from executing a consensual lien in addition to the automatic lien created by filing an application pursuant to this chapter. In the event that resources can be located in another state, the clerk may file the lien with the district court and provide notice to the recipient. The recipient shall have twenty (20) days to object, following which the district court shall enter judgment against the recipient. The judgment entered may thereafter be filed as provided for the filing of a foreign judgment in that jurisdiction.

(5) The county shall have the same right of recovery as provided to the state of Idaho pursuant to sections 56-218 and 56-218A, Idaho Code.

(6) The board county commissioners may require the employment of such of the medically indigent as are capable and able to work and whose attending physician certifies they are capable of working.

(7) That portion of the moneys received by a county as reimbursement that are not assigned to the state catastrophic health care fund shall be credited to the county indigent fund.

(8) If, after a hearing, the final determination of the board county commissioners is to require a reimbursement amount or rate the applicant believes excessive, the applicant may seek judicial review of the final determination of the board county commissioners in the manner provided in section 31-1506, Idaho Code.

SECTION 21. That Section 31-3511, Idaho Code, be, and the same is hereby amended to read as follows:

31-3511. VIOLATIONS AND PENALTIES. (1) Any applicant or obligated person who willfully gives false or misleading information to the department, board, a hospital, a county or an agent thereof, or to any individual in order to obtain necessary medical services as or for a medically indigent person, or any person who obtains necessary medical services as a medically indigent person who fails to disclose insurance, worker's compensation, resources, or other benefits available to him as payment or reimbursement of such expenses incurred, shall be guilty of a misdemeanor and punishable under the general provisions for punishment of a misdemeanor. In addition, any applicant or obligated person who fails to cooperate with the department, board or a county or makes a material misstatement or material omission to the department in a request for medicaid eligibility determination,

pursuant to section 31-3503~~3E4~~, Idaho Code, or a county in an application pursuant to this chapter shall be ineligible for nonemergency assistance under this chapter for a period of two (2) years.

(2) The ~~board~~ county commissioners shall not have jurisdiction to hear and shall not approve an application for necessary medical services unless an application in the form prescribed by this chapter is received by the clerk in accordance with the provisions of this chapter.

(3) The ~~board~~ county commissioners may deny an application if material information required in the application or request is not provided by the applicant or a third party or if the applicant has divested himself or herself of resources within one (1) year prior to filing an application in order to become eligible for assistance pursuant to this chapter. An applicant who is sanctioned by federal or state authorities and loses medical benefits as a result of failing to cooperate with the respective agency or making a material misstatement or material omission to the respective agency shall be ineligible for assistance pursuant to this chapter for the period of such sanction.

(4) If the ~~board~~ county commissioners fails to act upon an application within the timelines required under this chapter, the application shall be deemed approved and payment made as provided in this chapter.

(5) An applicant may appeal a decision rendered by the ~~board~~ county commissioners pursuant to this section in the manner provided in section 31-1506, Idaho Code.

SECTION 22. That Section 31-3512, Idaho Code, be, and the same is hereby amended to read as follows:

31-3512. JOINT COUNTY HOSPITALS. Recognizing the need of hospitals for the public welfare and the burden for one (1) county to finance the cost of such construction, operation and maintenance thereof within its own boundaries under certain circumstances, the ~~boards of~~ county commissioners in their respective counties shall have the power to jointly and severally enter into contracts or agreements with one (1) or more adjoining counties to construct, operate and maintain joint county hospitals, either within or without the boundaries of such counties, upon a finding of each such ~~board~~ county commissioners that there is a public necessity requiring the financing of such hospital facilities jointly with one (1) or more adjoining counties. The ~~boards of~~ county commissioners shall have the same powers to operate, finance and bond for such joint county hospitals as they would have for a county hospital.

SECTION 23. That Section 31-3513, Idaho Code, be, and the same is hereby amended to read as follows:

31-3513. ELECTION FOR ISSUANCE OF BONDS. The county commissioners may, when they deem the welfare of their counties require it, or when petitioned thereto by a number of resident taxpayers of their respective counties equal to five percent (5%) of the number of persons voting for the secretary of state of the state of Idaho, at the election next preceding the date of such petition, submit to the qualified electors of said county at any election held as provided in section 34-106, Idaho Code, the proposition whether negotiable coupon bonds of the county to the amount stated in such proposition shall be issued and sold for the purpose of providing such hospital, hospital grounds, nurses' homes, nursing homes, residential or assisted living facilities, shelter care facilities, medical clinics, superintendent's quarters, or any other necessary buildings, and equipment, and may on their own initiative submit to the qualified electors of the county at any general election the proposition whether negotiable coupon bonds of the county to the amount stated in such proposition shall be issued

and sold for the purpose of providing for the extension and enlargement of existing hospital, hospital grounds, nurses' homes, nursing homes, residential or assisted living facilities, shelter care facilities, medical clinics or grounds, superintendent's quarters, or any other necessary buildings, and equipment, and when authorized thereto by two-thirds (2/3) vote at such election, shall issue and sell such coupon bonds and use the proceeds therefrom for the purposes authorized by such election. Said proposition may be submitted to the qualified electors at an election held subject to the provisions of section 34-106, Idaho Code, if the ~~board of~~ county commissioners shall by resolution so determine. No person shall be qualified to vote at any election held under the provisions of this section unless he shall possess all the qualifications required of electors under the general laws of this state.

The ~~board~~ county commissioners shall be governed in calling and holding such election and in the issuance and sale of such bonds, and in the providing for the payment of the principal and interest thereon by the provisions of ~~sections 31-1901 through 31-1909~~ chapter 19, title 31, Idaho Code, and by the provisions of chapter 2, title 57, Idaho Code; provided, however, that when such bonds have been issued and sold and a period of two (2) years or more has elapsed from the date of sale of said bonds and for any reason the proceeds from the sale of said bonds or other moneys appropriated for the purpose for which said bonds were issued, have not been used for the purpose for which they were appropriated or said bond issue made, the ~~board~~ county commissioners may, with the written consent of all of the bondholders first having been obtained, submit to the qualified electors, as herein defined, the question of spending such moneys for a definite purpose. The purpose for which it is decided to spend such moneys shall be clearly and plainly stated on the ballot. If a majority of the qualified electors shall vote in favor of spending such moneys for the purpose stated, the ~~board of~~ county commissioners shall proceed in the same manner as if such different purpose had been the original purpose for such bond issue or appropriation. Provided, further that if less than a majority of the qualified electors shall vote in favor of spending such moneys for such different purpose, or if no such election should be had, when all of the bonds shall have been retired, such excess moneys shall be placed in the general fund.

SECTION 24. That Section 31-3514, Idaho Code, be, and the same is hereby amended to read as follows:

31-3514. INTERNAL MANAGEMENT -- ACCOUNTS AND REPORTS. Such facilities as referred to in section 31-3503(2), Idaho Code, may suitably provide for and accept other patients and must charge and accept payments from such other patients as are able to make payments for services rendered and care given. The ~~board of~~ county commissioners may make suitable rules and regulations for the management and operation of such property by a suitable board of control, or otherwise, or for carrying out such hospital uses and purposes under a lease of the same.

The boards or officers or lessees of such hospital property shall render accounts and reports to the county commissioners as may be required by the ~~board~~ county commissioners; and shall render accounts and deliver over any and all moneys received by them for the county to the county treasurer to be credited to the operation expense of hospitals and indigent sick and otherwise dependent poor of the county in such manner as provided by law for the handling of funds of this kind.

Said board of control may permit persons from out of the county where such hospital is located to be admitted for hospitalization to such hospital. As to such cases special rates for the use and service of such hospital may be provided which rates shall apply equally to all such patients who do not pay taxes within the county where such hospital is located. The purpose

of providing such special rates shall be to compel persons living out of the county where such hospital is located, and who receive hospitalization in such hospital, to bear a just burden of the cost of construction and maintenance of such hospital.

SECTION 25. That Section 31-3515, Idaho Code, be, and the same is hereby amended to read as follows:

31-3515. LEASE OR SALE. Such counties acting through their ~~boards of~~ county commissioners shall have the right to lease such hospitals upon such terms and for such a length of time as they may decide, or to sell the same; provided, however, that no such lease or sale, except those leases entered into between such counties and the Idaho health facilities authority as provided in section 31-836, Idaho Code, shall be final or valid unless and until it has been approved by a majority of the qualified electors of said county voting on such question at an election held subject to the provisions of section 34-106, Idaho Code; except if a hospital district has been created under the provisions of chapter 13, title 39, Idaho Code, ~~a board of~~ county commissioners shall have the right to lease, as provided in section 31-836, Idaho Code, such hospitals within a created hospital district to the hospital district without submitting the question of lease or sale to the qualified electors of the county or the respective hospital district.

SECTION 26. That Section 31-3515A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3515A. CONVEYANCE, LEASE OF COUNTY HOSPITAL TO NONPROFIT CORPORATION. (1) As an alternative to the procedure set forth in section 31-3515, Idaho Code, counties acting through their respective ~~boards of~~ county commissioners may convey or lease county hospitals, and the equipment therein, subject to the following conditions:

(a) The entity to which the hospital is to be transferred shall be a non-profit corporation;

(b) No lease term shall exceed ninety-nine (99) years. This subsection supersedes that part of section 31-836, Idaho Code, which is inconsistent herewith;

(c) The governing body of the nonprofit corporation must be composed initially of the incumbent members of the board of hospital trustees, as individuals. The articles of incorporation must provide for a membership of the corporation which is:

(i) Broadly representative of the public and includes residents of each incorporated city in the county and of the unincorporated area of the county; or

(ii) A single nonprofit corporate member having articles of incorporation which provide for a membership of that corporation which is broadly representative of the public and includes residents of each incorporated city in the county and of the unincorporated area of the county.

The articles must further provide for the selection of the governing body by the membership of the corporation, or exclusively by a parent corporation which is the corporate member, with voting power, and not by the governing body itself, except to fill a vacancy for the unexpired term. The articles must further provide that no member of the governing body shall serve more than two (2) consecutive three (3) year terms.

(d) The nonprofit corporation must provide care for indigent patients, and receive any person falling sick or maimed within the county.

(e) The transfer agreement must provide for the transfer of patients, staff and employees, and for the continuing administration of any trusts or bequests or maintenance of records pertaining to the existing public hospital.

(f) The transfer or lease agreement shall provide for a transfer or lease price which shall be either of the following:

(i) The acceptance of all assets and assumption of all liabilities; or

(ii) Such other price as the commissioners and the nonprofit corporation may agree.

(2) If any hospital which has been conveyed pursuant to this section ceases to be used as a nonprofit hospital, unless the premises so conveyed are sold and the proceeds used to erect or enlarge another nonprofit hospital for the county, the hospital so conveyed reverts to the ownership of the county. If any hospital which has been leased pursuant to this section ceases to be used as a nonprofit hospital, the lease shall terminate.

(3) The provisions of section 31-808, Idaho Code, with respect to the sale and disposition of real and personal property owned by the county, shall not apply to transactions covered by section 31-3515, Idaho Code, and this section.

SECTION 27. That Section 31-3517, Idaho Code, be, and the same is hereby amended to read as follows:

31-3517. ESTABLISHMENT OF A CATASTROPHIC HEALTH CARE COST PROGRAM. (1) The governing board of the catastrophic health care cost program created by the counties pursuant to a joint exercise of powers agreement, dated October 1, 1984, and serving on June 30, 1991, is hereby continued as such through December 31, 1992, to complete the affairs of the board, to continue to pay for those medical costs incurred by participating counties prior to October 1, 1991, until all costs are paid or the moneys in the catastrophic health care cost account contributed by participating counties are exhausted, and to pay the balance of such contributions back to the county of origin in the proportion contributed. County responsibility shall be limited to the first eleven thousand dollars (\$11,000) per claim. The remainder of the eligible costs of the claim shall be paid by the state catastrophic health care cost program.

(2) Commencing October 1, 1991, a catastrophic health care cost program board is hereby established, and the board shall be the administrator of the catastrophic health care cost program. This board shall consist of twelve (12) members, with six (6) county commissioners, one (1) from each of the six (6) districts or regions established by the Idaho association of counties, four (4) members of the legislature, with one (1) each being appointed by the president pro tempore of the senate, the leader of the minority party of the senate, the speaker of the house of representatives and the leader of the minority party of the house of representatives, one (1) member appointed by the director of the department of health and welfare, and one (1) member appointed by the governor.

(a) The county commissioner members shall be elected by the ~~boards of~~ county commissioners of the member counties of each district or region, with each board of county commissioners entitled to one (1) vote. The process and procedures for conducting the election and determining the members shall be determined by the board itself, except that the election must be conducted, completed and results certified by December 31 of each year in which an election for members is conducted. The board recognized in subsection (1) of this section shall authorize and conduct the election in 1991.

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

(c) The member appointed by the governor shall be reimbursed as provided in section 59-509(b), Idaho Code, from the catastrophic health care cost account.

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

(3) The legislative council shall cause a full and complete audit of the financial statements of the program as required in section 67-702, Idaho Code.

(4) The ~~administrator~~ board shall submit a request to the governor and the legislature in accordance with the provisions of chapter 35, title 67, Idaho Code, for an appropriation for the maintenance and operation of the catastrophic health care program.

SECTION 28. That Section 31-3518, Idaho Code, be, and the same is hereby amended to read as follows:

31-3518. ADMINISTRATIVE RESPONSIBILITY. (1) The ~~administrator~~ board shall, in order to facilitate payment to providers participating in the county medically indigent program and the catastrophic health care cost program, have on file the reimbursement rates allowed for all participating providers of medical care. However, in no event shall the amount to be paid exceed the usual, reasonable, and customary charges for the area.

(2) The ~~administrator~~ board may contract with an independent contractor to provide services to manage and operate the program, or the ~~administrator~~ board may employ staff to manage and operate the program.

(3) The ~~administrator~~ board shall develop rules for a catastrophic health care cost program after consulting with the counties, organizations representing the counties, health care providers and organizations representing health care providers.

(4) The ~~administrator~~ board shall submit all proposed rules to the legislative council for review prior to adoption, in a manner substantially the same as proposed executive agency rules are reviewed under chapter 52, title 67, Idaho Code. Following adoption, the ~~administrator~~ board shall submit all adopted rules to the legislature for review in a manner substantially the same as adopted executive agency rules are reviewed under chapter 52, title 67, Idaho Code. The legislature, by concurrent resolution, may modify, amend, or repeal any rule of the ~~administrator~~ board.

SECTION 29. That Section 31-3519, Idaho Code, be, and the same is hereby amended to read as follows:

31-3519. PAYMENT FOR SERVICES. Each board of county commissioners shall make payments to hospitals or providers for covered necessary medical services provided to the medically indigent as follows:

(1) Upon receipt of a final determination by the county commissioners approving an application for ~~necessary medical services~~ financial assistance under the provisions of this chapter, an applicant, a hospital or provider, or the third party on behalf of the applicant, shall, within sixty (60) days, submit ~~the claim to the department for its utilization management review pursuant to section 31-3503C, Idaho Code. The department shall~~

~~forward the reviewed claim to the responsible county. The forwarded claim shall be~~ a county claim pursuant to the procedures provided in chapter 15, title 31, Idaho Code.

(2) Payment shall be made to hospitals or providers on behalf of an applicant and shall be made on the next payment cycle. In no event shall payment be delayed longer than sixty (60) days from receipt of the ~~department's reviewed county~~ claim.

(3) Payment to a hospital or provider pursuant to this chapter shall be payment of the debt in full and the hospital or provider shall not seek additional funds from the applicant.

(4) In no event shall a county be obligated to pay a claim, pursuant to this chapter, in an amount which exceeds the reviewed claim as determined by the ~~department's utilization management program.~~

(5) The ~~department clerk~~ shall forward claims exceeding eleven thousand dollars (\$11,000) per recipient in a consecutive twelve (12) month period to the ~~catastrophic health care cost program board~~ within fourteen (14) days after approval of an application along with a statement of which costs the clerk has or intends to pay.

(6) The ~~catastrophic health care cost program board~~ shall, within forty-five (45) days after approval by the ~~administrator board~~, submit the claim to the state controller for payment.

SECTION 30. That Section 31-3520, Idaho Code, be, and the same is hereby amended to read as follows:

31-3520. CONTRACT FOR PROVISION OF NECESSARY MEDICAL SERVICES FOR THE MEDICALLY INDIGENT. The ~~boards of~~ county commissioners in their respective counties, may contract for the provision of necessary medical services to the medically indigent of the county and may, by ordinance, limit the provision of and payment for nonemergency necessary medical services to a contract provider. They shall require the contractor to enter into a bond to the county with two (2) or more approved sureties, in such sum as the ~~board county commissioners~~ may fix, conditioned for the faithful performance of his duties and obligations as such contractor, and require him to report to the ~~board county commissioners~~ quarterly all persons committed to his charge, showing the expense attendant upon their care and maintenance.

SECTION 31. That Section 31-3521, Idaho Code, be, and the same is hereby amended to read as follows:

31-3521. EMPLOYMENT OF PHYSICIAN. The ~~board county commissioners~~ may employ a physician to attend, when necessary, the patients of the county hospital, provided, however, that the ~~board of~~ county commissioners may enter into contracts with groups of licensed physicians for medical attendance upon patients of the county hospital or other persons receiving medical attendance at county expense. They may provide for the employment, at some kind of manual labor, of such of the patients as are capable and able to work and the attending physicians must certify to the person in charge or lessee of the county hospital the names of such of the patients as are incapable of manual labor, and when any such patient becomes capable the physician shall certify that fact.

Approved April 8, 2010.

CHAPTER 274
(H.B. No. 665, As Amended)

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3029A, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR FIFTY PERCENT OF THE AGGREGATE CHARITABLE CONTRIBUTIONS MADE BY A TAXPAYER TO A NONPROFIT CORPORATION, FUND, FOUNDATION, TRUST OR ASSOCIATION WHICH IS ORGANIZED AND OPERATED EXCLUSIVELY FOR THE BENEFIT OF ELEMENTARY OR SECONDARY EDUCATION INSTITUTIONS LOCATED WITHIN THE STATE OF IDAHO, OFFICIALLY RECOGNIZED AND DESIGNATED AS ANY SUCH ELEMENTARY OR SECONDARY EDUCATION INSTITUTIONS SOLE DESIGNATED SUPPORTING ORGANIZATION, AND QUALIFIED TO BE EXEMPT FROM FEDERAL TAXATION UNDER THE TERMS OF SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to a nonprofit corporation, fund, foundation, trust or association which is: (i) organized and operated exclusively for the benefit of elementary or secondary education institutions located within the state of Idaho; (ii) officially recognized and designated as any such elementary or secondary education institution's sole designated supporting organization; and (iii) qualified to be exempt from federal taxation under the terms of section 501(c)(3) of the Internal Revenue Code, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars (\$100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or one thousand dollars (\$1,000), whichever is less.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the northwest association of schools and colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest association of schools and colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2010.

Approved April 8, 2010.

CHAPTER 275

(H.B. No. 493, As Amended in the Senate)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1620, IDAHO CODE, TO PROVIDE FOR A MASTERY ADVANCEMENT PILOT PROGRAM; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1621, IDAHO CODE, TO PROVIDE FOR PROGRAM PARTICIPANTS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1622, IDAHO CODE, TO PROVIDE FOR CERTAIN ASSESSMENTS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1623, IDAHO CODE, TO PROVIDE FOR A MASTERY ADVANCEMENT SCHOLARSHIP, TO PROVIDE CERTAIN REQUIREMENTS, TO PROVIDE FOR CONCURRENT ENROLLMENT OR ADVANCED PLACEMENT CLASSES, TO PROVIDE PROVISIONS RELATING TO A CERTAIN SCHOLARSHIP, TO PROVIDE FOR CERTAIN REPORTS, TO PROVIDE FOR CERTAIN SAVINGS, TO PROVIDE FOR REPORTS AND TO DIRECT COLLABORATION; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1624, IDAHO CODE, TO PROVIDE FOR RULES; AND PROVIDING A SUNSET DATE.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to provide a variety of avenues to help Idaho students succeed in school. The Legislature's duty to maintain a thorough system of public schools is only strengthened by employing new and innovative approaches to help ensure that more young people successfully complete grades 1-12 curriculum prepared for good-paying careers, postsecondary educational success or both. Idaho's economic future rests on the ability of an educated workforce to excel in today's complex and demanding workplace. To help ensure student success, the Legislature believes that a Pilot Program, a revenue neutral Pilot Program, designed to permit students to successfully complete school curriculum at their own accelerated pace, is warranted to study the efficacy of such an approach.

SECTION 2. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1620, Idaho Code, and to read as follows:

33-1620. MASTERY ADVANCEMENT PILOT PROGRAM. There is hereby established a pilot project to be known as the "Mastery Advancement Pilot Program," hereinafter referred to as "the program." This program shall permit certain students in certain Idaho public schools, including Idaho public charter schools, to successfully proceed through school curriculum at their own pace.

SECTION 3. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1621, Idaho Code, and to read as follows:

33-1621. PROGRAM PARTICIPANTS. (1) No more than twenty-one (21) school districts and no more than three (3) charter schools may participate in the program. Participating districts shall be determined through an application process established by the state department of education.

(2) The program shall be divided into three (3) geographical regions of the state in the following manner:

(a) Region I shall be comprised of Idaho high school activities association regions I and II;

(b) Region II shall be comprised of Idaho high school activities association region III; and

(c) Region III shall be comprised of Idaho high school activities association regions IV, V and VI.

(3) Participating school districts shall reflect the disparate sizes of school districts within this state. Participating school districts shall be selected in the following manner:

(a) Any school district and any charter school desiring to participate in the program shall submit an application to the state department of education by September 1, 2010. Such application shall be developed by the state department of education and shall be made available to the state's school districts and charter schools by July 15, 2010. From the applicants, the department shall select:

(i) Three (3) school districts, one (1) from each program region, that have grades 1-12 enrollment of more than seven thousand (7,000) students;

(ii) Six (6) school districts, two (2) from each program region, that have grades 1-12 enrollment of between four thousand (4,000) and six thousand nine hundred ninety-nine (6,999) students;

(iii) Six (6) school districts, two (2) from each program region, that have grades 1-12 enrollment of between one thousand (1,000) and three thousand nine hundred ninety-nine (3,999) students;

(iv) Six (6) school districts, two (2) from each program region, that have grades 1-12 enrollment of less than one thousand (1,000) students; and

(v) Three (3) charter schools, one (1) from each program region.

(b) The state department of education shall notify selected program applicants by December 1, 2010.

(c) School districts and charter schools selected for the program will be expected to participate for the full six (6) years of the program. Provided however, that any school district or charter school selected for the program may request to the state department of education to opt out of the program. The department may grant such request at its discretion.

(4) No participating school district shall be required to implement the program on a districtwide basis. It shall be left to the discretion of each participating district to determine which schools in the district shall participate.

SECTION 4. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1622, Idaho Code, and to read as follows:

33-1622. PROGRAM ASSESSMENT -- STUDENT ASSESSMENT.

(1) (a) Every school district and charter school participating in the program shall measure student performance and achievement while such district and charter school is participating in the program. Such performance and achievement measures shall include, but shall not necessarily be limited to, standardized test scores, successful completion of courses, behavioral and/or disciplinary incidents and dropout rates. The performance and achievement measures provided for in this subsection shall be reported to the state department of education every June 30 during the life of the program.

(b) Relating to the program provided for in this act, the state department of education is hereby directed to identify and adopt end-of-course assessments for all core topic areas for grades 7-12 curriculum and appropriate benchmarks for grades 1-6. Such assessments shall be developed during the life of the pilot program.

(2) (a) Students may request to take an end-of-course assessment. Such request shall be made upon a form provided by the state department of education. The student's request shall be made pursuant to collaboration between the student, the student's teachers, the school administration and the student's parents or guardians.

(b) The student shall score no less than eighty-five percent (85%) on the end-of-course assessment in order to participate in self-directed study that allows the student to work on completing a class or year of school at an accelerated pace.

(c) (i) When a student enrolled in grades 7-12 successfully passes an end-of-course assessment as provided for in subsection (2) (b) of this section, the student shall be counted as having completed all required coursework for that course and the school may be funded for such student based upon either the actual hours of attendance or the course which such student has successfully passed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(ii) When a student enrolled in grades 1-6 successfully completes a benchmark as provided for in subsection (1) (b) of this section, then the student shall be counted as having completed all required coursework for that grade and the school may be funded for such student, based upon either the actual hours of attendance or the grade which such student has successfully passed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

SECTION 5. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1623, Idaho Code, and to read as follows:

33-1623. STUDENT ADVANCEMENT -- CONCURRENT ENROLLMENT -- EARLY GRADUATION -- MASTERY ADVANCEMENT SCHOLARSHIP -- RESIDUAL SAVINGS. (1) Any student who successfully completes a school district's grades 1-12 curriculum at least one (1) year early shall be eligible for a mastery advancement scholarship if such student can show that the student has met all of the

graduation requirements of the school district in which the student attends school; and

(a) The student has completed the grades 1-12 curriculum in eleven (11) or fewer years and such student has attended schools in the Idaho public school system for the entire grades 1-12 curriculum; or

(b) Where the student has attended Idaho public schools for less than the entire grades 1-12 curriculum, such student shall be eligible for a mastery advancement scholarship if such student has attended Idaho public schools for a minimum of four (4) years. For students who have attended Idaho public schools for less than four (4) years and who have completed all graduation requirements, such students may be eligible to receive a mastery advancement scholarship at a reduced rate not to exceed one (1) semester of scholarship for each year of Idaho public school attendance.

(2) A student is not required to graduate early and can choose to participate in concurrent enrollment or advanced placement classes as is the current practice.

(3) (a) If a student requests a mastery advancement scholarship and is eligible pursuant to the provisions of subsection (1) (a) and (1) (b) of this section, the student shall be entitled to a mastery advancement scholarship which may be used for tuition and fees at any publicly funded institution of higher education in Idaho. The amount of such scholarship shall equal thirty-five percent (35%) of the statewide average daily attendance-driven funding per enrolled pupil for each year of grades 1-12 curriculum the student avoids due to early graduation. Such school district or charter school shall receive an amount equal to each such scholarship.

(b) The state department of education shall annually report, no later than January 15, to the senate and the house of representatives education committees, the number of scholarships awarded pursuant to this section during the previous school year, by school district and public charter school. Such report shall also include a fiscal note reflecting the amount of moneys expended for such scholarships.

(4) No student shall be eligible for more than three (3) years of a "mastery advancement" scholarship.

(5) School districts and public charter schools participating in the program established in section 33-1620, Idaho Code, are directed to collaborate with publicly funded institutions of higher education in this state to assist students who seek to graduate from high school early, in enrolling in postsecondary or advanced placement courses held in high school. Such school districts, public charter schools and publicly funded institutions of higher education shall report to the state board of education and the senate and the house of representatives education committees on any difficulties or obstacles they face in providing such assistance to students.

SECTION 6. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1624, Idaho Code, and to read as follows:

33-1624. RULES. The state department of education is hereby directed to promulgate rules to implement the provisions of this act. Such rules may include a requirement that students successfully complete one (1) or more standardized assessments approved by the state department of education. The department shall work with school districts and public charter schools in developing the rules authorized by this section.

SECTION 7. This act shall be null, void and of no force and effect on and after July 1, 2016.

Approved April 8, 2010.

CHAPTER 276

(H.B. No. 509, As Amended in the Senate)

AN ACT

RELATING TO THE EMPLOYMENT SECURITY LAW; AMENDING CHAPTER 13, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-1336A, IDAHO CODE, TO PROVIDE FOR YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 13, Title 72, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 72-1336A, Idaho Code, and to read as follows:

72-1336A. YOUTH EMPLOYMENT AND JOB TRAINING PROGRAMS. (1) Subject to the availability of funds from public and private sources and in consultation with the workforce development council, the director shall develop and implement youth employment and job training programs to increase employment opportunities for Idaho's youth.

(2) The director shall establish eligibility criteria for participants. At a minimum participants shall be lawful residents of the United States and the state of Idaho and eligibility criteria shall not render employment and job training programs ineligible for federal funding.

(3) The director may apply for and accept grants or contributions of funds from any public or private source.

(4) To the extent practicable, the director shall enlist state and federal agencies, local governments, nonprofit organizations, private businesses, and any combination of such entities to act as sponsors for programs administered pursuant to this section. Selection of sponsors shall be based on criteria that include the availability of other resources on a matching basis, including contributions from private sources, other federal, state and local agencies, and moneys available through the federal workforce investment act of 1998, 29 U.S.C. section 2801, et seq., as amended.

(5) Programs developed and implemented under this section shall:

(a) Result in an increase in employment opportunities for youth that would not otherwise be available;

(b) Not result in the displacement or partial displacement of currently employed workers;

(c) Not impair existing contracts for services or result in the substitution of funds available under this section for other funds in connection with work that would otherwise be performed;

(d) Not substitute jobs that are assisted pursuant to this section for existing federally assisted jobs;

(e) Not employ any person when any other person is on layoff by an employer from the same or any substantially equivalent job in the same area; and

(f) Not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee in anticipation of filling the vacancy by hiring a person to be supported pursuant to this section.

(6) Participants in youth employment and job training programs under this section shall not be employees of the state of Idaho entitled to personnel benefits under the state personnel system, chapter 53, title 67, Idaho Code.

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

Approved April 8, 2010.

CHAPTER 277

(H.B. No. 534, As Amended in the Senate)

AN ACT

RELATING TO PHARMACISTS; AMENDING CHAPTER 17, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1770, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE NOTIFICATION OF DRUG PRODUCT SELECTION FOR EPILEPSY AND SEIZURE DRUGS.

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

SECTION 1. That Chapter 17, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1770, Idaho Code, and to read as follows:

54-1770. NOTIFICATION OF DRUG PRODUCT SELECTION FOR EPILEPSY AND SEIZURE DRUGS. (1) In this section:

(a) "Anti-epileptic drug" means:

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

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

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

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

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

- (a) Notify the prescriber of such drug product selection via facsimile, telephone message or any other appropriate means to the prescriber's place of business; and
- (b) Provide the patient or the patient's representative with notification of the selection.

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

Approved April 8, 2010.

CHAPTER 278

(H.B. No. 545, As Amended in the Senate)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-206, IDAHO CODE, TO PROVIDE FOR A DESIGNEE RELATING TO THE BOARD OF TRUSTEES, TO PROVIDE THAT A CHILD WHO IS AN HABITUAL TRUANT SHALL COME UNDER THE PURVIEW OF THE JUVENILE CORRECTIONS ACT IF HE OR SHE WAS WITHIN THE AGE OF COMPULSORY ATTENDANCE AT THE TIME OF THE VIOLATIONS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-206, Idaho Code, be, and the same is hereby amended to read as follows:

33-206. HABITUAL TRUANT DEFINED. (1) An habitual truant is:

(a) Any public school pupil who, in the judgment of the board of trustees, or the board's designee, repeatedly has violated the attendance regulations established by the board; or

(b) Any child whose parents or guardians, or any of them, have failed or refused to cause such child to be instructed as provided in section 33-202, Idaho Code.

(2) A child who is an habitual truant shall come under the purview of the juvenile corrections act if he or she ~~is~~ was within the age of compulsory attendance at the time of the violations.

Approved April 8, 2010.

CHAPTER 279

(H.B. No. 576, As Amended in the Senate)

AN ACT

RELATING TO THE SOIL CONSERVATION DISTRICT LAW; AMENDING SECTION 22-2716, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-2717, IDAHO CODE, TO DEFINE A TERM, TO REMOVE DEFINITIONS, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2718, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO REVISE REQUIREMENTS RELATING TO THE QUALIFICATIONS AND APPOINTMENT OF SUCH COMMISSION MEMBERS, TO DELETE REFERENCE TO THE IDAHO ASSOCIATION OF SOIL CONSERVATION DISTRICTS, TO REVISE PROVISIONS RELATING TO THE POWERS AND DUTIES OF SUCH COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2719, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2720, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO PROVIDE REQUIREMENTS FOR DISTRICTS FORMED BY CONSOLIDATION, TO PROVIDE FOR THE ALLOCATION OF FUNDS TO DISTRICTS FORMED BY CONSOLIDATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2721, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO PROVIDE THAT SUPERVISORS SHALL BE REGISTERED TO VOTE IN THE STATE OF IDAHO, TO REVISE AUDIT REQUIREMENTS FOR DISTRICTS, TO PROVIDE THAT SUPERVISORS ARE SUBJECT TO RECALL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2721, IDAHO CODE, AS AMENDED BY SECTION 4, CHAPTER 341, LAWS OF 2009, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO PROVIDE THAT SUPERVISORS SHALL BE REGISTERED TO VOTE IN THE STATE OF IDAHO, TO REVISE AUDIT REQUIREMENTS FOR DISTRICTS, TO PROVIDE THAT SUPERVISORS ARE SUBJECT TO RECALL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING

SECTION 22-2723, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2724, IDAHO CODE, TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2725, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2725, IDAHO CODE, AS AMENDED BY SECTION 5, CHAPTER 341, LAWS OF 2009, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2727, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO INCREASE THE MAXIMUM ALLOCATION OF FUNDS TO DISTRICTS, TO SPECIFY THAT CERTAIN ALLOCATIONS TO DISTRICTS ARE BASED UPON A PREVIOUS FISCAL YEAR ALLOCATION, TO PROVIDE THAT A DISTRICT ALLOCATION SHALL NOT EXCEED A CERTAIN AMOUNT IN A FISCAL YEAR AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2730, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-2731, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2732, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO REQUIRE SOIL CONSERVATION DISTRICTS AND THE STATE SOIL AND WATER CONSERVATION COMMISSION TO KEEP EACH OTHER INFORMED OF LOAN APPLICATIONS RECEIVED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2733, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2734, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-2735, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION, TO REQUIRE THAT CERTAIN VOUCHERS BE APPROVED BY THE CHAIRMAN AND THE ADMINISTRATOR OF THE STATE SOIL AND WATER CONSERVATION COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 22-5201, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5202, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5203, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5205, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 22-5206, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 36-2404, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 39-3602, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 39-6407, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-6609, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-3703, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-3705, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 42-3706, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION; AMENDING SECTION 42-3707, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-3717, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 67-818, IDAHO CODE, TO REVISE THE NAME OF A CERTAIN COMMISSION.

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

SECTION 1. That Section 22-2716, Idaho Code, be, and the same is hereby amended to read as follows:

22-2716. LEGISLATIVE DETERMINATION AND DECLARATION OF POLICY. (1) It is the determination of the state of Idaho that:

(a) Forest lands, rangelands and agricultural lands maintained in a healthy condition are a legitimate land use contributing to the economic, social and environmental well-being of the state and its citizens;

(b) It is essential to the general welfare of all citizens of this state that multiple use conservation improvements be implemented on a broader scale on both public and private lands;

(c) Due to numerous economic and practical issues relating to the improvements of individual tracts of land, both public and private resource conservation improvements, projects and programs of the nature contemplated by this chapter would enhance the economic productivity and environmental quality of the state; and

(d) It is sound public policy for the state of Idaho to provide for accounts to finance loans, grants, cost-share funding and tax incentives to the end that forest lands, rangelands and agricultural lands within the state can provide the greatest benefit to all concerned.

(2) It is the intent of the state of Idaho to provide a means by which funds, including federal, state, private and other moneys, can be obtained and utilized for the accelerated development of water quality programs, multiple use forest land, rangeland, and agricultural land conservation improvements in the state, and to provide that these improvements, projects and programs be locally planned, coordinated and implemented through statutory provisions pertaining to soil conservation districts, the state soil and water conservation commission, appropriate state and federal agencies, and the owners and operators of privately owned lands.

(3) It is in the best interest of the state of Idaho:

(a) To emphasize nonregulatory, science-based technical assistance, incentive-based financial programs and informational and educational programs at the local level;

(b) To maintain, preserve, conserve and rehabilitate forest lands, rangelands and agricultural lands to assure the protection and productivity of the state's natural resources;

(c) That soil conservation districts, as governmental subdivisions, and the state soil and water conservation commission, as a state agency, are the primary entities to provide assistance to private landowners and land users in the conservation, sustainment, improvement and enhancement of Idaho's natural resources;

(d) To establish policies for cooperative working relationships between local soil conservation districts, the state soil and water conservation commission, local, state and federal agencies and public and private groups to plan, develop and implement conservation goals and initiatives with local landowners and land users;

(e) That soil conservation districts and the state soil and water conservation commission lead nonregulatory efforts to conserve, sustain, improve and enhance Idaho's private and state lands and to provide assistance to private landowners and land users to plan, develop and implement conservation plans addressing soil, water, air, plant and animal resources. Technical, financial and educational assistance to landowners and land users is vital to that effort; and

(f) That the state soil and water conservation commission provide support to soil conservation districts in the wise use and enhancement of soil, water and related resources.

(4) It is the policy of the state of Idaho:

(a) To provide appropriate tax policies and program mechanisms that provide incentives for private landowners and land users to voluntarily manage forest lands, rangelands and agricultural lands in a manner that promotes conservation;

(b) That the health, safety and general welfare of the people of this state can be greatly enhanced by providing nonregulatory opportunities to landowners and land users in order to increase the ability of such landowners and land users to readily understand and plan for local, state and federal natural resource requirements and opportunities through technological innovation and processes;

(c) To enhance natural resource productivity in order to promote a strong natural resource sector, reduce unintended adverse effects of resource development and use, protect individual and community health and safety and encourage stewardship;

(d) That conservation plan implementation shall include best management practices implemented according to the standards and specifications developed by the United States department of agriculture natural resources conservation service (NRCS) as designated by the agricultural pollution abatement plan. Those practices shall include, but not be limited to: irrigation water management systems; prescribed grazing; forest stand improvement; establishment of grass, trees and shrubs to reduce wind and water erosion; promotion of sound community development; protection of water and air resources from agricultural nonpoint sources of impairment; maintenance, restoration or enhancement of wetlands and fish and wildlife habitat; protection of upstream watersheds from flood risk; and protection of watersheds from the effects of chronic water shortages and risks; and

(e) That all conservation programs authorized pursuant to this chapter shall deliver services fairly and equitably, strengthen the conservation district delivery system, provide timely science-based information and provide conservation information and educational programs and experiences to youth and adults.

SECTION 2. That Section 22-2717, Idaho Code, be, and the same is hereby amended to read as follows:

22-2717. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) "Administrator" means the administrator for the Idaho state soil and water conservation commission.

~~(2) "Agency of this state"~~ includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

~~(3)~~ "Agricultural pollution abatement plan" or "ag plan" means the document developed by the state soil and water conservation commission and approved by the commission and the department of environmental quality, that provides appropriate technical, programmatic, informational and educational processes, guidelines and policies for addressing agricultural pollution.

~~(3) "Agriculture" or "department of agriculture" means an executive department of state government created in section 22-101, Idaho Code.~~

(4) "Best management practices" or "BMPs" means practices, techniques, or measures developed or identified by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(5) "Commission" or "state soil and water conservation commission" means the agency created in section 22-2718, Idaho Code.

(6) "Conservation plan" means a description of identified natural resource issues and a specific schedule of implementation of component practices necessary to resolve those specific resource issues as agreed upon by the landowner.

(7) "Designated agency" is as defined in section 39-3602, Idaho Code.

(8) "District," "conservation district," "soil conservation district," or "soil and water conservation district" means a governmental subdivision(s) of this state, and a public body corporate and politic, organized in accordance with the provisions of this ~~act~~ chapter, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(9) "Due notice" means notice published at least twice, with an interval of at least seven (7) days between the two (2) publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjournment dates.

(10) "Eligible applicant" means an individual agricultural owner, operator, partnership, corporation, conservation district, irrigation district, canal company or other agricultural or grazing interest.

(11) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivisions, agency, or instrumentality, corporate or otherwise, of either of them.

~~(12) "Idaho association of soil conservation districts (IASCD)" means an incorporated, nongovernmental entity representing all soil conservation districts in Idaho.~~

~~(13) "Idaho OnePlan" means a computer-based system for improving efficiency and effectiveness of natural resource planning by landowners and land users.~~

(143) "Landowner" or "owner" includes any person, firm, or corporation who shall hold title to any lands lying within a district organized under the provisions of this chapter. A buyer on contract, who is the occupier of land, shall be construed as landowner.

(154) "Land user" means any entity with a lease, permit or similar business agreement with a landowner to implement, manage or utilize such land for activities related to use of the land.

(165) "Natural resources conservation service" or "NRCS" means the agency governed by the provisions of 16 U.S.C. sections 590a through 590d and 590f.

(176) "Nominating petition" means a petition filed under the provisions of section 22-2721, Idaho Code, to nominate candidates for the office of supervisor of a soil conservation district.

(187) "Participant" means an individual agricultural owner, operator, partnership, private corporation, conservation district, irrigation district, canal company, or other agricultural or grazing interest approved by the commission or an individual agricultural owner, operator, partnership, or private corporation approved for implementation of conservation improvements, projects, or the water quality program for agriculture.

(198) "Petition" means a petition filed under the provisions of subsection A. (1) of section 22-2719, Idaho Code, for the creation of a district.

~~(2019)~~ "Project sponsor" means a conservation district, irrigation district, canal company, or other agricultural or grazing interest, as determined appropriate by the commission, that enters into a conservation improvement or water quality project agreement with the commission.

(210) "Qualified elector" means any person who is qualified to vote pursuant to the requirements of section 34-104, Idaho Code.

(221) "Riparian land" means the beds of streams, the adjacent vegetation communities and the land thereunder, which are predominately influenced by their association with water and are privately owned.

(232) "Specifications" means the materials, operations and procedures necessary to obtain the desired standards of construction and installation.

(243) "Standards" means the minimum limits of technical excellence of a component practice for its planning, design and construction.

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

(265) "Supervisor" means one (1) of the members of the governing body of a district elected or appointed in accordance with the provisions of this ~~act~~ chapter.

(276) "Total maximum daily load" is as defined in section 39-3602, Idaho Code.

(287) "United States" or "agencies of the United States" includes the United States of America, the natural resources conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

SECTION 3. That Section 22-2718, Idaho Code, be, and the same is hereby amended to read as follows:

22-2718. IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION. (1) There is hereby established and created in the department of agriculture of the state of Idaho the Idaho state soil and water conservation commission which shall ~~in cooperation with the director of the department of agriculture~~ perform all functions conferred upon it by this chapter. ~~The soil conservation commission~~ and shall be a nonregulatory agency. The commission shall consist of five (5) members appointed by the governor, ~~but no more than three (3) members shall be a member of the same political party~~. In appointing commission members, the governor shall give consideration to geographic representation. Commission members shall be chosen with due regard to their demonstrated expertise including, but not limited to, knowledge of and interest in water quality and other natural resource issues, production agriculture, banking or other similar financial experience or experience as a county commissioner. The soil and water conservation districts may submit to the governor a list of up to three (3) names for each vacancy on the commission and the governor may, in his discretion, consider any such submission in the appointment of commission members. The term of office of each commission member shall be five (5) years; except that upon July 1, 1967 2010, the governor shall appoint one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, one (1) member for a term of four (4) years and one (1) member for a term of five (5) years. From and after the initial appointment the governor shall appoint a member of the commission to serve in office for a term of five (5) years commencing upon July 1 of that year. A vacancy which occurs in an unexpired term shall be filled for its remainder by the governor's appointment. Any commissioner may be removed during his term of office by the governor. Any commissioner so removed shall have notice of the same in writing, specifying the reasons for the removal. Each vacancy on the commission shall be filled by appointment by the governor. Such appointments shall be confirmed by the senate. Commission members shall serve at the pleasure of the governor. The commission may invite the state conservationist of the United States department of agriculture natural resources conservation service, the president of the Idaho association of soil conservation a representative from a district or districts and the dean of the college of agriculture of the university of Idaho or his designated representative, or any other person or entity as the commission deems appropriate, to serve as nonvoting advisory members of the commission. The commission shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules as may be necessary for the execution of its functions under this chapter.

(2) ~~The director of the department of agriculture~~ state soil and water conservation commission shall appoint the administrator of the state soil and water conservation commission ~~from persons recommended by the soil conservation commission~~. The state soil and water conservation commission may employ such technical experts and such other agents and employees, permanent

and temporary, as it may require, and shall determine their qualifications, duties and compensation. The commission may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to its chairman, to one (1) or more of its members, or to one (1) or more agents or employees, such powers and duties as it may deem proper. ~~It shall be supplied with suitable office accommodations, and shall be furnished with the necessary supplies and equipment~~ The commission may establish offices, incur expenses, enter into contracts and acquire services and personal property as may be reasonable for the proper administration and enforcement of this chapter. Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning, shall insofar as may be possible under available appropriation, and having due regard to the needs of the agency to which the request is directed, assign or detail to the commission members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the commission may request.

(3) The commission shall designate its chairman, and may from time to time, change such designation. A majority of the commission shall constitute a quorum, and the concurrency of a majority in any matter within their duties shall be required for its determination. The chairman and members of the commission shall be compensated as provided by section 59-509(h), Idaho Code. The commission shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(4) In addition to the duties and powers hereinafter conferred upon the state soil and water conservation commission, it shall have the following responsibilities:

(a) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, ~~organized as provided hereinafter,~~ in the carrying out of any of their powers and programs.

(b) To keep the supervisors of each of the several soil conservation districts ~~organized under the provisions of this chapter~~ informed of the activities and experience of all other soil conservation districts ~~organized hereunder,~~ and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(c) To coordinate the progress of the several soil conservation districts ~~organized hereunder~~ so far as this may be done by advice and consultation.

(d) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts.

(e) To disseminate information throughout the state concerning the activities and programs of the soil conservation districts in areas where their organization is desirable.

(f) To provide for the establishment and encouragement of the "Idaho OnePlan" as a primary computer-based conservation planning process for all natural resource concerns. Establishment and encouragement will be accomplished through an executive group and steering committee both containing private, state and federal representation. The information provided by those using the "Idaho OnePlan" shall be deemed to be trade secrets, production records or other proprietary information and shall be kept confidential and shall be exempt from disclosure pursuant to section 9-340D, Idaho Code.

(5) In addition to other powers, functions and duties of soil conservation districts and the state soil and water conservation commission provided in this chapter, the commission shall have the following additional powers, functions and duties:

(a) The commission shall conduct, in cooperation with appropriate federal and state agencies and the owners and operators of privately owned forest lands, rangelands and agricultural lands in this state, conservation improvements on or in respect to these lands for the purposes of implementing conservation systems to conserve and improve natural resource conditions;

(b) The commission shall assist and advise soil conservation districts and other entities in implementing the conservation improvements, projects, and the water quality program for agriculture. To the extent that there are available general funds, the commission shall provide for grants and cost-share opportunities and, as legislatively designated, utilize the resource conservation and rangeland development fund for loans for conservation improvements. Provided however, that the commission shall determine whether general or resource conservation and rangeland development funds are available before approving any conservation improvements, projects, and cost-share opportunities and, after having made such determination, shall enter into the necessary contracts for implementation;

(c) ~~The state soil conservation~~ commission shall be the agency responsible for the administration of funds accruing to the resource conservation and rangeland development fund and for all general funds appropriated as a separate and distinct action of the legislature to implement the powers, functions and duties of soil conservation districts and the commission; ~~and~~

(d) On or before March 1 of each year, the commission shall report to the senate agricultural affairs committee and the house agricultural affairs committee; and

(e) The commission shall promulgate such rules as are necessary to carry out the purposes of this chapter.

SECTION 4. That Section 22-2719, Idaho Code, be, and the same is hereby amended to read as follows:

22-2719. CREATION OF SOIL CONSERVATION DISTRICTS. ~~A-~~ (1) Any twenty-five (25) owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil and water conservation commission asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(~~1~~a) The proposed name of said district;

(~~2~~b) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;

(~~3~~c) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;

(~~4~~d) A request that the state soil and water conservation commission duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the commission determine that such a district be created.

Where more than one (1) petition is filed covering parts of the same territory, the state soil and water conservation commission may consolidate all of any such petitions.

B-(2) Within thirty (30) days after such petition has been filed with the state soil and water conservation commission, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this chapter, and upon all questions relevant to such inquiries. All owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given the hearing shall be adjourned and the due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the commission shall determine upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the commission shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to the existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this chapter, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislature determinations set forth in section 22-2716, Idaho Code. The territory to be included within such boundaries need not be contiguous. If the commission ~~shall~~ determines after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C-(3) After the commission has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this chapter is administratively practicable and feasible. To assist the commission in the determination of such administrative practicability and feasibility, it shall be the duty of the commission, at the next election held after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum, subject to the provisions of section 34-106, Idaho Code, within the proposed district upon the proposition of the creation of the district, and to cause notice of such election to be given as provided in section 34-1406, Idaho Code. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county(ies) of . . . and . . ." and "Against creation of a soil conservation district of the lands

below described and lying in the county(ies) of and" shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the commission. All qualified electors who own lands or reside within the proposed district shall be eligible to vote in said referendum.

~~D-~~(4) The commission shall pay all expenses for the issuance of such notice and the conduct of such hearings and election, and shall supervise the conduct of such hearings and election. It shall issue appropriate regulations governing the conduct of such hearings and election. No informalities in the conduct of the election or in any matter relating thereto shall invalidate the election or the result thereof if notice thereof shall have been given substantially as herein provided and the election shall have been fairly conducted.

~~E-~~(5) The commission shall publish the result of the election and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the commission ~~shall~~ determines that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the commission ~~shall~~ determines that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the commission shall give due regard and weight to the attitudes of the owners of lands lying within the defined boundaries, the number of landowners and qualified electors eligible to vote in the election who shall have voted, the proportion of the votes cast in the election in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the landowners of the proposed district, the probable expense of carrying on erosion control and other conservation operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determination set forth in section 22-2716, Idaho Code; provided, however, ~~that~~ the commission shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the election upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

~~F-~~(6) If the commission ~~shall~~ determines that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

(a) The two (2) appointed supervisors shall present to the secretary of state an application signed by them which shall set forth (and such application need contain no detail other than the mere recitals): (1i) that a petition for the creation of the district was filed with the state soil and water conservation commission pursuant to the provisions of this chapter, and that the proceedings specified in this chapter were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this chapter; and that the commission has appointed them as supervisors; (2ii) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3iii) the term of office of each of the supervisors; (4iv) the

name which is proposed for the district; and (5y) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence.

(b) The application shall be accompanied by a statement by the state soil and water conservation commission, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the commission did duly determine that there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and an election held on the question of the creation of such district, and that the result of the election showed a sixty ~~per cent~~ percent (60%) majority of the votes cast in the election to be in favor of the creation of the district; that thereafter the commission did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the commission.

(c) The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office.

(d) If the secretary of state ~~shall~~ finds that the name proposed for the district is identical with that of any other soil conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil and water conservation commission which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name free of such defects, the secretary of state shall record the application and statement with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors a certificate under the seal of the state, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the state soil and water conservation commission as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this ~~act~~ chapter except as provided in section 22-2720, Idaho Code.

6-(7) After six (6) months shall have expired from the date of entry of a determination by the state soil and water conservation commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this chapter.

~~H-~~(8) Petitions for including additional territory within an existing district may be filed with the state soil and water conservation commission and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a district. Where the total number of landowners in the area proposed for inclusion ~~shall be~~ is less than twenty-five (25), the petition may be filed when signed by a two-thirds (2/3) majority of the owners of such area, and in such case no election need be held. In elections upon petitions for such inclusion, all owners of land and qualified electors lying within the proposed additional area shall be eligible to vote.

~~I-~~(9) Incorporated cities, not already included within a district, may be included by presentation of a request of the district approved by the governing body along with a request of the city approved by the mayor and council, to the state soil and water conservation commission. The commission shall consider and act on such joint request at the earliest convenience. If the joint request is denied, the commission shall so notify the district and city in writing and state the reasons for such denial. After six (6) months shall have expired from the date of denial of such joint request, a subsequent joint request may again be made. If the joint request is approved, the commission shall then cause the necessary papers to be filed with the secretary of state. This shall include an amended legal description of the boundaries of the total district.

SECTION 5. That Section 22-2720, Idaho Code, be, and the same is hereby amended to read as follows:

22-2720. CONSOLIDATION OF OR DELETION FROM AND ADDITION TO NEW OR EXISTING DISTRICTS. ~~(1-)~~ Petitions for consolidating two (2) or more existing districts or for deleting territory from one (1) or more existing districts and adding the deleted territory to one (1) or more existing districts or incorporating the deleted territory into a new district or districts may be filed with the state soil and water conservation commission on such forms as may be prescribed by the state soil and water conservation commission.

~~(2-)~~ The petitions provided for in subsection ~~(1)~~ of this section shall be signed by twenty-five (25) landowners in the area proposed to be consolidated or the area proposed to be deleted plus the district or districts to which it is to be added or the territory which is to be included in a new district or districts, as the case may be. Provided, ~~that~~ however, if two-thirds (2/3) of the landowners of all such territory total less than twenty-five (25), then, ~~in that event,~~ such lesser number of signatures will suffice for the petition.

~~(3-)~~ Within thirty (30) days after receipt of such a petition, the state soil and water conservation commission shall cause due notice of hearing on the matter to be given in all of the areas concerned.

~~(4-)~~ At the close of the hearing ~~hereinbefore provided for,~~ the state soil and water conservation commission ~~must~~ shall make and record the following determinations:

~~(a-)~~ Whether or not, in the opinion of the commission, the proposal set forth by the petition would serve the public health, safety and welfare.

~~(b-)~~ Whether or not, in the opinion of the commission, the proposal set forth by the petition is administratively practicable and feasible.

~~(5-)~~ If either or both of the determinations made under subsection ~~(4)~~ of this section are in the negative, the matter is closed. Provided, ~~that~~ however, after six (6) months have expired from the date of such determination, a new petition may be filed involving substantially the same proposals.

~~(6-)~~ If both of the determinations made under subsection (4) of this section are in the affirmative and if the proposal involves the consolidation of two (2) or more existing districts or if the proposal involves the deletion of territory from one (1) or more districts and the addition of that territory to another existing district or districts, then the commission shall proceed to effect the change as per the commission's determinations hereinbefore referred to. The state soil and water conservation commission shall effect the change ~~here referred to~~ by filing with the secretary of state a sworn statement of a member of the commission stating:

~~(a-)~~ The name of the district or districts which are consolidated, if any~~;~~

~~(b-)~~ The name of the district or districts from which the territory is deleted or added, if any~~;~~ and

~~(c-)~~ A description of the boundaries of the consolidated district or of the territory remaining in the district or districts deleted from and the district or districts added to, according to the commission's determination ~~hereinbefore referred to~~.

From and after the time of filing of such statement with the secretary of state, the changes will be effective. If the name of a district formed by the consolidation of two (2) or more existing districts differs from that of either of the consolidated districts, the secretary of state shall issue and record a new certificate of organization of said district.

(7-) Within ten (10) days after the filing of a statement providing for the formation of a consolidated district as prescribed in subsection (6) of this section, the supervisors of each district involved in the consolidation shall meet and, from their number, shall designate a chairman of the consolidated district. Incumbent supervisors of districts involved in a consolidation may serve until any such supervisor's term expires. Any vacancy on the governing body of a district formed by consolidation shall not be filled until only five (5) supervisors, or seven (7) upon written request pursuant to section 22-2721, Idaho Code, remain on the governing body of such district. Thereafter, vacancies shall be filled consistent with procedures prescribed in section 22-2721, Idaho Code.

(8) A district formed by the consolidation of two (2) or more districts shall receive a sum not to exceed eight thousand five hundred dollars (\$8,500) for each district involved in the formation of the consolidated district for a period of three (3) years after the formation of such district. The maximum allocation of fifty thousand dollars (\$50,000) per district set forth in section 22-2727, Idaho Code, shall not apply to a district formed by consolidation for a period of three (3) years following the formation of such district. Upon expiration of the three (3) year time period, a district formed by consolidation shall be treated as one (1) district and shall be subject to all provisions of section 22-2727, Idaho Code.

(9) The office of any district supervisor is hereby declared to be vacant~~;~~ when, after the deletion of territory, such district supervisor is no longer a landowner within the district deleted from.

~~(8-10)~~ If both of the determinations made under subsection (4) of this section are in the affirmative and if the proposal involves the addition of territory ~~deleted~~ ~~deleted~~ from one (1) or more existing districts to other territory thus forming a new district, a referendum shall be held and other procedures followed as in cases involving the original formation of a district where no existing district is involved. In such a case, due notice shall be given in the area which may comprise the new district.

(9-11) If a new district is formed under the procedure prescribed in subsection ~~(810)~~ of this section, part of the area which is composed of an old district, the state soil and water conservation commission shall cause to be filed with the secretary of state a sworn statement of a member of the commission stating:

- ~~(a-)~~ The name of the district or districts deleted from ~~7~~; and
~~(b-)~~ A description of the boundaries of the territory remaining in the district or districts deleted from.

From and after the time of filing of such statement with the secretary of state, the change in the boundaries of the existing districts shall be effective.

SECTION 6. That Section 22-2721, Idaho Code, be, and the same is hereby amended to read as follows:

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

~~A-(2)~~ Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil and water conservation commission to nominate candidates for supervisors of each district. The state soil and water conservation commission, unless it has contracted with the county clerk to conduct the election, shall designate an individual to act as the election official. If contracted to do so, the county clerk shall act as the election official. The election official shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the election official unless it shall be subscribed by not less than five (5) persons who are qualified electors owning land or residing within the boundaries of the district. The election official shall give due notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated ~~7~~ shall appear arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and directions to insert a mark in the square before any three (3) names to indicate the voter's preference. The three (3) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The commission shall pay all the expenses of such election, which shall be supervised and conducted by the election official.

~~B-(3)~~ All elections in districts, excluding the first election as provided in ~~subparagraph A-~~ subsection (2) of this section, shall be conducted by the district supervisors of the districts involved who shall designate an individual to be the election official, or the county clerk if contracted for that purpose. Such election shall be held on the first Tuesday succeeding the first Monday of November in each even-numbered year. Such elections

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

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

~~C.~~(5) In any election for supervisors of a soil conservation district, if after the expiration of the date for filing written nominations it appears that only one (1) qualified candidate has been nominated for each position to be filled and no declaration of intent has been filed by a write-in candidate as provided in ~~subparagraph D.~~ subsection (6) of this section, it shall not be necessary to hold an election, and the election official shall, no later than seven (7) days before the scheduled date of the election, declare such candidate elected as supervisor, and the state soil and water conservation commission shall immediately make and deliver to such person a certificate of election.

~~D.~~(6) No write-in vote for supervisor shall be counted unless a declaration of intent has been filed with the election official indicating that the person making the declaration desires the office and is legally qualified to assume the duties of supervisor if elected as a write-in candidate. The declaration of intent shall be filed not later than twenty-five (25) days before the day of election.

~~E.~~(7) The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be four (4) years commencing on the first day of January next following election, except that the two (2) supervisors who are first appointed shall be designated to serve for terms of two (2) years. A supervisor shall hold office until a qualified successor has been elected or appointed. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term shall be made by a vote of the majority of the supervisors duly qualified and acting at the time the vacancy shall arise and the supervisors shall certify the name of the appointed supervisor to the state soil and water conservation commission ~~who~~ which shall issue a certificate of such appointment.

~~F.~~(8) A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of duties. A supervisor shall receive no compensation for services from regular district funds, county funds authorized in section 22-2726, Idaho Code, or state funds authorized in section 22-2727, Idaho Code.

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

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

(11) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; they shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for independent financial audits in accordance with the provisions of section 67-450B, Idaho Code, ~~with the exception of the provisions of subsection (2) (d) of section 67-450B, Idaho Code.~~ The governing body of a district whose annual budget from all sources does not exceed fifty thousand dollars (\$50,000) may elect to have its financial statements reviewed on a biennial basis. Biennial reports of review shall include a review of each fiscal year since the previous review report. Any ~~s~~Supervisors may shall be removed by the state soil conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason subject to recall in accordance with the provisions of chapter 17, title 34, Idaho Code.

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

SECTION 7. That Section 22-2721, Idaho Code, as amended by Section 4, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS. (1) The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided in this chapter. Elections shall be conducted pursuant to the provisions of this section and the uniform district election law, chapter 14, title 34, Idaho Code. If at any time the supervisors of a district deem it necessary, they may request permission from the state soil and water conservation commission to increase the number of supervisors to seven (7). Upon receipt of such a request in writing, signed by all five (5) supervisors, stating a valid reason for such need, the commission shall grant permission. The additional supervisors shall then be appointed as outlined in subsection ~~6-~~ (5) of this section until such time as regular district elections for two (2) supervisors in each district. At that time those districts having seven (7) supervisors shall then elect four (4) supervisors for four (4) year terms. The two (2) supervisors appointed by the commission shall be persons who are by training and experience qualified to perform the specialized services which will be required of them in the performance of their duties. All supervisors shall be landowners or farmers

of the district where they are elected or appointed and shall be registered to vote in the state of Idaho.

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

~~B.~~(3) All elections in districts shall be conducted by the county clerk. Such election shall be held on the first Tuesday succeeding the first Monday of November in each even-numbered year. Such elections shall be in compliance with the provisions of chapter 14, title 34, Idaho Code, and shall be supervised and conducted by the county clerk. The cost of conducting such elections shall be borne by the county that conducted the election. The county clerk shall certify to the state soil and water conservation commission the names of the elected supervisors. The state soil and water conservation commission shall issue certificates of election to each elected supervisor so certified. The county clerk or county clerks of the county or counties in which the district is located shall conduct the election for the soil conservation district, and the county clerk must provide a ballot for the district election, and must provide a process that allows only qualified electors of the district to vote in that district's election.

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

~~C.~~(5) In any election for supervisors of a soil conservation district, if after the expiration of the date for filing written nominations it appears that only one (1) qualified candidate has been nominated for each position to be filled and no declaration of intent has been filed by a write-in candidate as provided in subsection ~~D.~~ (6) of this section, it shall not be necessary to hold an election, and the county clerk shall, no later than seven (7) days before the scheduled date of the election, declare such candidate elected as supervisor, and the state soil and water conservation commission shall immediately make and deliver to such person a certificate of election.

~~D.~~(6) No write-in vote for supervisor shall be counted unless a declaration of intent has been filed with the county clerk indicating that the person making the declaration desires the office and is legally qualified to assume the duties of supervisor if elected as a write-in candidate. The dec-

laration of intent shall be filed not later than twenty-five (25) days before the day of election.

~~E-~~(7) The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be four (4) years commencing on the first day of January next following election, except that the two (2) supervisors who are first appointed shall be designated to serve for terms of two (2) years. A supervisor shall hold office until a qualified successor has been elected or appointed. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term shall be made by a vote of the majority of the supervisors duly qualified and acting at the time the vacancy shall arise and the supervisors shall certify the name of the appointed supervisor to the state soil and water conservation commission ~~who~~ which shall issue a certificate of such appointment.

~~F-~~(8) A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of duties. A supervisor shall receive no compensation for services from regular district funds, county funds authorized in section 22-2726, Idaho Code, or state funds authorized in section 22-2727, Idaho Code.

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

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

(11) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; they shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for independent financial audits in accordance with the provisions of section 67-450B, Idaho Code, ~~with the exception of the provisions of subsection (2) (d) of section 67-450B, Idaho Code. The governing body of a district whose annual budget from all sources does not exceed fifty thousand dollars (\$50,000) may elect to have its financial statements reviewed on a biennial basis. Biennial reports of review shall include a review of each fiscal year since the previous review report. Any sSupervisors may shall be removed by the state soil conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason subject to recall in accordance with the provisions of chapter 17, title 34, Idaho Code.~~

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

SECTION 8. That Section 22-2723, Idaho Code, be, and the same is hereby amended to read as follows:

22-2723. COOPERATION BETWEEN DISTRICTS. The supervisors of any two (2) or more districts ~~organized under the provisions of this act~~ may cooperate with one another in the exercise of any or all powers conferred in this ~~act~~ chapter.

SECTION 9. That Section 22-2724, Idaho Code, be, and the same is hereby amended to read as follows:

22-2724. STATE AGENCIES TO COOPERATE. Agencies of this state which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any county, or other governmental subdivision of the state, which shall have jurisdiction over, or charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district ~~organized hereunder~~, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this ~~act~~ chapter. The supervisors of such district shall be given free access to enter and perform work upon such publicly owned lands.

SECTION 10. That Section 22-2725, Idaho Code, be, and the same is hereby amended to read as follows:

22-2725. DISCONTINUANCE OF DISTRICTS. (1) At any time after five (5) years after the organization of a district under the provisions of this chapter, any twenty-five (25) owners of land lying within the boundaries of such district may file a petition with the state soil and water conservation commission ~~praying requesting~~ that the operations of the district be terminated and the existence of the district discontinued. The commission may conduct such public meetings, and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such petition has been received by the commission it shall give due notice of the holding of an election, subject to the provisions of section 34-106, Idaho Code, and shall supervise the election, and issue appropriate regulations governing such election as are consistent with chapter 14, title 34, Idaho Code, the question to be submitted by ballots upon which the words "For terminating the existence of the . . . (name of the soil conservation district to be here inserted)" shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All qualified electors who own land or reside within the proposed district shall be eligible to vote in said election. No informalities in the conduct of the election or in any matters relating thereto shall invalidate the election or the result thereof if notice thereof shall have been given substantially as herein provided and the election shall have been fairly conducted.

(2) The commission shall publish the result of the election and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the commission ~~shall~~ determines that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny ~~this~~ the petition. If the commission ~~shall~~ determines that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the commission shall give due regard and weight to the attitudes of the owners of lands lying within the district, the number

of landowners eligible to vote in the election who shall have voted, the proportion of the votes cast in the election in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the landowners of the district, the probable expense of carrying on such erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 22-2716, Idaho Code, provided, however, ~~that~~ the commission shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the election shall have been cast in favor of the continuance of such district.

(3) Upon receipt from the state soil and water conservation commission of a certificate that the commission has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury. The supervisors shall thereupon file an application duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the state soil and water conservation commission setting forth the determination of the commission that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

(4) Upon issuance of a certificate of dissolution under the provisions of this section, all contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The state soil and water conservation commission shall be substituted for the district or supervisors as party to such contracts.

(5) The state soil and water conservation commission shall not entertain petitions for the discontinuance of any district nor conduct elections upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this chapter, more often than once in five (5) years.

SECTION 11. That Section 22-2725, Idaho Code, as amended by Section 5, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

22-2725. DISCONTINUANCE OF DISTRICTS. (1) At any time after five (5) years after the organization of a district under the provisions of this chapter, any twenty-five (25) owners of land lying within the boundaries of such district may file a petition with the state soil and water conservation commission ~~praying~~ requesting that the operations of the district be terminated and the existence of the district discontinued. The commission may conduct such public meetings, and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such petition has been received by the commission, it shall give due notice to the county clerk of the holding of an election, subject to the provisions of section 34-106, Idaho Code, and the county clerk shall supervise the election, and issue appropriate regulations governing such election as are consistent with chapter 14, title 34, Idaho Code, the question to be submitted by ballots upon which the words "For terminating the existence of the . . .

(name of the soil conservation district to be here inserted)" shall appear, with a square before each proposition and a direction to mark the ballot as the voter may favor or oppose discontinuance of such district. All qualified electors who reside within the proposed district shall be eligible to vote in said election. No informalities in the conduct of the election or in any matters relating thereto shall invalidate the election or the result thereof if notice thereof shall have been given substantially as herein provided and the election shall have been fairly conducted.

(2) The commission shall publish the result of the election and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the commission ~~shall~~ determines that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny ~~this~~ the petition. If the commission ~~shall~~ determines that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the commission shall give due regard and weight to the attitudes of the owners of lands lying within the district, the number of residents eligible to vote in the election who shall have voted, the proportion of the votes cast in the election in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the landowners of the district, the probable expense of carrying on such erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 22-2716, Idaho Code, provided, however, that the commission shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the election shall have been cast in favor of the continuance of such district.

(3) Upon receipt from the state soil and water conservation commission of a certificate that the commission has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury. The supervisors shall thereupon file an application duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the state soil and water conservation commission setting forth the determination of the commission that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

(4) Upon issuance of a certificate of dissolution under the provisions of this section, all contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The state soil and water conservation commission shall be substituted for the district or supervisors as party to such contracts.

(5) The state soil and water conservation commission shall not entertain petitions for the discontinuance of any district nor conduct elections upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this chapter, more often than once in five (5) years.

SECTION 12. That Section 22-2727, Idaho Code, be, and the same is hereby amended to read as follows:

22-2727. ALLOCATION OF FUNDS TO DISTRICTS. (1) A public hearing shall be held by the ~~Idaho~~ state soil and water conservation commission on or before June 15 of each year and twenty (20) days' written notice of such hearing shall be given to each ~~Idaho~~ soil conservation district and to all other persons requesting notice of such hearing. At the hearing the ~~Idaho~~ state soil and water conservation commission shall consider the needs of each ~~Idaho~~ soil conservation district and shall base its request for state funds for the ~~Idaho~~ soil conservation districts upon the budgets, budget requests, district programs and work plans, and work load analysis of the various soil conservation districts.

(2) All funds appropriated by the state for the various ~~Idaho~~ soil conservation districts shall be appropriated to the Idaho state soil and water conservation commission and shall be allocated by the commission equally to the various ~~Idaho~~ soil conservation districts on the basis of the criteria established in ~~the preceding paragraph subsection (1) of this section.~~

(3) Funds appropriated to the ~~Idaho~~ state soil and water conservation commission for distribution to soil conservation districts shall be allocated by the commission equally to the various soil conservation districts in a sum not to exceed five eight thousand five hundred dollars (\$58,050) per district. All funds appropriated to the state soil and water conservation commission for distribution to soil conservation districts in excess of five eight thousand five hundred dollars (\$58,050) per district shall be allocated by the commission to the various soil conservation districts in a sum not to exceed twice the amount of funds or services allocated to each district by the county commissioners in the previous fiscal year and funds or services allocated to each district by authorized officials or other local units of government or organizations in the previous fiscal year, provided that any such allocation by the commission shall not exceed fifty thousand dollars (\$50,000) to any one (1) district in a fiscal year.

(4) The ~~Idaho~~ state soil and water conservation commission shall adopt ~~all rules and regulations~~ necessary to carry out the purposes of this section.

SECTION 13. That Section 22-2730, Idaho Code, be, and the same is hereby amended to read as follows:

22-2730. RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND CREATED. (1) There is hereby created in the state treasury a fund to be known as the Idaho resource conservation and rangeland development fund, which shall consist of all moneys which may be appropriated to it by the legislature or made available to it from federal, private, or other sources. The state treasurer is directed to invest all unobligated moneys in the fund. All interest and other income accruing from such investments shall accrue to the fund. The state soil and water conservation commission may expend from the fund such sums as it shall deem necessary for any of the conservation improvements, projects and programs provided for under this chapter under such terms and conditions provided for in ~~its~~ the commission's rules and the water quality program for agriculture.

(2) The state soil and water conservation commission shall establish a priority list for conservation improvements, projects and the water quality program for agriculture. The priority list shall be used as the method for allocation of funds loaned under this chapter.

SECTION 14. That Section 22-2731, Idaho Code, be, and the same is hereby amended to read as follows:

22-2731. ALLOCATION OF FUND. The Idaho resource conservation and rangeland development fund shall be allocated for use by the state soil and water conservation commission:

(1) ~~By the state soil conservation commission~~ To eligible applicants for conservation improvements which it deems to be "in the public interest" in such amounts as are necessary for the implementation of conservation measures identified in a conservation plan;

(2) ~~By the commission~~ To eligible applicants for the purpose of conservation improvements on rangelands, agricultural lands, and riparian lands, which will provide environmental enhancement to soil, water, wildlife, and related resources;

(3) ~~By the commission~~ For the purpose of implementing conservation improvements, projects and the water quality program for agriculture.

SECTION 15. That Section 22-2732, Idaho Code, be, and the same is hereby amended to read as follows:

22-2732. LOANS FROM FUND -- APPLICATION -- APPROVAL -- REPAYMENT. (a) Eligible applicants may file an application with the local soil conservation district or the state soil and water conservation commission for a loan from the fund for the purpose of financing conservation improvement cost. Such application shall be filed in such a manner, and shall be in such form, and be accompanied by such information as may be prescribed by the commission. Any such application filed with the district or the commission under the provisions of this ~~act~~ chapter shall:

(1a) Describe the nature and purposes of the improvements or projects;

(2b) Set forth or be accompanied by a conservation plan approved by the local soil conservation district or the commission that identifies the conservation improvements, or projects, together with such technical and economic feasibility data and estimated costs as may be required by the commission;

(3c) State whether money other than that for which application is made under this ~~act~~ chapter will be used for improvement costs, and whether such money is available or has been sought for this purpose;

(4d) Show that the applicant holds or can acquire title to all lands or has necessary easements and rights-of-way for the improvements; and

(5e) Show the proposed project is feasible from a technical standpoint and economically justified.

(b) The local soil conservation districts and the commission shall keep each other informed of applications received. Within sixty (60) days of receipt of an application, the local soil conservation district or the commission shall review and evaluate, and if it deems necessary, investigate aspects of the proposed improvements. As part of such investigation, the district or the commission shall determine whether the plan for development of the conservation improvements is satisfactory. If the district or the commission determines the plan is unsatisfactory, it shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan satisfactory. If the district or the commission determines the plan and application are satisfactory, it shall be considered for funding.

(e3) The commission may approve a loan for conservation improvements if after review, evaluation, and investigation if necessary, it finds that:

(1a) The applicant is qualified and responsible;

(2b) There is reasonable assurance that the borrower can repay the loan; and

(3c) That money in the resource conservation and rangeland development fund is available for the loan.

(d4) If the commission approves a loan, the applicant shall execute a promissory note for repayment to the account of money loaned therefrom, together with interest not to exceed six percent (6%) annually as determined by the commission. The note shall further provide that repayment of the loan, together with interest thereon, shall commence not later than two (2) full years from the date the note is signed. Repayment shall be completed within the time period specified by the commission not to exceed fifteen (15) years, except that the commission may extend the time for making repayment in event of emergency or hardship. Such agreement shall also provide for such assurance of, and security for, repayment of the loan as are considered necessary by the commission.

(e5) Upon approval of the loan and securing all necessary documents, the commission will make available, in approved form, project or contract funding.

(f6) If an applicant fails to comply with the repayment contract, the interest in the improvement may be conveyed to a successor upon approval by the commission, which may contract with the qualified successor in interest of the original obligor for repayment of the loan, together with interest thereon, and for succession to its rights and obligation in any contract with the commission.

SECTION 16. That Section 22-2733, Idaho Code, be, and the same is hereby amended to read as follows:

22-2733. GRANTS FROM STATE SOIL AND WATER CONSERVATION COMMISSION GENERAL FUND -- APPLICATION -- APPROVAL -- GRANT AGREEMENT. (1) Eligible applicants or participants may file an application with the local soil conservation district or the state soil and water conservation commission for a grant from the state soil and water conservation commission general fund for the purpose of financing conservation improvements, projects, and implementation of the water quality program for agriculture. Such application shall be filed in such a manner and shall be in such form, and be accompanied by such information as may be prescribed by the commission; provided, however, ~~that~~ any such application filed with the district or the commission under the provisions of this section shall:

(a) Describe the nature and purpose of the improvements or conservation plan implementation project;

(b) Set forth or be accompanied by an improvement project plan approved by the local soil conservation district or the commission that identifies the practices to be applied, together with such technical and economic feasibility data and estimated costs as may be required by the commission;

(c) State whether money other than that for which application is made under this section will be used for improvement project or conservation plan implementation costs, and whether such money is available or has been sought for this purpose; and

(d) Show that the applicant or participant holds or can acquire title to all lands or has necessary easements and rights-of-way to implement the project plan.

(2) The commission and local soil conservation district will keep each other informed of grant applications received. Within thirty (30) days of receipt of an application, the local soil conservation district or the commission shall review and evaluate and, if deemed necessary, investigate all aspects of the proposed improvement, project or conservation plan. As part of such investigation, the district or the commission shall determine whether the project plan is satisfactory. If the district or the commission determines that the plan is unsatisfactory, it shall return the application to the applicant or participant and the district or the commission may make such recommendations to the applicant or participant as are considered necessary to make the plan satisfactory. If the commission determines either the plan or a plan revised pursuant to recommendation of the district or commission is satisfactory, it shall be considered for funding.

(3) The commission may approve a grant if after review, evaluation, and investigation if necessary, it finds that:

- (a) The applicant or participant is qualified and responsible;
- (b) The improvement, project, or conservation plan demonstrates public benefits; and
- (c) That money in the state soil and water conservation commission general fund is available for the grant.

(4) If the commission approves a grant, the applicant or participant shall enter into an agreement covering the grant offer and acceptance of the grant for implementing the improvement, project, or conservation plan. The agreement shall be improvement, project, or conservation plan specific. The terms and conditions shall be those specified by the commission.

(5) Upon approval of the grant and securing all necessary documents, the commission will make available, in the approved form, project or contract funding.

SECTION 17. That Section 22-2734, Idaho Code, be, and the same is hereby amended to read as follows:

22-2734. COST-SHARE FROM STATE SOIL AND WATER CONSERVATION COMMISSION GENERAL FUND -- APPLICATION -- APPROVAL. (1) Eligible applicants or participants may file an application with the local soil conservation district or the state soil and water conservation commission for a cost-share contract or project from the state soil and water conservation commission general fund for the purpose of financing agricultural, grazing or other conservation improvements, projects or implementation of the water quality program for agriculture. Such application shall be filed in such a manner and shall be in such form and be accompanied by such information as may be prescribed by the commission; provided however, ~~that~~ any such application filed with the district or the commission under the provisions of this section shall:

- (a) Describe the nature and purposes of the improvements and projects requiring cost-sharing;
- (b) Set forth or be accompanied by a plan that identifies the conservation improvements or projects, together with such technical and economic feasibility data and estimated costs as may be required by the commission;
- (c) State whether money other than that for which application is made under this section will be used for costs, and whether such money is available or has been sought for this purpose; and
- (d) Show the proposed project is feasible from a technical standpoint and is economically justified.

(2) The commission and the local soil conservation district will keep each other informed of cost-share applications received. Within thirty (30) days of receipt of an application, the local soil conservation district or the commission shall review and evaluate and, if deemed necessary, investigate all aspects of the proposed contract or project. As part of such in-

vestigation, the district or the commission shall determine whether the plan for development of the conservation improvements or projects is satisfactory. If the district or the commission determines the plan is unsatisfactory, it shall return the application to the applicant or participant and the district or the commission may make such recommendations to the applicant or participant as are considered necessary to make the application satisfactory. When the commission determines either the application or an application revised pursuant to recommendation of the district or commission is satisfactory, it shall be considered for funding.

(3) The commission may approve a cost-share contract to an applicant or participant for conservation projects and improvements if, after review, evaluation and investigation, it finds that:

- (a) The applicant or participant is qualified and responsible;
- (b) The conservation improvement or project demonstrates public benefit;
- (c) There is reasonable assurance that the applicant or participant will adhere to contract terms; and
- (d) Money is available in the state soil and water conservation commission general fund for cost-share.

(4) Upon approval of the cost-share contract or cost-share grant, and securing of all necessary documents, the commission will make funding available.

SECTION 18. That Section 22-2735, Idaho Code, be, and the same is hereby amended to read as follows:

22-2735. PAYMENTS BY THE STATE SOIL AND WATER CONSERVATION COMMISSION -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. (1) The commission may make payments not to exceed the estimated reasonable cost of an eligible improvement, project, or plan.

(2) The commission may, in the name of the state of Idaho, enter into contracts with approved applicants, and any such approved applicants may enter into a contract with the commission concerning eligible improvements, projects or plans. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

- (a) An estimate of the reasonable cost of the improvements, projects, or plans as determined by the commission;
- (b) The terms under which the commission may unilaterally terminate the contract and/or seek repayment from the ~~application~~ applicant of sums already paid pursuant to the contract for noncompliance by the applicant with the terms and conditions of the contract and the provisions of this chapter;
- (c) An agreement by the applicant binding for the life of the eligible improvements, projects or plans:
 - (i) To develop water quality plans for landowners and provide payments to landowners for installation of best management practices;
 - (ii) To determine payment rates in conjunction with the commission for best management practices;
 - (iii) To establish a method for administration and provisions for technical assistance to landowners in conjunction with the commission;
 - (iv) To allow the state to make payments up to the estimated reasonable cost for best management practices installation, technical assistance and project administration of an eligible project;
 - (v) To develop and to secure the approval of the commission of plans for operation of the eligible project;

(vi) To ensure that the local matching share of the cost is provided as applicable;

(vii) To assure an adequate level of landowner participation and application of best management practices to ensure water quality goals are met.

(3) The commission may enter into contracts to provide technical assistance to applicants that have entered agreements pursuant to this chapter. Any such contract may include such provisions agreed upon by the parties thereto, and shall include, in substance, the following provisions:

(a) An estimate of the reasonable cost of technical assistance;

(b) The terms under which the commission may unilaterally terminate the contract, and/or seek repayment of sums paid pursuant to the contract, for noncompliance by the applicants with the terms and conditions of the contract, the provisions of this chapter, or rules adopted pursuant thereto.

(4) The commission may enter into contracts and establish procedures to be followed in applying for eligible improvements, projects and plans herein authorized as shall be necessary for the effective administration of the water quality program for agriculture.

(5) All contracts entered into pursuant to this section shall be subject to approval by the attorney general as to form. All payments by the state pursuant to such contracts shall be made after audit and upon warrant as provided by law on vouchers approved by the ~~the director~~ chairman and the administrator of the department of agriculture commission.

(6) All grant agreements and contracts previously entered into with the state board of health and welfare, soil conservation districts and the commission pursuant to section 39-3627, Idaho Code, for payments and administration are now to be administered and payments implemented solely by the commission.

SECTION 19. That Section 22-5201, Idaho Code, be, and the same is hereby amended to read as follows:

22-5201. LEGISLATIVE INTENT. Increasing levels of carbon dioxide and other greenhouse gases in the atmosphere have led to growing interest in national and international forums for implementing measures to slow and reverse the buildup of such atmospheric constituents. Such measures may potentially include the establishment of systems of trading in credits for adoption of practices, technologies or other measures which decrease net emissions of carbon dioxide. Improved agricultural and timber production methods, soil and forest conservation practices and other methods of stewardship of soil and other land resources have great potential to increase carbon sequestration on agricultural and private forest lands and help offset carbon dioxide emissions from other sectors of the economy. It is in the interest of agricultural producers, nonindustrial private forest landowners and the public in general that the Idaho state soil and water conservation commission document and quantify carbon sequestration and greenhouse emissions reductions associated with agricultural and forestry practices, management systems and land uses occurring on cropland, forest land and rangeland in Idaho. It is the intent of the legislature that efforts to quantify and verify carbon sequestration on agricultural and forest lands will enhance the ability of the state's agricultural and nonindustrial private forest landowners to participate in any system of carbon sequestration marketing or trading.

SECTION 20. That Section 22-5202, Idaho Code, be, and the same is hereby amended to read as follows:

22-5202. CARBON SEQUESTRATION ADVISORY COMMITTEE CREATED -- MEMBERSHIP -- COMPENSATION -- ADMINISTRATIVE ASSISTANCE. (1) The carbon sequestration advisory committee is hereby created. The committee shall consist of the following nineteen (19) members, to be appointed by and serve at the pleasure of the governor:

- (a) The chairman of the Idaho state soil and water conservation commission or his designee;
 - (b) The director of the department of agriculture or his designee;
 - (c) The director of the department of environmental quality or his designee;
 - (d) The director of the department of lands or his designee;
 - (e) One (1) member representing the University of Idaho college of agriculture;
 - (f) One (1) member representing an entity which generates electrical energy;
 - (g) Two (2) members who are producers of field crops, at least one (1) of whom actively employs a minimum tillage management system in his farming operation;
 - (h) Two (2) members who are producers of livestock, at least one (1) of whom is actively involved in implementing a rangeland improvement plan;
 - (i) One (1) member with expertise in carbon sequestration marketing or trading;
 - (j) One (1) member representing soil conservation districts, as defined in section 22-2717, Idaho Code;
 - (k) One (1) member representing the biofuels industry;
 - (l) One (1) member representing the transportation industry;
 - (m) One (1) member representing an environmental protection or conservation organization;
 - (n) One (1) member representing nonindustrial private forest landowners;
 - (o) One (1) member representing American Indian tribal interests;
 - (p) One (1) member whose expertise is geology; and
 - (q) One (1) member whose expertise is economics.
- (2) Members of the committee shall be compensated as provided in section 59-509(b), Idaho Code.

(3) The Idaho state soil and water conservation commission shall assist the committee with administrative support as reasonably requested by the committee.

SECTION 21. That Section 22-5203, Idaho Code, be, and the same is hereby amended to read as follows:

22-5203. POWERS AND DUTIES OF THE CARBON SEQUESTRATION ADVISORY COMMITTEE. The carbon sequestration advisory committee may:

(1) Advise and assist the chairman of the Idaho state soil and water conservation commission in preparing the reports required by this chapter and in conducting the assessment pursuant to section 22-5205, Idaho Code;

(2) Recommend policies or programs to enhance the ability of Idaho agricultural and nonindustrial private forest landowners to participate in systems of carbon trading. Such recommendations shall include potential policies or programs designed to optimize economic benefits to agricultural producers and nonindustrial private forest landowners participating in carbon trading transactions. Such policies or programs may include, but are not limited to, identifying existing or the potential of creating nonprofit organizations or other public or private entities capable of serving as

assemblers of carbon credits or as intermediaries on behalf of producers in carbon trading systems;

(3) Encourage the production of educational and advisory materials regarding carbon sequestration on agricultural and forest lands and participation in systems of carbon or greenhouse emissions trading;

(4) Identify and recommend areas of research needed to better understand and quantify the processes of carbon sequestration on agricultural and forest lands; and

(5) Review the carbon sequestration programs and policies of other states.

SECTION 22. That Section 22-5205, Idaho Code, be, and the same is hereby amended to read as follows:

22-5205. POWERS AND DUTIES OF THE CHAIRMAN. (1) In consultation with the carbon sequestration advisory committee, the chairman of the Idaho state soil and water conservation commission shall assess agricultural and private forest lands in Idaho for past carbon sequestration and future carbon sequestration potential. The assessment shall seek to quantify carbon sequestration associated with various agricultural and forestry practices, management systems and land uses occurring on agricultural and forest lands in this state. On or before March 1, 2003, the chairman shall publish a report of the findings. From time to time, the chairman may update the findings as advancements in understanding of the processes of carbon sequestration and new data become available.

(2) The assessment shall be conducted in a manner that shall provide a means for owners of agricultural and forest land to estimate past and future net carbon sequestration resulting from agricultural and forestry practices, conservation measures, management systems and land uses occurring on their property. The chairman of the Idaho state soil and water conservation commission may contract and cooperate with the natural resources conservation service of the United States department of agriculture to conduct assessment activities provided for in this section.

(3) The Idaho state soil and water conservation commission may apply for and accept grants, gifts or other sources of public and private funds to carry out the purposes of this chapter.

SECTION 23. That Section 22-5206, Idaho Code, be, and the same is hereby amended to read as follows:

22-5206. CARBON SEQUESTRATION ASSESSMENT FUND CREATED. There is hereby created and established in the state treasury a fund to be known as the "Carbon Sequestration Assessment Fund," which shall consist of such funds, grants, donations or moneys from other sources. The fund shall be administered by the Idaho state soil and water conservation commission in order to carry out the purposes of this chapter. Moneys in the fund may be expended pursuant to appropriation. Any interest earned on the investment of idle moneys in the fund shall be returned to the fund.

SECTION 24. That Section 36-2404, Idaho Code, be, and the same is hereby amended to read as follows:

36-2404. STATE DELISTING MANAGEMENT PLAN REQUIREMENTS. (1) The delisting advisory team shall develop a state management plan for a species in response to all notification of intent to delist the species by the secretary of interior or secretary of commerce or sooner if deemed appropriate. The state management plan shall provide for the management and conservation of the species once it is delisted, and contain sufficient safeguards to

protect the health, safety, private property and economic well-being of the citizens of the state of Idaho.

(2) The department of fish and game shall provide the delisting advisory teams, the informational, technical or other needs and requirements of those teams in the performance of their duties.

(3) In developing state delisting management plans, the delisting advisory team shall consult with the appropriate state agencies, commissions and boards. The appropriate state agency for wildlife biological and species management issues, and for plant life biological and species management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining activities is the department of lands. The appropriate state agencies for agricultural activities are the department of agriculture and the Idaho state soil and water conservation commission. The appropriate state agency for public road construction is the transportation department. The appropriate state agency for water rights is the department of water resources. The appropriate state agency for water quality is the department of environmental quality. The appropriate state agency for outfitting and guiding activities is the Idaho outfitters and guides licensing board.

SECTION 25. That Section 39-3602, Idaho Code, be, and the same is hereby amended to read as follows:

39-3602. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Applicable water quality standard" means those water quality standards identified in the rules of the department.

(2) "Attainable" beneficial uses means uses that can be achieved by the implementation of required effluent limits for point sources and cost-effective and reasonable best management practices for nonpoint sources.

(3) "Best management practice" means practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(4) "Board" means the board of environmental quality.

(5) "Control strategies" means cost-effective actions in TMDL implementation plans to control the discharge of pollutants that can reasonably be taken to improve the water quality within the physical, operational, economic and other constraints that affect individual enterprises and communities.

(6) "Department" means the department of environmental quality.

(7) "Designated agency" means the department of lands for timber harvest activities, for oil and gas exploration and development and for mining activities; the soil and water conservation commission for grazing activities and for agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the department of environmental quality for all other activities.

(8) "Designated use or designated beneficial use" means those uses assigned to waters as identified in the rules of the department whether or not the uses are being attained. The department may adopt subcategories of a use.

(9) "Director" means the director of the department of environmental quality, or his or her designee.

(10) "Discharge" means any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For the purposes of this chapter, discharge shall not include surface water runoff from nonpoint sources or natural soil disturbing events.

(11) "Existing use" means those surface water uses actually attained on or after November 28, 1975, whether or not they are designated uses. Existing uses may form the basis for subcategories of designated uses.

(12) "Full protection, full support, or full maintenance of designated beneficial uses of water" means compliance with those levels of water quality criteria listed in the appropriate rules of the department, or where there is no applicable numerical criteria, compliance with the reference streams or conditions approved by the director in consultation with the appropriate basin advisory group.

(13) "Lower water quality" means a measurable adverse change in a chemical, physical, or biological parameter of water relevant to a designated beneficial use, and which can be expressed numerically. Measurable adverse change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices.

(14) "National pollutant discharge elimination system (NPDES)" means the point source permitting program established pursuant to section 402 of the federal clean water act.

(15) "New nonpoint source activity" means a new nonpoint source activity or a substantially modified existing nonpoint source activity on or adversely affecting an outstanding resource water which includes, but is not limited to, new silvicultural activities, new mining activities and substantial modifications to an existing mining permit or approved plan, new recreational activities and substantial modifications to existing recreational activities, new residential or commercial development that includes soil disturbing activities, new grazing activities and substantial modifications to existing grazing activities, except that reissuance of existing grazing permits, or grazing activities and practices authorized under an existing permit, is not considered a new activity. It does not include naturally occurring events such as floods, landslides, and wildfire including prescribed natural fire.

(16) "Nonpoint source activities" includes grazing, crop production, silviculture, log storage or rafting, construction, mining, recreation, septic systems, runoff from storms and other weather related events and other activities not subject to regulation under the federal national pollutant discharge elimination system. Nonpoint source activities on waters designated as outstanding resource waters do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments.

(17) "Nonpoint source runoff" means water which may carry pollutants from nonpoint source activities into the waters of the state.

(18) "Outstanding resource water" means a high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. It constitutes an outstanding national or state resource that requires protection from point source and nonpoint source activities that may lower water quality.

(19) "Person" means any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties.

(20) "Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return

flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition.

(21) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged or released to water in excessive quantities cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.

(22) "Reference stream or condition" means one (1) of the following:

(a) The minimum biological, physical and chemical conditions necessary to fully support the designated beneficial uses; or

(b) A water body representing natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin; or

(c) A water body representing minimum conditions necessary to fully support the designated beneficial uses.

In highly mineralized areas or in the absence of such reference streams or water bodies, the director, in consultation with the basin advisory group and the technical advisers to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported.

(23) "Short-term or temporary activity" means an activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the director. Short-term or temporary activities include, but are not limited to, maintenance of existing structures, limited road and trail reconstruction, soil stabilization measures, and habitat enhancement structures.

(24) "Silviculture" means those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber.

(25) "Soil and water conservation commission" means an agency of state government as created in section 22-2718, Idaho Code.

(26) "Soil conservation district" means an entity of state government as defined in section 22-2717, Idaho Code.

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

(28) "State water quality management plan" means the state management plan developed and updated by the department in accordance with sections 205, 208, and 303 of the federal clean water act.

(29) "Subbasin assessment" means a document that describes a watershed or watersheds for which a total maximum daily load is proposed, the water quality concerns, the status and attainability of designated uses and water quality criteria for individual water bodies, the nature and location of pollutant sources, past and ongoing pollutant control activities, and such other information that the director with the advice of the local watershed advisory group determines is pertinent to the analysis of water quality and the development and implementation of a total maximum daily load.

(30) "Total maximum daily load (TMDL)" means a plan for a water body not fully supporting designated beneficial uses and includes the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, and natural background levels of the pollutant impacting the water body. Pollutant allocations established through TMDLs shall be at a level necessary to implement the applicable water quality standards for the identified pollutants with seasonal variations and a margin of safety to account for uncertainty concerning the relationship between the pollutant loading and water quality standards.

(31) "Waters or water body" means all the accumulations of surface water, natural and artificial, public and private, or parts thereof which are wholly or partially within, flow through or border upon this state. For the purposes of this chapter, water bodies shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state.

(32) "Water pollution" is such alteration of the thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge or release of any contaminant into the waters of the state as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other legitimate uses or to livestock, wild animals, birds, fish or other aquatic life.

(33) "Water quality standards" are the designated uses of a water body and water quality criteria necessary to support those uses, and an antidegradation policy.

(34) "Watersheds" means the land area from which water flows into a stream or other body of water which drains the area. For the purposes of this chapter, the area of watersheds shall be recommended by the basin advisory group described in section 39-3613, Idaho Code.

SECTION 26. That Section 39-6407, Idaho Code, be, and the same is hereby amended to read as follows:

39-6407. TECHNICAL ADVISORY GROUP. To assist in its objectives, the council shall create a technical advisory group which may include the designated representatives of the public health district, city and county planning or engineering departments, ~~D~~department of ~~E~~environmental ~~Q~~quality, ~~D~~department of ~~L~~lands, ~~D~~department of ~~F~~fish and ~~G~~game, ~~D~~department of ~~P~~parks and ~~R~~recreation, ~~D~~department of ~~W~~water ~~R~~resources, ~~S~~state ~~S~~soil and water ~~E~~conservation ~~C~~commission, United States ~~F~~forest ~~S~~service, United States ~~B~~bureau of ~~L~~land ~~M~~management, United States ~~A~~army ~~C~~corps of ~~E~~engineers, United States ~~A~~gricultural ~~C~~onservation and ~~S~~tabilization ~~S~~ervices, United States ~~E~~nvironmental ~~P~~rotection ~~A~~gency, United States ~~G~~eological ~~S~~urvey or any one (1) or more of said agencies and such representatives of agriculture, conservation, forest products, sportsmen and mining interests as may be appointed by the county. Indian tribes may nominate a representative for the technical advisory group to the county for appointment to the group. Members shall serve without state compensation except such normal compensation received by members who are state employees serving in the normal course and scope of their employment.

SECTION 27. That Section 39-6609, Idaho Code, be, and the same is hereby amended to read as follows:

39-6609. TECHNICAL COMMITTEE. To assist in the development of its program, the council shall create a technical committee which may include, but is not exclusively limited to, designated representatives of the public health district, city and county planning or engineering departments, the county planning and zoning commission, the McCall water and sewer district,

department of environmental quality, department of lands, department of fish and game, department of parks and recreation, department of water resources, state soil and water conservation commission, United States forest service, United States army corps of engineers, United States agricultural conservation and stabilization services, United States ~~soil~~ natural resources conservation service, United States geological survey, United States environmental protection agency and representatives proposed by interests in agriculture, environmental protection, forest products, sporting and mining. Indian tribes may nominate a representative for the technical committee. Members shall serve without state compensation except such normal compensation received by members who are state, city, county, district or federal employees serving in the normal course and scope of their employment.

SECTION 28. That Section 42-3703, Idaho Code, be, and the same is hereby amended to read as follows:

42-3703. DEFINITIONS. Whenever used or referred to in this act, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

1. "District" or "watershed improvement district" means a governmental subdivision of this state and a public body corporate and politic organized in accordance with the provisions of this act for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

2. "Director" means one (1) of the members of the governing body of a district elected or appointed in accordance with the provisions of this act.

3. "Commission" or "state soil and water conservation commission" means the agency created in section 22-2718, Idaho Code.

4. "Petition" means a petition filed under the provisions of section 42-3705, Idaho Code, for the creation of a district.

5. "Nominating petition" means a petition filed under the provisions of section 42-3706, Idaho Code, to nominate a candidate for the office of director of a watershed improvement district.

6. "State" means the state of Idaho.

7. "Landowner" includes any person, firm or corporation who shall hold title to any lands lying within a district organized under the provisions of this act. A contract purchaser who is occupying the land shall be construed as a landowner.

8. "Qualified elector" means any natural person residing within the boundaries of the state of Idaho, owning land within the boundaries of the district, and qualified under the laws of this state to vote in an election by the people.

SECTION 29. That Section 42-3705, Idaho Code, be, and the same is hereby amended to read as follows:

42-3705. CREATION OF WATERSHED IMPROVEMENT DISTRICTS. Any fifteen (15) owners of land lying within the limits of the territory proposed to be organized into a watershed improvement district may file a petition with the state soil and water conservation commission asking that a watershed improvement district be organized to function in the territory described in the petition. In the event that there are less than fifteen (15) persons owning land lying within the limits of the territory proposed to be organized into a district, then and in that case such petition will be deemed sufficient if it contains the signatures of two-thirds (2/3) of the owners of land and representing two-thirds (2/3) of the acreage of land lying within the limits of the said territory. Such petition shall set forth:

1. A description of the territory proposed to be organized as a watershed improvement district, which description shall be deemed sufficient if generally accurate.

2. That there is need, in the interest of the public health, safety, and general welfare for a watershed improvement district to function in the territory described in the petition.

3. The proposed name of said district.

4. A request that the state soil and water conservation commission duly define the boundaries for such district; that an election be held within the territory so defined on the question of the creation of a watershed improvement district in such territory.

After such petition has been filed with the state soil and water conservation commission it shall be the duty of the commission to define by metes and bounds or by legal subdivisions the boundaries of such proposed district, and to hold an election, subject to the provisions of section 34-106, Idaho Code, within the proposed district upon the proposition of the creation of the district, and to cause notice of such election to be given. The question shall be submitted by ballots upon which the words "For creation of a watershed improvement district of the lands below described and lying in the county(ies) of, and" and "Against creation of a watershed improvement district of the lands below described and lying in the county(ies) of, and" shall appear with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the state soil and water conservation commission.

All qualified electors who own land within the proposed district shall be eligible to vote in the election.

The state soil and water conservation commission shall pay all expenses of, and supervise the conduct of, such election. The commission shall conduct the election as provided in chapter 14, title 34, Idaho Code. No informality in the conduct of such election or in any matter relating thereto shall invalidate said election or the result thereof if notice thereof shall have been given substantially as herein provided, and said election shall have been fairly conducted.

If the election shall result in a majority of votes being cast in favor of the creation of such proposed district the state soil and water conservation commission shall proceed with the organization of the district in the manner hereinafter provided, to wit:

1. The state soil and water conservation commission shall appoint one (1) director to act with the two (2) directors elected as hereinafter provided, which said directors shall be the governing body of the district.

2. The state soil and water conservation commission shall present to the secretary of state a certificate stating:

(a) That a petition for the creation of said district was filed with the state soil and water conservation commission.

(b) The name and residence of the directors appointed by said commission.

(c) The name which is proposed for said district.

(d) That an election on such petition was held, and that the majority of votes cast in said election favored the formation of the district.

The secretary of state shall receive, file and record said certificate of the state soil and water conservation commission, and when said certificate shall be filed and recorded the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said directors a certificate of the due organization of the said district.

SECTION 30. That Section 42-3706, Idaho Code, be, and the same is hereby amended to read as follows:

42-3706. ELECTION OF DISTRICT DIRECTORS. After the date of issuance of the secretary of state of a certificate of organization of a watershed improvement district nominating petitions may be filed with the state soil and water conservation commission to nominate candidates for directors of such district. The state soil and water conservation commission shall give notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, for the election of two (2) directors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed in the manner provided in section 34-1404, Idaho Code, shall appear arranged in the alphabetical order of the surnames upon ballots with a square before each name, and direction to insert an X mark in the square before any two (2) names to designate the voter's preference. All qualified electors who own land or reside within the proposed district shall be eligible to vote in said election. The two (2) candidates who shall receive the largest number respectively of the votes cast in such election shall be elected for such district. The state soil and water conservation commission shall pay all the expenses of such election, supervise the conduct thereof, and publish the results thereof in accordance with the provisions of chapter 14, title 34, Idaho Code. All elections in existing districts following the first election shall be conducted by the district directors of the district involved who shall give notice of such elections and who shall bear the cost thereof.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated for director positions is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board of directors shall declare such candidates elected as directors, and the secretary of the district shall immediately make and deliver to such persons certificates of election.

SECTION 31. That Section 42-3707, Idaho Code, be, and the same is hereby amended to read as follows:

42-3707. APPOINTMENT, QUALIFICATIONS AND TENURE OF DIRECTORS. The governing body of the district shall consist of three (3) directors elected or appointed as provided hereinabove. The director appointed by the commission shall be an owner of land within the district and shall be a person who by training and experience is qualified to perform the specialized service which will be required in the performance of his duties hereunder. The term of office of each director shall be four (4) years, except that the director first appointed by the state soil and water conservation commission shall be designated to serve for a term of two (2) years from the date of his appointment. A director shall hold office until his successor has been elected or appointed, and has qualified. Vacancies shall be filled for an unexpired term by a majority of the directors duly qualified and acting at the time the vacancy shall arise. A majority of the directors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A director shall receive no compensation for his service, but shall be entitled to expenses, including traveling expenses necessarily incurred in the discharge of his duties.

The directors may employ a secretary, technical experts, and such other employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The directors may employ their own counsel and legal staff. The directors may delegate to their chairman, to one (1) or more directors, or to agents or employees such powers and duties as they may deem proper and necessary. The directors shall furnish to the state soil and water conservation commission, upon request,

copies of such documents or other information concerning ~~their~~ the directors' activities as said commission may require in the performance of its duties under this ~~act~~ chapter. The directors shall provide for the keeping of a record of all proceedings, resolutions, regulations and orders issued or adopted; shall provide for an annual audit of its accounts, and shall provide for the execution of surety bonds by any employee or officer who shall be entrusted with funds or property of the district.

SECTION 32. That Section 42-3717, Idaho Code, be, and the same is hereby amended to read as follows:

42-3717. DISCONTINUANCE OF DISTRICTS. At any time after three (3) years after the organization of a district under the provisions of this chapter any twenty-five (25) qualified electors or owners of land lying within the boundaries of such district or, if less than twenty-five (25) owners of land or qualified electors reside within the boundaries of such district it would be deemed sufficient if two-thirds (2/3) of the resident group, may file a petition with the state soil and water conservation commission ~~praying~~ requesting that the operations of the district be terminated and the existence of the district discontinued. After such petition has been received by the state soil and water conservation commission it shall give notice of the holding of an election, subject to the provisions of section 34-106, Idaho Code, which the said commission shall supervise and govern the conduct in accordance with the provisions of chapter 14, title 34, Idaho Code. The question to be submitted by ballots upon which the words "For terminating the existence of the (name of the watershed improvement district to be here inserted)" and "Against terminating the existence of the (name of the watershed improvement district to be inserted here)" shall appear with a square before each proposition, and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All qualified electors who own land or reside within the proposed district shall be eligible to vote in said election. No informality in the conduct of such election or in any matters relating thereto shall invalidate said election or the result thereof if notice thereof shall have been given as herein provided, and said election shall have been fairly conducted.

The state soil and water conservation commission shall certify the result of such election to the directors of the district. If the state soil and water conservation commission shall certify that a majority of the votes cast in said election favor the discontinuance of the existence of the district, the directors of the district shall forthwith proceed to terminate the affairs of the district. Any moneys remaining in the treasury of said district following the winding up of the affairs of the district shall be paid by the directors into the state treasury. The directors shall file an application duly verified with the secretary of state for the discontinuance of such district which shall recite that the affairs of the district have been wound up, and shall set forth a full accounting of the winding up of the affairs of said district. The secretary of state shall issue to the directors a certificate of dissolution, and shall record said certificate in his office.

The state soil and water conservation commission shall not entertain petitions for the discontinuance of any district nor conduct elections upon such petitions more often than once in three (3) years.

SECTION 33. That Section 67-818, Idaho Code, be, and the same is hereby amended to read as follows:

67-818. COORDINATION OF POLICY AND PROGRAMS RELATED TO THREATENED SPECIES AND ENDANGERED SPECIES IN IDAHO. (1) There is hereby created in the office of the governor, the "Office of Species Conservation." The administrator of the office of species conservation shall be the official in the state designated to oversee implementation of federal recovery plans, as provided in 16 U.S.C. section 1533(f), and to fulfill the duties provided by this section. The administrator shall be appointed by, and serve at the pleasure of, the governor and shall be subject to confirmation by the state senate.

(2) The duties of the office of species conservation shall include:

(a) Coordination of all state departments and divisions with duties and responsibilities affecting endangered species, threatened species, candidate species, species petitioned to be listed, and rare and declining species as defined in section 36-2401, Idaho Code;

(b) Coordinating state implementation and response to federal recovery plans, biological opinions, guidance and projects among all state and local governments in the state of Idaho;

(c) Participation in regional efforts to cooperatively address endangered species, threatened species, candidate and petitioned species, and rare and declining species;

(d) Providing input and comment to federal and state agencies, and tribes on issues relating to endangered species, threatened species, candidate and petitioned species, and rare and declining species;

(e) Cooperating and consulting with the department of fish and game, the department of lands, the department of water resources, the department of agriculture, and the department of parks and recreation regarding agreements pursuant to 16 U.S.C. section 1533, 16 U.S.C. section 1535 and 16 U.S.C. section 1539;

(f) Negotiating agreements with federal agencies concerning endangered species, threatened species, candidate species, petitioned species, and rare and declining species including, but not limited to, agreements pursuant to 16 U.S.C. section 1533(d) and 16 U.S.C. section 1539(a), other than those agreements negotiated pursuant to 16 U.S.C. section 1535;

(g) Providing the people of the state of Idaho with an ombudsman who can listen to citizens being harmed or hindered by the regulations of the ESA and direct them to the appropriate state or federal agency and/or speak on their behalf, as deemed appropriate by the ombudsman, to address issues or concerns related to the ESA;

(h) Serve as a repository for agreements and plans among governmental entities in the state of Idaho for the conservation of rare and declining species, petitioned, candidate, threatened and endangered species.

(3) State policy and management plans developed pursuant to this section shall be developed in accordance with the following subsections:

(a) State policy on rare and declining, petitioned, candidate, threatened, and endangered species and state management plans shall be developed in consultation with the appropriate state agencies. The appropriate state agency for wildlife and plant management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining activities is the department of lands. The appropriate state agencies for agricultural activities are the department of agriculture and the Idaho state soil and water conservation commission. The appropriate state agency for public road construction is the transportation department. The appropriate state agency for water rights is the department of water resources. The appropriate state agency for water quality

is the department of environmental quality. The appropriate state agency for outfitting and guiding activities is the Idaho outfitters and guides licensing board;

(b) State management plans shall be the policy of the state of Idaho, but are subject to legislative approval, amendment or rejection by concurrent resolution. State management plans shall be subject to public notice and comment but shall not be subject to judicial review.

(4) The governor's office of species conservation shall prepare a report to the legislature recommending a plan to develop state conservation assessments and strategies for rare and declining species in the state of Idaho and submit that report and recommendation to the legislature. The report and recommendation are subject to legislative approval, amendment or rejection by concurrent resolution.

(5) No provision of this section shall be interpreted as to supersede, abrogate, injure or create rights to divert or store water and apply water to beneficial uses established under section 3, article XV of the constitution of the state of Idaho, and title 42, Idaho Code.

Approved April 8, 2010.

CHAPTER 280

(H.B. No. 614, As Amended in the Senate)

AN ACT

RELATING TO ADMINISTRATIVE RULES; AMENDING SECTION 67-5223, IDAHO CODE, TO PROVIDE FOR STATEMENTS OF ECONOMIC IMPACT TO BE FILED WITH RULES; AND AMENDING SECTION 67-5229, IDAHO CODE, TO REVISE PROCEDURES FOR INCORPORATION BY REFERENCE IN RULEMAKING AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 67-5223, Idaho Code, be, and the same is hereby amended to read as follows:

67-5223. INTERIM LEGISLATIVE REVIEW -- STATEMENT OF ECONOMIC IMPACT. (1) After notice of proposed rulemaking is filed with the coordinator, the coordinator, after making technical corrections as authorized in section 67-5202, Idaho Code, shall provide the notice, accompanied by the full text of the rule under consideration in legislative format, as well as a statement of the substance of the intended action, to the director of legislative services. If the proposed rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services. The director of legislative services shall analyze and refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code.

(2) An agency shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to a proposed rule if the germane joint subcommittee files a written request with the agency for such a statement. The statement shall contain an evaluation of the costs and benefits of the rule, including any health, safety, or welfare costs and benefits.

(3) An agency shall prepare for inclusion with the filing of the proposed rule change a statement of economic impact on all proposed rules in which a fee or charge is imposed or increased. The cost/benefit analysis shall include reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs borne by citizens, or the private sector or both. The adequacy of the contents of the statement of economic impact in

subsections (1) and (2) of this section is not subject to judicial review and the accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

SECTION 2. That Section 67-5229, Idaho Code, be, and the same is hereby amended to read as follows:

67-5229. INCORPORATION BY REFERENCE. (1) If the incorporation of its text in the agency rules would be unduly cumbersome, expensive, or otherwise inexpedient, an agency may incorporate by reference in its rules and without republication of the incorporated material in full, all or any part of:

- (a) A code, standard or rule adopted by an agency of the United States;
- (b) A code, standard or rule adopted by any nationally recognized organization or association;
- (c) A code or standard adopted by Idaho statute or authorized by Idaho statute for adoption by rule; or
- (d) A final rule of a state agency; provided however, that a state agency shall not adopt a temporary rule incorporating by reference a rule of that agency that is being or has been repealed unless the rule providing for the incorporation has been reviewed and approved by the legislature.

(2) The agency shall, as part of the rulemaking:

(a) Include in the notice of proposed rulemaking a brief written synopsis of why the incorporation is needed; and

~~(b) Note where copies of the incorporated material may be obtained or electronically accessed~~ an electronic copy can be obtained or provide an electronic link to the incorporated materials that at a minimum will be posted on the agency's website or included in the rule that is published in the administrative code on the website of the office of the administrative rules coordinator; and

~~(bc) If otherwise unavailable, provide one (1) copy of the incorporated material to the Idaho supreme court law library~~ note where copyrighted or other proprietary materials can be viewed or purchased.

(3) The incorporated material shall be identified with specificity and shall include the date when the code, standard or rule was published, approved or became effective. If the agency subsequently wishes to adopt amendments to previously incorporated material, it shall comply with the rulemaking procedures of this chapter.

(4) Unless prohibited by other provisions of law, the incorporated material is subject to legislative review in accordance with the provisions of section 67-5291, Idaho Code, and shall have the same force and effect as a rule.

Approved April 8, 2010.

CHAPTER 281
(H.B. No. 615)

AN ACT

RELATING TO OPPORTUNITY SCHOLARSHIPS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3067D, IDAHO CODE, TO ALLOW TAXPAYERS TO DESIGNATE INCOME TAX REFUNDS OR DONATIONS TO THE OPPORTUNITY SCHOLARSHIP PROGRAM ACCOUNT AND TO PROVIDE PROCEDURES BY THE STATE TAX COMMISSION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3067D, Idaho Code, and to read as follows:

63-3067D. DESIGNATION BY TAXPAYER -- OPPORTUNITY SCHOLARSHIP. (1) Every taxpayer who has a refund due and payable for overpayment of taxes under the provisions of this chapter may designate any portion of such refund to be remitted to the state board of education or the board of regents of the university of Idaho for the purpose of awarding opportunity scholarships pursuant to chapter 56, title 33, Idaho Code. Every taxpayer who has an income tax liability may, in addition to his tax obligation, include a donation of any amount to be remitted to the state board of education for the purpose of awarding opportunity scholarships pursuant to chapter 56, title 33, Idaho Code. Such moneys shall be deposited into the opportunity scholarship program account pursuant to section 33-5608, Idaho Code.

(2) A designation under subsection (1) of this section may be made in any taxable year in such manner and form as prescribed by the state tax commission. The manner and form so prescribed shall be a conspicuous portion of the principal form provided for the purpose of individual taxation.

(3) Prior to the distribution of funds into the opportunity scholarship program account as provided in subsection (1) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the account as follows: three thousand dollars (\$3,000) from the opportunity scholarship program account for start-up costs during the first year of collections, and three thousand dollars (\$3,000) or twenty percent (20%) of the moneys remitted to the opportunity scholarship program account pursuant to this section during the fiscal year, whichever is less, from the opportunity scholarship program account during each fiscal year thereafter, which amounts are hereby appropriated to the state tax commission.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2010.

Approved April 8, 2010.

CHAPTER 282
(H.B. No. 640, As Amended)

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-131, IDAHO CODE, TO PROVIDE DEFINITIONS AND TO PROVIDE FOR TRIBAL SCHOOLS AND TRIBAL EDUCATION AUTHORITY.

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

SECTION 1. That Chapter 1, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-131, Idaho Code, and to read as follows:

33-131. DEFINITIONS -- TRIBAL SCHOOL -- TRIBAL EDUCATION AUTHORITY. (1) "Tribal school" means an institution with an educational program that has as its primary purpose providing education in any grade or grades from kindergarten to twelfth grade and that is controlled by the elected governing body of a federally recognized American Indian tribe in Idaho or by a tribal education authority established under the laws of a federally recognized American Indian tribe in Idaho.

(2) "Tribal educational authority" means the authorized governmental agency of a federally recognized Indian tribe, as defined in 25 U.S.C. section 450b, that is primarily responsible for:

(a) Regulating, administering or supervising the formal education of tribal members;

(b) Facilitating tribal control in all matters relating to the education of Indian children;

(c) Providing for the development and coordinated education programs, including all preschool, elementary, secondary and higher or vocational programs, funded by the United States bureau of Indian affairs and encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other general agencies, state agencies or private entities; and

(d) Providing for the development and enforcement of tribal education codes relating to the education of Indian children, including tribal education policies and tribal standards applicable to curriculum, personnel, students, facilities and support programs.

Approved April 8, 2010.

CHAPTER 283
(H.B. No. 645, As Amended)

AN ACT

RELATING TO PROPERTY TAXATION; AMENDING SECTION 63-301A, IDAHO CODE, TO PROVIDE THAT CERTAIN ADDITIONAL INFORMATION SHALL BE SHOWN ON THE NEW CONSTRUCTION ROLL, TO PROVIDE THAT THE VALUE SHOWN ON THE NEW CONSTRUCTION ROLL SHALL INCLUDE CERTAIN TAXABLE MARKET VALUE INCREASES, TO PROVIDE NEW CONSTRUCTION PREVIOUSLY ALLOWABLE BUT NOT INCLUDED ON A NEW CONSTRUCTION ROLL SHALL BE INCLUDED ON THE ROLL AND TO PROVIDE FOR THE VALUE TO BE REFLECTED; AMENDING SECTION 63-802, IDAHO CODE, TO REVISE HOW THE THREE PERCENT INCREASE IN PROPERTY TAX BUDGETS IS CALCULATED; AMENDING SECTION 63-802, IDAHO CODE, AS AMENDED BY SECTION 142, CHAPTER

341, LAWS OF 2009, TO REVISE HOW THE THREE PERCENT INCREASE IN PROPERTY TAX BUDGETS IS CALCULATED; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 63-301A, Idaho Code, be, and the same is hereby amended to read as follows:

63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

- (a) The name of the taxpayer;
- (b) The description of the new construction, suitably detailed to meet the requirements of the individual county;
- (c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;
- (d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both;
- (e) The amount of taxable market value added as provided in subsection (3) (g) of this section as a result of dissolution of any revenue allocation area;
- (f) The amount of taxable market value to be deducted to reflect the adjustments required in paragraphs (f) (i), (f) (ii) and (f) (iii) of this subsection:

- (i) Any board of tax appeals or court ordered value change, if property has a taxable value lower than that shown on any previous new construction roll;
- (ii) Any reduction in value resulting from correction of value improperly included on any previous new construction roll as a result of double or otherwise erroneous assessment;
- (iii) Any reduction in value resulting from a change of land use classification.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission on or before the fourth Monday in July. Provided however, the value shown in subsection (3) (f) of this section shall be reported to the appropriate county auditor by the state tax commission by the third Monday in July and the value sent by the county auditor to each taxing district. The value established pursuant to subsection (3) (f) of this section is subject to correction by the state tax commission until the first Monday in September and any such corrections shall be sent to the appropriate county auditor, who shall notify any affected taxing districts.

(3) The value shown on the new construction roll ~~may~~ shall include the taxable market value increase from:

- (a) Construction of any new structure that previously did not exist; or
- (b) Additions or alterations to existing nonresidential structures; or
- (c) Installation of new or used manufactured housing that did not previously exist within the county; or
- (d) Change of land use classification; or
- (e) Property newly taxable as a result of loss of the exemption provided by section 63-602W, Idaho Code; or

(f) The construction of any improvement or installation of any equipment used for or in conjunction with the generation of electricity and the addition of any improvement or equipment intended to be so used, except property that has a value allocated or apportioned pursuant to section 63-405, Idaho Code, or that is owned by a cooperative or municipality, as those terms are defined in section 61-332A, Idaho Code, or that is owned by a public utility, as that term is defined in section 61-332A, Idaho Code, owning any other property that is allocated or apportioned. No replacement equipment or improvements may be included; or

(g) Increases in value over the base value of property on the base assessment roll within an urban renewal revenue allocation area that has been terminated pursuant to section 50-2909(4), Idaho Code, to the extent that this increment exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value. Notwithstanding other provisions of this section, the new construction roll shall not include new construction located within an urban renewal district's revenue allocation area, except as provided in this subsection (3) (g); or

(h) New construction previously allowable but never included on a new construction roll, provided however, that, for such property, the value on the new construction roll shall reflect the taxable value that would have been included on the new construction roll for the first year in which the property should have been included.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation, except as provided in subsection (3) (g) of this section.

SECTION 2. That Section 63-802, Idaho Code, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (3) of this section ~~for tax year 1995, and each year thereafter~~, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (i) of this subsection inclusive:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue ~~that would have been generated by applying~~ calculated as described in this subsection. Multiply the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(10), Idaho Code, to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; or

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; ~~or~~

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1) (h) of this section; ~~or~~

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; ~~or~~

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; ~~or~~

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section; ~~or~~

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section; ~~or~~

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district; ~~or~~

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 3. That Section 63-802, Idaho Code, as amended by Section 142, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS. (1) Except as provided in subsection (3) of this section ~~for tax year 1995, and each year thereafter~~, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (i) of this subsection inclusive:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue ~~that would have been generated by applying~~ calculated as described in this subsection. Multiply the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section 63-3638(11), Idaho Code, ~~to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced~~ by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; ~~or~~

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; ~~or~~

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1) (h) of this section; ~~or~~

(d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; ~~or~~

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; ~~or~~

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section; ~~or~~

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section; ~~or~~

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district; ~~or~~

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2010. Section 3 of this act shall be in full force and effect on and after January 1, 2011.

Approved April 8, 2010.

CHAPTER 284
(H.B. No. 653)

AN ACT

RELATING TO THE CHILD PROTECTIVE ACT; AMENDING SECTION 16-1633, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DUTIES OF A GUARDIAN AD LITEM AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 16-1633, Idaho Code, be, and the same is hereby amended to read as follows:

16-1633. GUARDIAN AD LITEM -- DUTIES. Subject to the direction of the court, the guardian ad litem shall advocate for the best interests of the child and shall have the following duties which shall continue until resignation of the guardian ad litem or until the court removes the guardian ad litem or no longer has jurisdiction, whichever first occurs:

(1) To conduct an independent factual investigation of the circumstances of the child including, without limitation, the circumstances described in the petition.

(2) To file with the court prior to any adjudicatory, review or permanency hearing a written report stating the results of the investigation, the guardian ad litem's recommendations and such other information as the court may require. In all post-adjudicatory reports, the guardian ad litem shall inquire of any child capable of expressing his or her wishes regarding permanency and, when applicable, the transition from foster care to independent living and shall include the child's express wishes in the report to the court. The guardian ad litem's written report shall be delivered to the court, with copies to all parties to the case at least five (5) days before the date set for the ~~adjudicatory~~ hearing. The report submitted prior to the adjudicatory hearing shall not be admitted into evidence at the ~~adjudicatory~~ hearing, and shall be used by the court only for disposition if the child is found to be within the purview of the act.

(3) To act as an advocate for the child for whom appointed at each stage of proceedings under this chapter ~~and is charged with the general representation of the child.~~ To that end, the guardian ad litem shall participate fully in the proceedings and to the degree necessary to adequately ~~represent the child~~ advocate for the child's best interests, and shall be entitled to confer with the child, ~~and the child's siblings, and the child's parents and any other individual or entity having information relevant to the child protection case.~~

(4) ~~To facilitate and negotiate to ensure that the court, the department, if applicable, and the child's attorney, if any, fulfill their obligations to the child in a timely fashion.~~

~~(5) To monitor the circumstances of a child, if the child is found to be within the purview of the act, to assure compliance with law and to assure that the terms of the court's orders are being fulfilled and remain in the best interest of the child.~~

~~(6) To meet with any parent having joint legal or physical custody of the child, record the concerns of the parent, and report them to the court or file an affidavit stating why no meeting occurred.~~

(75) To maintain all information regarding the case confidential and to not disclose the same except to the court or to other parties to the case.

(86) Such other and further duties as may be expressly imposed by the court order.

CHAPTER 285

(H.B. No. 598, As Amended in the Senate)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-202, IDAHO CODE, TO PROVIDE AN EXCEPTION TO SPECIFIED BOND REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 43-202, Idaho Code, be, and the same is hereby amended to read as follows:

43-202. OATH AND BOND. Within ten (10) days after receiving the certificate of election hereinafter provided for, said officers shall take and subscribe the official oath and file the same in the office of the board of directors, and execute the bond hereinafter provided for. Each member of said board of directors shall execute an official bond in the sum of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), the amount to be determined and approved by the judge of the probate court of said county where such organization was effected and shall be recorded in the office of the county recorder thereof and filed with the secretary of said board. All official bonds provided for in this title shall be in the form prescribed by law for the official bond of county officers. If the district obtains a surety bond, blanket surety bond or crime insurance coverage pursuant to the applicable provisions of chapter 8, title 59, Idaho Code, the directors shall not be required to post a bond under the provisions of this section.

Approved April 8, 2010.

CHAPTER 286

(H.B. No. 688)

AN ACT

RELATING TO THE DIVISION OF PURCHASING; AMENDING SECTION 67-5716, IDAHO CODE, TO DEFINE A TERM AND TO PROVIDE AN EXCLUSION FROM A DEFINITION; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5728, IDAHO CODE, TO PROVIDE REQUIREMENTS RELATING TO PROCURING AND PURCHASING PROPERTY BY CERTAIN STATE INSTITUTIONS OF HIGHER EDUCATION; AND PROVIDING A SUNSET DATE.

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

SECTION 1. That Section 67-5716, Idaho Code, be, and the same is hereby amended to read as follows:

67-5716. DEFINITIONS OF TERMS. (1) Acquisition. The process of procuring or purchasing property by the state of Idaho.

(2) Procurement. Obtaining property for state use by lease, rent, or any manner other than by purchase or gift.

(3) Property. Goods, services, parts, supplies and equipment, both tangible and intangible, including, but nonexclusively, designs, plans, programs, systems, techniques and any rights and interests in such property.

(4) Goods. Items of personal property, not qualifying as equipment, parts or supplies.

(5) Services. Personal services, in excess of personnel regularly employed for whatever duration and/or covered by personnel system standards, for which bidding is not prohibited or made impractical by statute, rules or generally accepted ethical practices.

(6) Parts. Items of personal property acquired for repair or replacement of unserviceable existing items.

(7) Supplies. Items of personal property having an expendable quality or during their normal use are consumed and which require or suggest acquisition in bulk.

(8) Equipment. Items of personal property which have a normal useful life expectancy of two (2) or more years.

(9) Component. An item of property normally assembled with other items into a unified productive whole at the site of use, which items belong to functional classes that may be interchangeable units of similar function but differing operational or productive capabilities.

(10) Vendor. A person or entity capable of supplying property to the state.

(11) Bidder. A vendor who has submitted a bid on a specific item or items of property to be acquired by the state.

(12) Lowest responsible bidder. The responsible bidder whose bid reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price.

(13) Contractor. A bidder who has been awarded an acquisition contract.

(14) Agency. All officers, departments, divisions, bureaus, boards, commissions and institutions of the state, including the public utilities commission, but excluding other legislative and judicial branches of government, and excluding the governor, the lieutenant governor, the secretary of state, the state controller, the state treasurer, the attorney general, and the superintendent of public instruction, and, as provided in section 67-5728, Idaho Code, excluding Lewis-Clark State College, Idaho State University, Boise State University and Eastern Idaho Technical College.

(15) Bid. A written offer to perform a contract to purchase or supply property or services in response to an invitation for bid or request for proposal.

(16) Recyclable. Materials that still have useful physical, chemical or biological properties after serving their original purposes and can, therefore, be reasonably reused or recycled for the same or other purposes.

(17) Recycled-content product. A product containing postconsumer waste and/or secondary waste as defined in this section.

(18) Postconsumer waste. A finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item.

(19) Secondary waste. Fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value and may include a postconsumer waste.

(20) Open contract. A contract awarded by the state of Idaho through the division of purchasing to one (1) or more vendors who have agreed to allow all agencies to procure or purchase specified property under the terms and conditions set forth in the contract.

SECTION 2. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5728, Idaho Code, and to read as follows:

67-5728. PROCURING AND PURCHASING BY STATE INSTITUTION OF HIGHER EDUCATION. (1) For the purposes of this section, "state institution of higher education" means Lewis-Clark State College, Idaho State University, Boise State University and Eastern Idaho Technical College.

(2) Any state institution of higher education may establish policies and procedures for procuring and purchasing property that shall be substantially consistent with the requirements for procuring and purchasing property as set forth in this chapter and that shall be approved by the state board of education. When the state board of education has approved such policies and procedures for a state institution of higher education, such institution shall not be subject to the provisions of this chapter, except as provided in subsection (3) of this section.

(3) When the state enters into an open contract, no state institution of higher education that has established policies and procedures pursuant to subsection (2) of this section shall fail to utilize such contract without justifiable cause for such action, pursuant to the provisions of subsection (4) of section 67-5726, Idaho Code.

SECTION 3. The provisions of this act shall be null, void and of no force and effect on and after July 1, 2013.

Law without signature.

CHAPTER 287
(S.B. No. 1400)

AN ACT

RELATING TO APPOINTEES TO DISTRICT BOARDS OF HEALTH; AMENDING SECTION 39-411, IDAHO CODE, TO PROVIDE THAT IF A BOARD MEMBER OF A PUBLIC HEALTH DISTRICT IS AN APPOINTEE FOR A BOARD OF COUNTY COMMISSIONERS, AND IF THAT BOARD MEMBER IS AN ELECTED COUNTY COMMISSIONER AND LEAVES OFFICE PRIOR TO THE EXPIRATION OF THE TERM ON THE DISTRICT BOARD OF HEALTH, THE BOARD OF COUNTY COMMISSIONERS MAY DECLARE THE POSITION VACANT AND MAY APPOINT ANOTHER CURRENTLY ELECTED COUNTY COMMISSIONER TO FILL THE UNEXPIRED PORTION OF THE TERM OF THAT BOARD MEMBER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-411, Idaho Code, be, and the same is hereby amended to read as follows:

39-411. COMPOSITION OF DISTRICT BOARD -- QUALIFICATIONS OF MEMBERS -- APPOINTMENT AND REMOVAL -- TERMS -- TRUSTEE SELECTED FOR BOARD OF TRUSTEES OF DISTRICT BOARDS OF HEALTH. For those districts comprised of less than eight (8) counties, the district board of health shall consist of seven (7) members to be appointed by the boards of county commissioners within each district acting jointly, and each board of county commissioners may appoint a board member. For those districts comprised of eight (8) counties, the district board of health shall consist of not less than eight (8) members nor more than nine (9) members and each board of county commissioners may appoint a board member. Each member of the district board of health shall be a citizen of the United States, a resident of the state of Idaho and the public health dis-

trict for one (1) year immediately last past, and a qualified elector. One (1) member of the district board, if available to serve, shall be a physician licensed by the Idaho state board of medicine and no more than one (1) member shall be appointed from any professional or special interest group. All members shall be chosen with due regard to their knowledge and interest in public health and in promoting the health of the citizens of the state and the public health district. Representation shall be assured from rural as well as urban population groups. All appointments to the district board shall be confirmed by a majority vote of all the county commissioners of all the counties located within the public health district. Any member of the district board may be removed by majority vote of all the county commissioners of all the counties located within the district. The members of the district board, each year, shall select a chairman, a vice-chairman and a trustee. The trustee shall represent the district board as a member of the board of trustees of the Idaho district boards of health. The board of trustees of the Idaho district boards of health shall have authority to allocate appropriations from the legislature to the health districts. The board of trustees shall develop and administer a formula for the allocation of legislative appropriations.

The members of the district board of health shall be appointed for the purpose of organization as follows: One (1) member to be appointed for a term of one (1) year, one (1) for two (2) years, one (1) for three (3) years, two (2) for four (4) years and two (2) for five (5) years. Each succeeding vacancy shall be filled by the boards of county commissioners within the district acting jointly and with confirmation as herein described for a term of five (5) years, subject to reappointment; and vacancies on the board for an unexpired term shall be filled for the balance of the unexpired term. Notwithstanding any provision of this section as to term of appointment, if a board member is an appointee for a board of county commissioners, and if that board member is an elected county commissioner and leaves office prior to the expiration of the term on the district board of health, the board of county commissioners may declare the position vacant and may appoint another currently elected county commissioner to fill the unexpired portion of the term of that board member.

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

Approved April 11, 2010.

CHAPTER 288
(S.B. No. 1417)

AN ACT

REDUCING THE APPROPRIATION TO THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 315, Laws of 2009, to the Idaho Educational Public Broadcasting System is hereby reduced by the following amount for the designated program, according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$124,500
Operating Expenditures	<u>16,500</u>
TOTAL	\$141,000

FROM:

General Fund	\$141,000
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SECTION 2. There is hereby appropriated to the Idaho Educational Public Broadcasting System the following amount to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Fund	\$714,800	\$675,700	\$1,390,500
Miscellaneous Revenue Fund	916,200	10,000	926,200
Federal Grant Fund	<u>97,200</u>	<u> </u>	<u>97,200</u>
TOTAL	\$1,728,200	\$685,700	\$2,413,900

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Idaho Educational Public Broadcasting System is authorized no more than thirty-three (33) full-time equivalent positions to be funded by the appropriation in Section 2 of this act, at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 289
(S.B. No. 1428)

AN ACT

REDUCING THE APPROPRIATION TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT ON SHARING OFFICE SPACE; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 328, Laws of 2009, to the Division of Vocational Rehabilitation is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY SUPPORTED EMPLOYMENT:			
FROM:			
General Fund		\$401,100	\$401,100
II. RENAL DISEASE SERVICES:			
FROM:			
General Fund	\$54,600	46,700	101,300
III. VOCATIONAL REHABILITATION:			
FROM:			
General Fund		109,000	109,000
Federal Grant Fund		<u>293,000</u>	<u>293,000</u>
TOTAL		\$402,000	\$402,000
GRAND TOTAL	\$54,600	\$849,800	\$904,400

SECTION 2. There is hereby appropriated to the Division of Vocational Rehabilitation the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY SUPPORTED EMPLOYMENT:				
FROM:				
General Fund	\$64,100	\$23,700	\$3,402,300	\$3,490,100

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. RENAL DISEASE SERVICES:				
FROM:				
General Fund	67,300		460,400	527,700
III. VOCATIONAL REHABILITATION:				
FROM:				
General Fund	1,471,800	256,400	1,322,600	3,050,800
Rehabilitation Revenue and Refunds Fund			651,900	651,900
Miscellaneous Revenue Fund			944,200	944,200
Federal Grant Fund	<u>6,521,100</u>	<u>1,162,400</u>	<u>6,686,500</u>	<u>14,370,000</u>
TOTAL	\$7,992,900	\$1,418,800	\$9,605,200	\$19,016,900
IV. COUNCIL FOR THE DEAF AND HARD OF HEARING:				
FROM:				
General Fund	120,400	9,900		130,300
Miscellaneous Revenue Fund	<u> </u>	<u>7,500</u>		<u>7,500</u>
TOTAL	\$120,400	\$17,500		\$137,800
GRAND TOTAL	\$8,244,700	\$1,459,900	\$13,467,900	\$23,172,500

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Division of Vocational Rehabilitation is authorized no more than one hundred fifty-one (151) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that the Idaho Industrial Commission explore the possibility of sharing office space with the Division of Vocational Rehabilitation during fiscal year 2011. The Idaho Industrial Commission will report findings to the Joint Finance-Appropriations Committee during their 2011 budget hearing.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 290
(S.B. No. 1429)

AN ACT

REDUCING THE APPROPRIATION TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE IDAHO COMMISSION FOR LIBRARIES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT ON RESTORING ONE-TIME SAVINGS; PROVIDING LEGISLATIVE INTENT TO ALLOW FLEXIBILITY IN DEALING WITH REDUCED APPROPRIATIONS FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 318, Laws of 2009, to the Idaho Commission for Libraries is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$89,400
Operating Expenditures	<u>202,300</u>
TOTAL	\$291,700

FROM:

General Fund	\$291,700
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SECTION 2. There is hereby appropriated to the Idaho Commission for Libraries the following amount to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	\$1,726,100	\$1,070,300			\$2,796,400
Miscellaneous Revenue					
Fund		24,300	\$25,000	\$26,000	75,300
Federal Grant Fund	<u>477,500</u>	<u>693,400</u>	<u>25,000</u>	<u>284,400</u>	<u>1,480,300</u>
TOTAL	\$2,203,600	\$1,788,000	\$50,000	\$310,400	\$4,352,000

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Idaho Commission for Libraries is authorized no more than forty-one and five-tenths (41.5) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. LEGISLATIVE INTENT. It is hereby recognized that one-time savings have been generated as a result of Lill-D contract adjustments in fiscal year 2011 and have been returned to the General Fund. It is legisla-

tive intent that this funding be restored to the Commission for Libraries for fiscal year 2012, if possible.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature to provide maximum flexibility in dealing with reduced appropriations for fiscal year 2011. The Idaho Commission for Libraries is hereby exempted from the provisions of Section 67-3511, Idaho Code, for all moneys appropriated for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 291
(S.B. No. 1430)

AN ACT

REDUCING THE APPROPRIATION TO THE IDAHO COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE IDAHO COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 352, Laws of 2009, to the Idaho Commission on Hispanic Affairs is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:		
Personnel Costs		\$4,300
Operating Expenditures		<u>5,500</u>
TOTAL		\$9,800
FROM:		
General Fund		\$9,800

SECTION 2. There is hereby appropriated to the Idaho Commission on Hispanic Affairs the following amounts to be expended from the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	\$90,300	\$4,500		\$94,800
Miscellaneous Revenue Fund	48,300	39,100		87,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant Fund	<u>46,300</u>	<u>43,700</u>	<u>\$19,200</u>	<u>109,200</u>
TOTAL	\$184,900	\$87,300	\$19,200	\$291,400

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Idaho Commission on Hispanic Affairs is authorized no more than three (3) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 292
(S.B. No. 1431)

AN ACT

REDUCING THE APPROPRIATION TO THE PUBLIC HEALTH TRUST FUND FOR FISCAL YEAR 2010 AND REDUCING THE TRANSFER FROM THE GENERAL FUND; APPROPRIATING MONEYS AND DIRECTING A TRANSFER OF FUNDS TO THE PUBLIC HEALTH TRUST FUND FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation and transfer made from the General Fund in Section 1, Chapter 310, Laws of 2009, to the Public Health Trust Fund is hereby reduced by \$703,500 for the period July 1, 2009, through June 30, 2010.

SECTION 2. There is hereby appropriated and the State Controller shall transfer \$8,319,500 from the General Fund to the Public Health Trust Fund for the period July 1, 2010, through June 30, 2011.

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

Approved April 11, 2010.

CHAPTER 293
(H.B. No. 600)

AN ACT

RELATING TO HIGHWAYS, BRIDGES AND CONTRACTS; AMENDING SECTION 40-102, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-103, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 40-104, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 40-105, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 40-107, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 40-108, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 40-113, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 40-116, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 40-117, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING CHAPTER 1, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-119, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING SECTION 40-120, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 40-121, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 40-902, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BIDS AND ADVERTISEMENTS FOR SEALED BIDS AND TO PROVIDE FOR EXCEPTIONS; AMENDING CHAPTER 9, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-904, IDAHO CODE, TO PROVIDE FOR A PREFERRED CONTRACTING METHOD, TO PROVIDE FOR THE SELECTION OF DESIGN-BUILD FIRMS AND FOR THE AWARD OF DESIGN-BUILD CONTRACTS, TO PROVIDE CRITERIA, TO PROVIDE CONSTRUCTION BUDGET LIMITS ON CERTAIN CONTRACTS, TO PROVIDE MINIMUMS TO BE PERFORMED BY THE DESIGN-BUILD FIRM, TO PROVIDE FOR RESPONSIBLE CHARGE, TO PROVIDE FOR AN EVALUATION COMMITTEE, TO PROVIDE FOR COMPLIANCE OF LAWS, TO PROVIDE FOR THE EMPLOYMENT OF A PROFESSIONAL ENGINEER, TO PROVIDE THAT CERTAIN LICENSES MUST BE OBTAINED AT CERTAIN TIMES, TO PROVIDE THAT THE DEPARTMENT MAY DISCONTINUE A SELECTION PROCESS, TO PROVIDE FOR DEBRIEFING, TO PROVIDE THAT THE DEPARTMENT MAY ESTABLISH AND DETERMINE CERTAIN METHODS TO SELECT FIRMS AND AWARD CONTRACTS, TO PROVIDE FOR A TWO-STEP SELECTION PROCESS, TO PROVIDE FOR DESIGN-BUILD SELECTION AND CONTRACT METHODS THAT MAY BE USED, TO PROVIDE THAT THE DEPARTMENT SHALL ADVERTISE, TO PROVIDE THAT THE REQUEST FOR QUALIFICATIONS AND THE REQUEST FOR PROPOSAL ADDRESS CONFLICTS OF INTEREST, TO PROVIDE THAT EACH REQUEST FOR QUALIFICATIONS INCLUDE CERTAIN INFORMATION, TO PROVIDE CRITERIA FOR EVALUATION, TO PROVIDE THAT THE REQUEST FOR QUALIFICATION SHALL NOT INCLUDE CERTAIN FACTORS, TO PROVIDE FOR A SUMMARY OF SCORES, TO PROVIDE FOR A CHALLENGE, TO PROVIDE THAT THE DEPARTMENT SHALL PREPARE A REQUEST FOR PROPOSALS, TO PROVIDE THAT THE REQUEST FOR PROPOSAL INCLUDE CERTAIN INFORMATION, TO PROVIDE THAT THE REQUEST FOR PROPOSAL SELECTION AND AWARD CRITERIA INCLUDE CERTAIN INFORMATION, TO PROVIDE THAT THE DEPARTMENT MAKE CERTAIN MATERIALS AVAILABLE, TO PROVIDE THAT THE REQUEST FOR PROPOSAL ADDRESS AND IDENTIFY CERTAIN CONTRACT PROVISIONS, TO PROVIDE FOR ALTERNATE TECHNICAL CONCEPTS, TO PROVIDE FOR ONE-ON-ONE MEETINGS, TO PROVIDE FOR DISCLOSURE OF CERTAIN INFORMATION, TO PROVIDE THAT THE DEPARTMENT SHALL NOT DISCLOSE CERTAIN INFORMATION, TO PROVIDE FOR SUBMITTAL, TO PROVIDE FOR SCORING OR OTHERWISE EVALUATING CERTAIN PROPOSALS, TO PROVIDE FOR DISCUSSIONS, TO PROVIDE THAT CERTAIN PROPOSALS BE KEPT SECURE, TO PROVIDE THAT SCORES AND BEST VALUES SHALL BE READ PUBLICLY, TO PROVIDE FOR ADJUSTMENT OF PRICE, TO PROVIDE FOR THE BASIS FOR DESIGN-BUILD FIRM SELECTION AND CONTRACT AWARD, TO PROVIDE FOR EXCLUDING REQUESTS FOR PROPOSALS, TO PROVIDE PROVISIONS RELATING TO A STIPEND, TO PROVIDE FOR THE DEPARTMENT TO ACT ON PROPOSALS, TO PROVIDE THAT THE DEPARTMENT IS NOT REQUIRED TO AWARD A CONTRACT, TO PROVIDE FOR A SUMMARY OF SCORES AND TO PROVIDE FOR A CHALLENGE TO THE DEPARTMENT'S DETERMINATION; AMENDING

CHAPTER 9, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-905, IDAHO CODE, TO PROVIDE FOR A PREFERRED CONTRACTING METHOD, TO PROVIDE THAT THE DEPARTMENT MAY SELECT CONSTRUCTION MANAGER/GENERAL CONTRACTOR FIRMS AND AWARD CERTAIN CONTRACTS, TO PROVIDE CRITERIA FOR DETERMINING WHEN TO USE CM/GC CONTRACT PROCEDURES, TO PROVIDE CONSTRUCTION BUDGET LIMITS ON CERTAIN CONTRACTS, TO PROVIDE MINIMUMS TO BE PERFORMED BY THE CM/GC FIRM, TO PROVIDE FOR A PROFESSIONAL ENGINEER AND TO PROVIDE FOR RESPONSIBLE CHARGE, TO PROVIDE FOR APPLICATION OF LAWS, TO PROVIDE FOR AN EVALUATION COMMITTEE, TO PROVIDE FOR A DEBRIEFING, TO PROVIDE FOR THE AWARD OF CERTAIN CONTRACTS AND THE PUBLIC SOLICITATION OF REQUEST FOR PROPOSALS, TO PROVIDE THAT THE DEPARTMENT SHALL ADVERTISE REQUESTS FOR PROPOSALS, TO PROVIDE THAT THE REQUEST FOR PROPOSAL SHALL ADDRESS CERTAIN CONFLICTS OF INTEREST, TO PROVIDE THAT THE REQUEST FOR PROPOSAL SHALL INCLUDE CERTAIN INFORMATION, TO PROVIDE FOR EVALUATION FACTORS, TO PROVIDE FOR THE BASIS OF SELECTION, TO PROVIDE THAT THE CONTRACT SHALL BE AWARDED IN TWO PHASES, TO PROVIDE FOR PERFORMANCE AND PAYMENT BONDS, TO PROVIDE THAT THE DEPARTMENT IS NOT REQUIRED TO AWARD A CONTRACT, TO PROVIDE FOR NOTICE, TO PROVIDE FOR A SUMMARY OF SCORES, TO PROVIDE FOR A CHALLENGE TO THE DEPARTMENT'S DETERMINATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 40-102, Idaho Code, be, and the same is hereby amended to read as follows:

40-102. DEFINITIONS -- A.

(1) "Activities, commercial or industrial." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(2) "Advertising business, outdoor." (See "Outdoor advertising business," section 40-116, Idaho Code)

(3) "Advertising display" means advertising structures and signs.

(4) "Advertising structure(s)" or "structure(s)" or "sign(s)" means any thing designed, intended or used to advertise or inform. "Advertising structure" or "sign" does not include:

(a) Official notices issued by any court or public body or officer.

(b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice.

(c) Directional, warning or information structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures.

(d) An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of the city or county, provided the same is maintained wholly at public expense. Where a city has been bypassed, but remains within five (5) miles of an interstate highway or primary freeway, the Idaho transportation board, in its discretion, may grant the city the right to erect and maintain a billboard displaying the name of the city at a location not to exceed one (1) mile from an interchange primarily serving that city. Billboards erected must be at locations consistent with department regulations and safety standards.

(5) "Agency," as applied to highway relocation assistance as provided by chapter 20, title 40, Idaho Code, means any subdivision or entity of state or local government in the state of Idaho authorized by law to engage in any highway program or perform any highway project in which the acquisition of real property may result in the displacement of any person.

(6) "Alternate technical concept (ATC)" means an alternative to the base technical concept that promotes innovation and is equal or better in quality or effect, as determined by the department in its sole discretion.

(7) "Areas, commercial or industrial, unzoned." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(78) "Areas, urban." (See "Urban areas," section 40-122, Idaho Code)

(89) "Automobile graveyard" means any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(910) "Average annual net earnings," for the purposes of section 40-2004, Idaho Code, means one-half (1/2) of any net earnings of the business or farm operations, before federal, state and local income taxes, during the two (2) taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for the project, or during any other period as the agency determines to be more equitable for establishing the earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during the two (2) year period, or any other period as determined by the agency.

SECTION 2. That Section 40-103, Idaho Code, be, and the same is hereby amended to read as follows:

40-103. DEFINITIONS -- B.

(1) "Base technical concept" means the project specific concepts and technical information provided in the request for proposals upon which design-build firms will develop their technical and price proposals.

(2) "Best value selection" means any selection process in which proposals contain both price and qualitative components and award is based upon a combination of price and qualitative considerations.

(3) "Board" means the Idaho transportation board.

(24) "Business" means any lawful activity, excepting a farm operation, conducted primarily for the purchase, resale, lease and rental of personal and real property, and for the manufacture, processing or marketing of products, commodities, or other personal property; for the sale of services to the public; or solely for the purpose of section 40-2004(1), Idaho Code, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not displays are located on the premises on which any of the activities are conducted.

(5) "Business entity" means a corporation, professional corporation, limited liability company, professional limited liability company, general partnership, limited partnership, limited liability partnership, professional limited liability partnership or any other form of business except a sole proprietorship.

SECTION 3. That Section 40-104, Idaho Code, be, and the same is hereby amended to read as follows:

40-104. DEFINITIONS -- C.

(1) "City system" means all public highways within the corporate limits of a city, with a functioning street department, except those highways which are under federal control, a part of the state highway system, part of a highway district system or an extension of a rural major collector route as specified in section 40-607, Idaho Code.

(2) "Commercial activities." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(3) "Commercial areas, unzoned." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(4) "Commissioners" means the board of county commissioners of a county of this state.

(5) "Construction manager/general contractor firm" means a business entity with which the department has contracted to provide services prior to the final design phase and provide for the construction of the project during the construction phase.

(6) "Construction manager/general contractor project" means a project where the department retains a consultant or has on staff an Idaho licensed professional engineer to develop the design and also hires a construction manager/general contractor firm to provide services prior to the final design. If a guaranteed maximum price is negotiated successfully, the construction manager/general contractor firm also provides for construction of the project.

(7) "Consultant" means an individual or business entity possessing the qualifications to provide licensed architectural, licensed engineering, or licensed land surveying services or possessing specialized credentials and qualifications.

(8) "Controlled-access facility" means a highway especially designed for through traffic to which owners or occupants of abutting land have no right or easement or only a controlled right or easement of access by reason of the fact that their property abuts upon the controlled-access facility. These highways may be freeways open to use by all customary forms of highway traffic, or they may be parkways from which trucks, buses and other commercial vehicles shall be excluded.

(69) "County highway system" or "county secondary highways" mean all public highways in a county except those included within the state highway system, those under another state agency, those included within city highway systems of incorporated cities, those included within a highway district highway system, and those under federal control.

SECTION 4. That Section 40-105, Idaho Code, be, and the same is hereby amended to read as follows:

40-105. DEFINITIONS -- D.

(1) "Department" means the Idaho transportation department.

(2) "Design-build contract" means a single contract between the department and a design-build firm to furnish the architectural or engineering and related design services, labor, material, supplies, equipment, and construction services for the highway project.

(3) "Design-build firm" means a sole proprietorship, partnership, limited liability partnership, joint venture, corporation, any type of limited liability company, professional corporation or legal entity qualified to design and build highway projects.

(4) "Design-build project" means a project for which both the design and construction of the project are procured by the department in a single contract with a design-build firm capable of providing the necessary design services and construction.

(5) "Designer" means a duly licensed individual or business entity who performs the engineering design and related design work for a design-build firm.

(6) "Designer qualifications" means the criteria used to evaluate the design-build firm's designer(s).

(7) "Director" means the director of the Idaho transportation department.

(38) "Displaced person" means any individual, family, business or farm operation which moves from real property or moves personal property from real property acquired for a program or project of a state or local agency, in whole or in part, or as the result of a written order of an acquiring agency to vacate real property for a program or project of a state or local agency, and, solely for the purposes of section 40-2004, Idaho Code, as a result of a written order of an acquiring agency to vacate other real property, on which a person conducts a business or farm operation, for a program or project of any state or local agency.

(49) "Draw" means making a cash demand on the proceeds of transportation bonds or notes issued by the Idaho housing and finance association as it pertains to section 40-718, Idaho Code.

(510) "Dump" means any place or area, not operated as a business, where junk is deposited, stored or kept.

SECTION 5. That Section 40-107, Idaho Code, be, and the same is hereby amended to read as follows:

40-107. DEFINITIONS -- F.

(1) "Facilities" mean tracks, pipes, mains, conduits, cables, wires, towers, poles, equipment and appliances.

(2) "Family" means two (2) or more persons living together in the same dwelling unit who are related to each other by blood, marriage, adoption or legal guardianship.

(3) "Farm operation" means any activity conducted primarily for the production of agricultural products or commodities, including timber, for sale and home use, and producing agricultural products or commodities in sufficient quantity to contribute materially to the operator's support.

(4) "Feeder highway" means any highway which, in the opinion of the transportation board, is needed to create or facilitate access to a turnpike project upon which a toll is charged for transit.

(5) "Federal land rights_of_way" mean rights_of_way on federal land within the context of ~~R~~revised ~~S~~statute 2477, codified as 43 ~~United States Code~~ U.S.C. 932, and other federal access grants and shall be considered to be any road, trail, access or way upon which construction has been carried out to the standard in which public rights_of_way were built within historic context. These rights_of_way may include, but not be limited to, horse paths, cattle trails, irrigation canals, waterways, ditches, pipelines or other means of water transmission and their attendant access for maintenance, wagon roads, jeep trails, logging roads, homestead roads, mine to market roads and all other ways.

(6) "Final design" means any design activities following preliminary design and includes the preparation of final construction plans and detailed specifications for the performance of construction work.

(7) "Fixed price-best design" means a selection process in which the contract price is established by the department and stated in the request for proposals. Design solutions and other qualitative factors are evaluated and rated, with award going to the design-build firm offering the best qualitative proposal for the established price.

SECTION 6. That Section 40-108, Idaho Code, be, and the same is hereby amended to read as follows:

40-108. DEFINITIONS -- G.

(1) "GARVEE" means grant anticipation revenue vehicle, a debt financing instrument which enables states to finance state transportation infrastructure projects and to pay debt service and other bond-related expenses with future federal-aid highway apportionments.

(2) "Guaranteed maximum price (GMP)" means the total maximum price that includes all reimbursable costs and fees, except for material changes in the scope of work, for completion of a construction manager/general contractor contract that is provided by the selected contractor and accepted by the department.

SECTION 7. That Section 40-113, Idaho Code, be, and the same is hereby amended to read as follows:

40-113. DEFINITIONS -- L.

(1) "Lawfully maintained" means a sign maintained on private land in accordance with state law and with the consent or acquiescence of the owner, or his agent, of the property upon which the sign is located.

(2) "Local highway technical assistance council" means the public agency created in chapter 24, title 40, Idaho Code.

(3) "Local highway jurisdiction" means a county with jurisdiction over a highway system, a city with jurisdiction over a highway system, or a highway district.

(4) "Lowest price technically acceptable selection" means a type of process for selection of a design-build firm in which the department identifies evaluation factors that establish the minimum requirements of acceptability. Proposals are evaluated for acceptability based on qualitative factors, not cost or price, but are not ranked. The contract award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for qualitative factors.

SECTION 8. That Section 40-116, Idaho Code, be, and the same is hereby amended to read as follows:

40-116. DEFINITIONS -- O.

(1) "Organizational conflict of interest" means that, because of other activities or relationships with other persons or entities, a person or entity is unable or potentially unable to render impartial assistance or advice to the department or the person's or entity's objectivity in performing the contract work is or might be otherwise impaired, or a person or entity has an unfair competitive advantage.

(2) "Outdoor advertising business" means the business or occupation of placing, erecting, constructing or maintaining advertising structures or signs. The term does not include the placing, erecting, constructing or maintaining of advertising displays exclusively pertaining to the business of the person placing the advertising display, but does include a person whenever he personally or through employees places advertising displays containing advertising which does not pertain exclusively to his own business.

(3) "Owner" means all persons and all political subdivisions of the state having any title or interest in any property, rights, easements and interests authorized to be acquired by chapter 3, title 40, Idaho Code.

SECTION 9. That Section 40-117, Idaho Code, be, and the same is hereby amended to read as follows:

40-117. DEFINITIONS -- P.

(1) "Person" includes every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors.

(2) "Place." (See "Maintain," section 40-114, Idaho Code)

(3) "Preliminary design," as used in section 40-904, Idaho Code, means the general project location and design concepts. It includes, but is not limited to, preliminary engineering and other activities and analyses,

such as environmental assessments, topographic surveys, metes and bounds surveys, geotechnical investigations, hydrologic analyses, hydraulic analyses, utility engineering, traffic studies, financial plans, revenue estimates, hazardous materials assessments, general estimates of the types and quantities of materials and other work needed to establish parameters for the final design.

(4) "Price proposal" means the price submitted by a design-build firm to provide the required design and construction services described in the request for proposals or the price submitted by a construction manager/general contractor firm to provide the required construction services described in the request for proposal.

(35) "Primary system" or "primary highway" means any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho transportation board, and approved by the secretary of transportation, pursuant to the provisions of title 23, U.S. Code, "Highways."

(46) "Public highway agency" means the state transportation department, any city, county, highway district or other political subdivision of the state with jurisdiction over public highway systems and public rights-of-way.

(57) "Public highways" means all highways open to public use in the state, whether maintained by the state or by any county, highway district, city, or other political subdivision. (Also see "Highways," section 40-109, Idaho Code)

(68) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain, but may expend funds for the maintenance of, said public right-of-way or post traffic signs for vehicular traffic on said public right-of-way. In addition, a public right-of-way includes a right-of-way which was originally intended for development as a highway and was accepted on behalf of the public by deed of purchase, fee simple title, authorized easement, eminent domain, by plat, prescriptive use, or abandonment of a highway pursuant to section 40-203, Idaho Code, but shall not include federal land rights-of-way, as provided in section 40-204A, Idaho Code, that resulted from the creation of a facility for the transmission of water. Public rights-of-way shall not be considered improved highways for the apportionment of funds from the highway distribution account.

(79) "Public transportation services" means, but is not limited to, fixed transit routes, scheduled or unscheduled transit services provided by motor vehicle, bus, rail, van, aerial tramway and other modes of public conveyance; paratransit service for the elderly and disabled; shuttle and commuter service between cities, counties, health care facilities, employment centers, educational institutions or park-and-ride locations; subscription van and car pooling services; transportation services unique to social service programs; and the management and administration thereof.

SECTION 10. That Chapter 1, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-119, Idaho Code, and to read as follows:

40-119. DEFINITIONS -- R.

(1) "Request for proposals (RFP)" means a document used to solicit proposals from design-build firms to design and construct a highway project or to solicit proposals from construction manager/general contractor firms to provide services prior to final design and then construct a highway project.

(2) "Request for qualifications (RFQ)" means a document issued by the department in the first step of a two-step selection process that describes the project in enough detail to let potential design-build firms determine

if they wish to compete and forms the basis for developing a short-list of the most qualified design-build firms.

(3) "Responsive proposals" mean proposals submitted by responsive proposers that comply with the request for proposals and all prescribed procurement procedures and requirements.

SECTION 11. That Section 40-120, Idaho Code, be, and the same is hereby amended to read as follows:

40-120. DEFINITIONS -- S.

(1) "Safety rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control, for convenience of the traveling public.

(2) "Short-listing" means the narrowing of the field of potential design-build firms through the selection of the most qualified design-build firms who have responded to a request for qualifications.

(3) "Sign." (See "Advertising structure," section 40-102, Idaho Code-)

~~(34)~~ "Single ~~county-wide~~ countywide highway district" means all public highways within the county, including those within all cities of the county, but excepting those within the state highway system and those under federal control.

~~(45)~~ "State highway system" means the principal highway arteries in the state, including connecting arteries and extensions through cities, and includes roads to every county seat in the state.

(56) "State law" means a provision of the constitution or statutes of this state, or an ordinance, rule or regulation enacted or adopted by an agency or political subdivision of this state pursuant to the constitution or statutes.

(7) "Stipend" means a monetary amount that may be paid to unsuccessful design-build firms who have submitted responsive proposals in response to an RFP. The purpose of a stipend is to encourage competition by offering to compensate responsive but unsuccessful design-build firms for a portion of the proposal development costs.

~~(68)~~ "Structure." (See "Advertising structure," section 40-102, Idaho Code)

~~(79)~~ "System, city." (See "City system," section 40-104, Idaho Code)

SECTION 12. That Section 40-121, Idaho Code, be, and the same is hereby amended to read as follows:

40-121. DEFINITIONS -- T.

(1) "Technical proposal" means that portion of a design-build firm proposal that contains design solutions and other qualitative factors that are provided in response to a request for proposals.

(2) "Tourist related advertising sign" means any sign which advertises a specific public or private facility, accommodation or service, at a particular location or site, including: overnight lodging, a camp site, food service, recreational facility, tourist attraction, education or historical site or feature, automotive service, facility or garage.

~~(23)~~ "Turnpike project" means any express highway or bridge at locations and between terminals as may be established by the board and constructed or to be constructed under the provisions of chapter 4, title 40, Idaho Code, and shall include all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage and other buildings, which the board may deem necessary for the operation of a project, together with all property, rights, easements, and interests which may be acquired by the board for the construction or the operation of a project.

(34) "Turnpike revenue bonds" mean bonds of the transportation board authorized under the provisions of section 40-412, et seq., Idaho Code.

(5) "Two-step selection" means a procurement process in which the first step consists of short-listing based on statements of qualifications submitted in response to a request for qualifications and the second step consists of the submission of price and technical proposals in response to a request for proposals.

SECTION 13. That Section 40-902, Idaho Code, be, and the same is hereby amended to read as follows:

40-902. BIDS -- STATE HIGHWAY SYSTEM. (1) Whenever work on the state highway system is let by contract, advertisement for sealed bids must be called for by public advertisement in provided for at least two (2) consecutive ~~weekly issues in a weekly newspaper or five (5) issues in a daily weeks~~ in one (1) newspaper, having a general circulation in the county or one (1) of the counties, where the work is to be done. In addition, the department may use any medium reasonably determined to reach prospective bidders.

(2) Each bid must be accompanied by a cashier's check or a certified check in favor of the department on some bank in the state of Idaho, or by a bidder's bond, for the sum of five percent (5%) of the amount of the bid, to be forfeited if the bidder, upon acceptance of his bid, fails or refuses to enter into a contract within fifteen (15) days after the presentation of the contract by the department to him for execution and to furnish the required bond. Checks and bonds of unsuccessful bidders shall be returned immediately after the contract is awarded. If the contracting agency allows electronically submitted bid documents, then a bid bond in electronic form with valid electronic signatures shall accompany the submittal of the electronic bid documents.

(3) Except as allowed by the provisions of sections 40-904 and 40-905, Idaho Code, bBids shall be opened publicly at the time and place specified in the advertisement and the contract let to the lowest responsible bidder, but the department has the right to reject any and all bids, or to let the contract for a part or all of the work.

(4) If no satisfactory bid is received, new bids may be called for, or the work may be performed by day labor, or as may be determined by the department.

(5) Except as allowed by the provisions of sections 40-904 and 40-905, Idaho Code, aA bidder who did not submit the lowest responsible bid as determined by the department may within five (5) calendar days of bid opening file a written application to challenge the department's determination of the lowest responsible bidder and apply to the department's chief engineer for the appointment of a hearing officer to hold a contested case hearing. The application shall set forth in specific terms the reasons why the department's decision is thought to be erroneous. Upon receipt of an application, the chief engineer shall appoint a hearing officer with the authority to conduct a contested case hearing in accordance with the provisions of chapter 52, title 67, Idaho Code. Upon receipt from the hearing officer of findings of fact, conclusions of law and a recommended order, the chief engineer shall review the same and enter a final order sustaining or reversing the decision of the department on the selection of the lowest responsible bidder. Following entry of the final order, the chief engineer shall have the authority to award the contract to the bidder determined in the final order to be the lowest responsible bidder at a time and in a manner which shall be in the best interest of the state.

SECTION 14. That Chapter 9, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-904, Idaho Code, and to read as follows:

40-904. CONTRACTS -- DESIGN BUILD. (1) The preferred contracting method of the department shall be as described in section 40-902, Idaho Code. The department may select design-build firms and award contracts for design-build projects if the board determines that the projects are of appropriate size and scope, that awarding a design-build contract will serve the public interest, and that the method is superior to that described in section 40-902, Idaho Code. The following criteria shall be used as the minimum basis for determining when to use design-build contract procedures:

- (a) Project suitability for design-build method contracting regarding time constraints, costs and quality factors;
- (b) The availability, capability and experience of potential design-build firms;
- (c) The department's ability to manage design-build projects, including employing experienced personnel or outside consultants; and
- (d) Other criteria the department deems relevant and states in writing in its determination to use design-build contract procedures.

(2) No more than twenty percent (20%) of the department's annual highway construction budget for the state transportation improvement program shall be used for design-build and construction manager/general contractor contracts combined.

(3) No less than thirty percent (30%) of any design-build contract awarded shall be self-performed by the design-build firm awarded such contract.

(4) A professional engineer licensed in the state of Idaho shall have responsible charge of preparing the request for qualifications (RFQ) and request for proposals (RFP) including the base technical concept. The term "responsible charge" shall be as defined in section 54-1202, Idaho Code. The professional engineer shall not be affiliated with any design-build firm submitting proposals on the project.

(5) For each proposed design-build project, the department shall designate an evaluation committee. The evaluation committee shall include at least five (5) members who are qualified by education and experience, and at least two (2) of whom shall be professional engineers licensed in the state of Idaho. To assist in the evaluation process, the evaluation committee may retain the services of nonvoting members.

(6) Any design-build firm, regardless of its organizational structure, must comply with all applicable requirements of chapter 12, title 54, Idaho Code. The designer shall employ a professional engineer licensed in the state of Idaho who is in responsible charge of all engineering on the design-build project for the design-build firm. The term "responsible charge" shall be as defined in section 54-1202, Idaho Code.

(7) Any design-build firm regardless of its organizational structure, must comply with all applicable requirements of chapter 19, title 54, Idaho Code.

(8) Any Idaho professional engineering licenses required shall be obtained prior to submittal of a design-build firm's proposal. The design-build firm shall obtain any required Idaho public works licenses prior to submitting a proposal unless the project involves federal funds. If the project involves federal funds, then the design-build firm shall obtain any required Idaho public works licenses prior to contract award.

(9) The department shall have the authority to discontinue the design-build firm selection process at any time prior to the opening of price proposals, subject to any applicable obligation to pay a stipend.

(10) After short-list selection and contract award, and upon written request, all unsuccessful design-build firms shall be afforded the opportunity for a debriefing. Debriefings shall be provided at the earliest feasible time after a design-build firm has been selected for award. The debriefing shall:

(a) Be limited to discussion of the unsuccessful design-build firm's proposal and shall not include specific discussion of a competing proposal.

(b) Provide information on areas in which the unsuccessful design-build firm's proposal had weaknesses or deficiencies.

(c) Maintain the confidentiality of evaluation committee members and other design-build firms.

(11) The department shall establish and determine the appropriate design-build contract method to select design-build firms and award contracts on a project-by-project basis. The method shall be stated in the request for proposals, and in the request for qualifications when applicable. The department shall use a two-step selection process for all projects. Design-build selection and contract methods that may be used are:

(a) Best value;

(b) Fixed price-best design; or

(c) Lowest price-technically acceptable. The department may only use the lowest price-technically acceptable method when:

(i) The preliminary design is completed and the design-build firm's role is limited to completing the final design and constructing the design-build project;

(ii) No right-of-way must be acquired by the design-build firm;

(iii) No utility or railroad permits must be obtained by the design-build firm;

(iv) The department obtains the required environmental clearances; and

(v) The department has determined that meeting the minimum technical and designer qualification requirements is sufficient for the project and that innovation or alternatives are not required.

(12) The department shall advertise for request for qualifications and request for proposals in accordance with the procedures outlined in section 40-902(1), Idaho Code.

(13) The RFQ and RFP shall address potential organizational conflicts of interest.

(a) No person or business entity that assisted the department in preparing the solicitation documents will be allowed to participate as a design-build firm or as a member of the design-build firm's team; however, the department may determine that there is not an organizational conflict of interest where:

(i) The role of the person or business entity was limited to provision of preliminary design, reports, or similar "low-level" documents that may be incorporated into the solicitation but did not include assistance in the development of instructions to design-build firms or evaluation criteria; or

(ii) All documents and reports delivered to the department by the person or entity are made available to all potential design-build firms.

(b) The design-build firm shall disclose all relevant facts concerning any past, present, or currently planned interests that may present an organizational conflict of interest.

(c) If at any time during the selection process or during the contract period a previously undetermined organizational conflict of interest arises, the design-build firm must disclose that information as soon as discovered and mitigate or eliminate the conflict.

(14) At a minimum, the following shall be included in each request for qualifications (RFQ):

- (a) Minimum design-build firm qualifications necessary to meet the project's design-build requirements;
 - (i) Relevant construction-related experience and performance;
 - (ii) Financial, personnel and equipment resources available for construction;
 - (iii) Designer qualifications;
 - 1. Experience and performance of the designer on similar projects;
 - 2. Qualifications and relevant experience of the designer's project manager and key personnel;
 - 3. Available resources of the designer.
- (b) Scope of work statement and schedule;
- (c) Documents defining the project requirements;
- (d) Maximum time allowed for project design and construction;
- (e) Estimated cost of project design and construction;
- (f) Requirements for key personnel;
- (g) Scoring criteria for evaluating the qualifications submitted; and
- (h) The number of firms to be short-listed. The number of firms short-listed shall be no less than two (2) or more than five (5).

(15) The criteria for evaluation of qualifications may include, without limitation:

- (a) Technical qualifications for construction, such as specialized experience and technical competence, including key personnel;
- (b) Capability to perform construction, including the availability of key personnel;
- (c) Designer qualifications;
- (d) The proposed plan of the design-build firm to manage the design and construction of the project;
- (e) Understanding of and approach to the project;
- (f) Organizational conflicts of interest;
- (g) Other appropriate qualifications-based selection factors.

(16) The RFQ shall not include any price-related factors. Designer qualifications shall be included in the selection process as a percentage of the total score based on project complexity, potential for design innovation and alternatives, and the project's impacts to the public during construction and operation. The department shall develop a short-list of the most qualified design-build firms from the proposals submitted in response to the request for qualifications. If only a single design-build firm responds to the RFQ or remains on the short-list, the department may issue a new RFQ or cancel the solicitation.

(17) The department shall provide to each design-build firm that submitted qualifications the summary of scores of all proposers and the design-build firms' evaluation worksheets within three (3) business days following notification of the short-list. The confidentiality of the evaluation committee members and other design-build firms shall be maintained.

(18) Design-build firms that submit qualifications and that do not qualify for the short-list generated by the department may challenge the department's determination in accordance with the procedures outlined in section 40-902(5), Idaho Code. A challenge must be filed with the department within seven (7) calendar days of the date the department transmitted the evaluation scores and worksheets.

(19) The department shall prepare a request for proposals (RFP) for each design-build contract. The RFP shall address the base technical concept for the design-build contract.

(20) The RFP shall define the base technical concept, the mandatory project scope elements, deliverables and the project schedule including, but not limited to:

- (a) Performance and technical requirements;
 - (b) Conceptual design;
 - (c) Specifications;
 - (d) Functional and operational elements for the delivery of the completed project;
 - (e) Description of the selection and award criteria, including the weight or relative order, or both, of each criterion;
 - (f) Copies of the contract documents the selected bidder will be expected to sign;
 - (g) Maximum time allowed for project design and construction;
 - (h) Estimated cost of design and construction or fixed price;
 - (i) A requirement that all proposals be submitted to the department in two (2) parts:
 - 1. A technical proposal; and
 - 2. A price proposal;
 - (j) A requirement that all proposals be submitted in a separately sealed, clearly identified package that includes the date and time of the submittal deadline;
 - (k) A requirement that the technical proposal include a critical path method and bar schedule of the work to be performed, or similar schematic, design plans and specifications, technical reports, calculations, permit requirements, applicable development fees, designer qualifications as they relate to the technical proposal and other data requested in the request for proposals;
 - (l) A requirement that the price proposal contain all design, construction, engineering, quality control and assurance, and construction costs of the proposed project;
 - (m) The terms and conditions for stipends, including waiving of the stipend, and when the stipend shall be paid;
 - (n) The date, time and location of the public opening of the sealed price proposals;
 - (o) The basis for design-build firm selection and contract award;
 - (p) When applicable, the alternate technical concept deadline; and
 - (q) Other information relevant to the project.
- (21) The RFP selection and award criteria shall include price, shall include the design-build firm's design and construction qualifications, and may include time of completion, innovation, design and construction quality and other technical or quality related criteria. The qualification based selection process required pursuant to section 67-2320, Idaho Code, in obtaining certain consultant services is not applicable. When applicable, the percent weighting of the technical proposal score that is assigned to the designer qualifications shall be based on the project's level of design completeness prior to the RFP and the opportunity for design innovation and alternatives.
- (22) As part of the RFP, and when available, the department shall make available any project specific documentation, drawings, files, reports and other pertinent materials that would be of use to the eligible design-build firms.
- (23) The RFP shall address and identify contract provisions including, but not limited to:
- (a) Allocation of known risks according to the type and location of the project, and the following risk factors shall be considered:
 - (i) Governmental risks;
 - (ii) Regulatory compliance risks;
 - (iii) Construction phase risks;
 - (iv) Postconstruction risks; and
 - (v) Right-of-way risks;
 - (b) Payment and performance bonds;
 - (c) Proposal guaranty;

- (d) General and professional liability insurance;
- (e) Meetings regarding the preconstruction services;
- (f) The department's standards, rules, guidelines, and special provisions requirements;
- (g) Environmental regulatory requirements, including whether the department or the design-build firm will acquire any or all of the permits required for construction;
- (h) Design and construction requirements, including specifications;
- (i) The final documents to be provided by the design-build firm upon completion of the project, which may include "as built" plans, engineering reports, shop drawings, test results, documentation, daily reports and item quantities;
- (j) The date for submittal of the technical and price proposals; and
- (k) The date for opening the sealed price proposals.

(24) The RFP may allow design-build firms to submit one (1) or more alternate technical concepts (ATCs).

(a) ATCs will only be considered if they are determined by the department at its sole discretion to be equal to or better than the base technical concept. Typically, ATCs will improve project quality and/or reduce project costs. The department may allow preapproved ATCs as part of the design-build firm's proposal.

(b) A proposed ATC is not acceptable if it merely seeks to reduce quantities, performance or reliability, or seeks a relaxation of the contract requirements. ATCs shall be submitted by the design-build firm by the date specified within the RFP and preapproved in writing by the department prior to the proposal submittal date. All technical proposals must include the department's preapproval letters for consideration of the ATCs.

(c) A design-build firm may incorporate one (1) or more preapproved ATCs into its technical and price proposal. Each design-build firm shall submit only one (1) proposal.

(d) The price proposal shall reflect any incorporated ATCs. Except for incorporating approved ATCs, the proposal may not otherwise contain exceptions to or deviations from the requirements of the RFP.

(e) The RFP will not distinguish between proposals that do not include any ATCs and proposals that include ATCs. Both types of proposals shall be evaluated against the same technical criteria, and a best value determination shall be made in the same manner.

(f) An approved ATC that is incorporated into a design-build firm's proposal will become part of the design-build contract upon award of the design-build contract to that design-build firm.

(g) ATCs properly submitted by a design-build firm and all subsequent communications regarding its ATCs shall be considered confidential prior to the award of the design-build contract.

(25) Prior to proposal submittal, the department shall offer design-build firms equal opportunity to participate in one-on-one meetings with the department regarding their proposals if the department determines that such discussions are needed. The department shall disclose to all design-build firms any issues impacting the scope of work or base technical concept that are relevant to the RFP. The department shall not disclose information pertaining to an individual design-build firm's ATCs or confidential business strategies.

(26) The technical proposal and price proposal shall be submitted concurrently. The technical proposal and price proposal shall be submitted to the department in separate sealed envelopes marked in strict accordance with the requirements and timeline contained in the RFP, or as it may be amended.

(27) After proposals are submitted, and prior to opening the price proposals, the evaluation committee shall open, review and score or otherwise

evaluate the technical proposals and any other required technical information in accordance with the evaluation criteria established in the RFP.

(28) After proposals are submitted, and prior to opening the sealed price proposals, the department may hold discussions with design-build firms during the technical proposal evaluations. Discussions shall be held with all design-build firms that submitted proposals. The department shall disclose to all design-build firms issues impacting the scope of work or base technical concept that are relevant to the RFP. The department shall not disclose information pertaining to a design-build firm's proposal, ATCs or other technical concepts. The department may issue a revised RFP that may or may not include changes in the scope, contract requirements or stipend amount. All design-build firms shall be given an opportunity to submit revised technical and price proposals that may result from the discussions.

(29) Sealed price proposals shall be kept in a secure location until read publicly. When applicable, the technical scores and best values shall be read publicly at the same time.

(30) If an RFP includes a time factor with the selection criteria, the department shall adjust the price using a department established value of the time factor. The department established value of the time factor shall be expressed as a value per day. The total time value shall be the total number of days to complete the project multiplied by the time factor. The time-adjusted price is the total time value plus the total price proposal amount.

(31) The basis for design-build firm selection and contract award shall be as follows:

(a) Best Value Method: Each proposer's price proposal, time adjusted if applicable, is divided by the technical proposal score to obtain a total score. The department shall award the contract to the design-build firm whose total score is lowest.

(b) Fixed Price - Best Design Method: The department shall award the contract to the design-build firm whose technical proposal score is highest.

(c) Lowest Price - Technically Acceptable Method: The department shall award the contract to the design-build firm who meets the minimum technical and designer qualifications requirements identified in the RFP and whose price proposal is lowest.

(32) Proposals that are not responsive to the RFP may be excluded from consideration. The criteria used for determining whether a proposal is not responsive shall be defined in the RFP. Design-build firms whose proposals are excluded from consideration are not eligible for payment of a stipend.

(33) At the discretion of the department, a stipend may be paid to eligible design-build firms who submit responsive but unsuccessful proposals in response to the RFP. The decision to do so shall be based upon the department's analysis of the estimated proposal development costs, the complexity of the project and the anticipated degree of competition during the procurement process. The department shall pay the stipend within forty-five (45) calendar days after award of a contract or the decision not to award a contract.

(34) If a stipend is provided to an unsuccessful design-build firm, the work produced within that design-build firm's proposal for the project shall be provided to the department for its use in connection with the contract awarded for the project, or in connection with a subsequent procurement, without any additional compensation to the unsuccessful design-build firm.

(35) In consideration for paying the stipend, the department may use any ideas or information contained in the submitted proposals with no obligation to pay any additional compensation to the unsuccessful design-build firm.

(36) The department may either:

(a) Reject all proposals;

(b) Award a design-build contract to the design-build firm; or

(c) Award to the next ranked design-build firm, if the selected design-build firm declines the award and forfeits the proposal guaranty.

(37) The department is not required to award a contract. If the department does award a contract, a contract shall be executed and a notice to proceed shall be given to the successful design-build firm.

(38) When applicable, the department shall provide to each design-build firm that submitted proposals the summary of scores of all proposers and the design-build firms' evaluation worksheets within three (3) business days following notification of intent to award. The confidentiality of the evaluation committee members and other design-build firms shall be maintained.

(39) Design-build firms that submit proposals and are not selected for the award of the contract may challenge the department's determination in accordance with the procedures outlined in section 40-902(5), Idaho Code. A challenge must be filed with the department within seven (7) calendar days of the date the department transmitted the evaluation scores and worksheets.

SECTION 15. That Chapter 9, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-905, Idaho Code, and to read as follows:

40-905. CONTRACTS -- CONSTRUCTION MANAGER/GENERAL CONTRACTOR. (1) The preferred contracting method of the department shall be as described in section 40-902, Idaho Code. The department may select construction manager/general contractor (CM/GC) firms and award contracts for highway projects as provided herein. CM/GC highway projects shall be of appropriate size and scope to encourage maximum competition and participation by qualified firms. CM/GC procedures may be used for a specific highway project only after the board determines that awarding a CM/GC contract will serve the public interest and is superior to that described in section 40-902, Idaho Code. The following criteria shall be used as the minimum basis for determining when to use CM/GC contract procedures:

- (a) Project suitability for CM/GC contracting regarding time constraints, costs and quality factors;
- (b) The availability, capability and experience of potential CM/GC firms;
- (c) The department's ability to manage CM/GC projects, including employing experienced personnel or outside consultants; and
- (d) Other criteria the department deems relevant and states in writing in its determination to use CM/GC contract procedures.

(2) No more than twenty percent (20%) of the department's annual highway construction budget for the state transportation improvement program shall be used for design-build and CM/GC contracts combined.

(3) No less than thirty percent (30%) of any CM/GC contract awarded shall be self-performed by the CM/GC firm awarded such contract.

(4) A professional engineer licensed in the state of Idaho shall have responsible charge of preparing the request for proposals (RFP). Responsible charge shall be as defined in section 54-1202, Idaho Code. The professional engineer shall not be affiliated with any CM/GC firm submitting proposals on the project.

(5) Any CM/CG firm shall comply with all applicable requirements of chapter 19, title 54, Idaho Code. The requirements of chapter 45, title 54, Idaho Code, do not apply.

(6) For each proposed CM/GC project, the department shall designate an evaluation committee. The members of the evaluation committee shall include at least five (5) members who are qualified by education and experience. To assist in the evaluation process, the evaluation committee may retain the services of nonvoting members.

(7) After award of the contract, and upon written request, all unsuccessful CM/GC firms shall be afforded the opportunity for a debriefing. Debriefings shall be provided at the earliest feasible time after a CM/GC firm has been selected for award. The debriefing shall:

- (a) Be limited to discussion of the unsuccessful CM/GC firm's proposal and shall not include specific discussion of a competing proposal;
- (b) Provide information on areas in which the unsuccessful CM/GC firm's proposal had weaknesses or deficiencies; and
- (c) Maintain the confidentiality of the evaluation committee members and the other CM/GC firms.

(8) Contracts for the services of a CM/GC shall be awarded through a competitive process requiring the public solicitation of requests for proposals for CM/GC services. The request for proposals shall include price components and meeting requirements as stated in the request for proposals.

(9) The department shall advertise requests for proposals in accordance with the procedures outlined in section 40-902(1), Idaho Code.

(10) The RFP shall address potential organizational conflicts of interest.

- (a) No person or business entity that assisted the department in preparing the solicitation documents will be allowed to participate as a CM/GC firm or as a member of the CM/GC firm's team; however, the department may determine that there is not an organizational conflict of interest where:

- (i) The role of the person or business entity was limited to provision of preliminary design, reports or similar "low-level" documents that may be incorporated into the solicitation but did not include assistance in the development of instructions to CM/GC firms or evaluation criteria; or

- (ii) Where all documents and reports delivered to the department by the person or business entity are made available to all potential CM/GC firms.

- (b) The CM/GC firm shall disclose all relevant facts concerning any past, present or currently planned interests that may present an organizational conflict of interest.

- (c) If at any time during the selection process or during the contract period a previously undetermined organizational conflict of interest arises, the CM/GC firm must disclose that information as soon as discovered and mitigate or eliminate the conflict.

(11) At a minimum, the request for proposals shall include:

- (a) A description of the project, including programmatic, performance, and technical requirements and specifications when available;
- (b) A description of the qualifications to be required of the firm;
- (c) A description of the requirements of key personnel;
- (d) A description of the process the department will use to evaluate qualifications and proposals, including evaluation and scoring criteria;
- (e) Schedule of items for which the CM/GC firm shall submit unit prices;
- (f) A requirement that the CM/GC firm describe its approach to pricing; and
- (g) The form of the contract, including any contract for preconstruction services, to be awarded.

(12) Evaluation factors for selection of the CM/GC shall include, but not be limited to:

- (a) Ability of the firm's key personnel;
- (b) Financial, labor and equipment resources available for the project;
- (c) Ability of the firm to meet time and budget requirements;
- (d) Scope of work the firm proposes to self-perform and its ability to perform that work;

- (e) The firm's approach to working collaboratively with the department, and the department's consultant(s) when applicable, and to executing the project;
- (f) Construction experience in similar projects;
- (g) Submitted unit prices;
- (h) Approach to pricing; and
- (i) Organizational conflicts of interest.

(13) The basis for selection shall be stated in the request for proposal. Selection shall be based on the responsible proposer whose proposal is evaluated as providing the best value to the department.

(14) The contract shall be awarded in two (2) phases. The first is for services during the design phase that may include life-cycle cost considerations, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work. The second phase is for construction services. The second phase will be awarded after the plans have been sufficiently developed and a guaranteed maximum price for construction services has been successfully negotiated. Incremental construction phases may be awarded after guaranteed maximum prices are negotiated for each phase.

(a) For the first phase, the department may either:

- (i) Reject all proposals;
- (ii) Award a contract to the best evaluated CM/GC firm; or
- (iii) Award to the next best evaluated CM/GC firm if the best evaluated CM/GC firm is determined to be nonresponsive, declines the award and forfeits the proposal guaranty or the parties are unable to reach a mutually acceptable contract.

(b) For the second phase, the department may either:

- (i) Award a construction contract or incremental construction contracts upon successful negotiations of a guaranteed maximum price; or
- (ii) Advertise, bid and award in accordance with section 40-902, Idaho Code.

(15) The CM/GC shall provide performance and payment bonds during construction phases.

(16) The department is not required to award a contract. If awarded, however, a contract shall be executed and notice given to proceed with the work.

(17) The department shall provide to each CM/GC firm that submitted proposals the summary of scores of all proposers and the CM/GC firms' evaluation worksheets within three (3) business days following notification of intent to award. The confidentiality of the evaluation committee members and other CM/GC firms shall be maintained.

(18) CM/GC firms that submit proposals and are not selected for the award of the contract may challenge the department's determination in accordance with the procedures outlined in section 40-902(5), Idaho Code. A challenge must be filed with the department within seven (7) calendar days following the date the department transmitted the evaluation scores and worksheets.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 11, 2010.

CHAPTER 294
(H.B. No. 676, As Amended)

AN ACT

RELATING TO YOUTH ATHLETES AND CONCUSSIONS; AMENDING CHAPTER 16, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1620, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE FOR GUIDELINES, OTHER PERTINENT INFORMATION AND FORMS, TO PROVIDE FOR THE USE OF GUIDELINES, INFORMATION AND FORMS AND TO PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL MAKE AVAILABLE ON ITS WEBSITE SUCH GUIDELINES, INFORMATION AND FORMS.

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

SECTION 1. That Chapter 16, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-1620, Idaho Code, and to read as follows:

33-1620. LEGISLATIVE INTENT -- YOUTH ATHLETES -- CONCUSSION GUIDELINES. The legislature finds that concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities. The centers for disease control and prevention estimates that as many as three million eight hundred thousand (3,800,000) sports-related and recreation-related concussions occur in the United States each year. A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death is significant when a concussion or head injury is not properly evaluated and managed.

Concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works. Concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other, the ground, or with obstacles. Concussions occur with or without loss of consciousness, but the vast majority occur without loss of consciousness.

Continuing to play with a concussion or symptoms of head injury leaves the young athlete especially vulnerable to greater injury and even death. The legislature recognizes that, despite having generally recognized return to play standards for concussion and head injury, some affected youth athletes are prematurely returned to play resulting in actual or potential physical injury or death to youth athletes in the state of Idaho.

(1) The state board of education shall collaborate with the Idaho high school activities association to develop guidelines and other pertinent information and forms to inform and educate coaches, both paid and volunteer, youth athletes, and their parents and/or guardians of the nature and risk of concussion and head injury including risks associated with continuing to play after concussion or head injury.

(2) The guidelines, information and forms described in subsection (1) of this section shall be developed for and may be used by all organized youth sport organizations or associations that sponsor, promote or otherwise administer youth sport organizations or activities in this state. The state board of education shall make available on its internet website the guidelines, information and forms provided for in this section.

Approved April 11, 2010.

CHAPTER 295
(H.B. No. 682)

AN ACT

RELATING TO THE IDAHO SCHOOL BOND GUARANTY ACT; AMENDING SECTION 33-5305, IDAHO CODE, TO PROVIDE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL MAKE REPORTS OF SCHOOL DISTRICT FISCAL SOLVENCY; AMENDING SECTION 33-5306, IDAHO CODE, TO AUTHORIZE THE TREASURER TO ESTABLISH PROCEDURES FOR PROVIDING NOTICE WHERE A DEBT SERVICE PAYMENT MAY BE DELINQUENT AND TO PROVIDE THE PROCESS FOR THE TREASURER TO MAKE SUCH PAYMENTS; AMENDING SECTION 33-5308, IDAHO CODE, TO ESTABLISH THE FUNDING ACTIVITIES AVAILABLE TO THE TREASURER TO MAKE A SCHOOL BOND DEBT SERVICE PAYMENT, TO PROVIDE LIMITATIONS ON AND AUTHORIZATION FOR THE REPLACEMENT OF INTERCEPTED FUNDS, AND TO REMOVE LANGUAGE TRANSFERRED TO A NEW SECTION; AMENDING CHAPTER 53, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5308A, IDAHO CODE, TO PROVIDE THE REQUIREMENTS FOR NOTES ISSUED BY THE TREASURER TO FUND A SCHOOL BOND DEBT SERVICE PAYMENT; AMENDING SECTION 33-5309, IDAHO CODE, TO REMOVE REFERENCES TO THE STATE SALES TAX ACCOUNT AND DUTIES OF THE TAX COMMISSION, TO ESTABLISH DUTIES OF THE CONTROLLER AND TO PROVIDE FOR PAYMENT OF GUARANTEED SCHOOL BOND DEBT SERVICE PAYMENTS AND REPAYMENT OF BORROWED FUNDS FROM SALES TAX RECEIPTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-5305, Idaho Code, be, and the same is hereby amended to read as follows:

33-5305. STATE TO MONITOR FISCAL SOLVENCY OF SCHOOL DISTRICTS -- DUTIES OF STATE TREASURER AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION. (1) The state treasurer shall:

(a) Receive the following from each school district applying for the state's guaranty under this chapter and each school district receiving the state's guaranty under this chapter:

(i) A copy of the annual statement of financial condition and report required in section 33-701, Idaho Code; and

(ii) A copy of the complete audit of the financial statements of the school district prepared pursuant to section 33-701, Idaho Code.

(b) ~~At least~~ In conjunction with the state superintendent of public instruction, annually, report his conclusions concerning the fiscal solvency of school districts receiving a guaranty under this chapter to the governor, the legislature, and the endowment fund investment board ~~and the state superintendent of public instruction;~~ and

(c) Report immediately to the governor, the endowment fund investment board and the state superintendent of public instruction any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(2) The state superintendent of public instruction shall:

(a) Provide an analysis of a school district's current fiscal solvency upon the request of the state treasurer;

(b) In conjunction with the state treasurer, annually report his conclusions concerning the fiscal solvency of school districts receiving a guaranty under this chapter to the governor, the legislature and the endowment fund investment board; and

(c) Report immediately to the governor, the endowment fund investment board and the state treasurer any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(3) (a) After examining the analysis of the state superintendent of public instruction and other information available to the state treasurer, the state treasurer shall determine whether or not the financial affairs and condition of a school district are such that it would be imprudent for the state to guarantee future bonds of that school district.

(b) If the state treasurer determines that the state should not guarantee the bonds of that school district, the state treasurer shall:

(i) Prepare a determination of ineligibility for future guaranties; and

(ii) Keep it on file in the office of the state treasurer.

(c) The state treasurer may remove a school district from the status of ineligibility for future guaranties when a subsequent report of the school district or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that school district.

(4) Nothing in this section affects the state's guaranty of bonds of a school district issued:

(a) Before determination of ineligibility for future guaranties;

(b) After the eligibility for future guaranties of the school district is restored; or

(c) Under a certificate of eligibility issued under this chapter.

SECTION 2. That Section 33-5306, Idaho Code, be, and the same is hereby amended to read as follows:

33-5306. PAYING AGENT TO PROVIDE NOTICE -- STATE TREASURER TO EXECUTE TRANSFER TO PAYING AGENTS -- EFFECT OF TRANSFER.

(1) (a) The superintendent of each school district with outstanding, unpaid bonds shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds.

(b) The paying agent may, if instructed to do so by the superintendent, invest the moneys at the risk and for the benefit of the ~~board~~ school district until the payment date.

(c) A superintendent who is unable to transfer the scheduled debt service payment to the paying agent fifteen (15) days before the payment date shall immediately notify the paying agent and the state treasurer ~~by~~ as set forth in the procedures for notice under the provisions of this chapter established by the state treasurer.

~~(i) Telephone;~~

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

~~(iii) A writing sent by first class United States mail.~~

(2) If sufficient funds are not transferred to the paying agent as required by subsection (1) of this section, the paying agent shall notify the state treasurer of that failure in writing at least ten (10) days before the scheduled debt service payment date ~~by~~ as set forth in the procedures for notice under the provisions of this chapter established by the state treasurer.

~~(a) Telephone;~~

~~(b) A writing sent by facsimile transmission; and~~

~~(c) A writing sent by first class United States mail.~~

(3) (a) If sufficient moneys to pay the scheduled debt service payment have not been transferred to the paying agent, the state treasurer shall, on or before the scheduled payment date, ~~transfer~~ gather sufficient moneys ~~to the paying agent~~ to make the scheduled debt service

payment as set forth in section 33-5308, Idaho Code, and transfer such moneys to the paying agent.

(b) The payment by the treasurer:

(i) Discharges the obligation of the issuing ~~board~~ school district to its bondholders for the payment; and

(ii) Transfers the rights represented by the general obligation of the ~~board~~ school district from the bondholders to the state.

(c) The ~~board~~ school district shall pay the transferred obligation to the state as provided in this chapter.

SECTION 3. That Section 33-5308, Idaho Code, be, and the same is hereby amended to read as follows:

33-5308. BACKUP LIQUIDITY ARRANGEMENTS ~~ISSUANCE OF NOTES.~~ (1) ~~(a)~~ If, at the time the state is required to make a debt service payment under its guaranty on behalf of a school district, sufficient moneys of the state are not on hand and available for that purpose, the state treasurer ~~may~~ shall gather sufficient funds to make the debt service payment by using one (1) or more of the following:

(a) Intercepting all or a portion of any payments from any source of operating moneys provided by the state to the school district that issued the bonds that would otherwise be paid to the school district by the state;

(b) Requesting the state controller transfer to the public school guarantee fund established by section 33-5309, Idaho Code, moneys from the state general fund established by section 67-1205, Idaho Code, representing sales tax receipts of the state in an amount not to exceed the scheduled debt service payment and

~~(i) Seek a loan from the public school guarantee using such funds sufficient to make all or a portion of the required payment; or~~

~~(ii) Issuing state notes as provided in subsection (2) of this, subject to the terms of section 33-5308A, Idaho Code; or~~

(d) Negotiating a voluntary loan from funds administered by the endowment fund investment board to make all or a portion of the required payment, provided that

~~(b) Nothing in this subsection (1) (d) requires the public school permanent endowment fund investment board to lend moneys to the state treasurer.~~

~~(c) Each series of notes issued may not mature later than twelve (12) months from the date the notes are issued, or the end of the fiscal year, whichever is sooner.~~

~~(d) Notes issued may be refunded using the procedures set forth in this chapter for the issuance of notes, in an amount not more than the amount necessary to pay principal of an accrued but unpaid interest on any refunded notes plus all costs of issuance, sale and delivery of the refunding notes, rounded up to the nearest natural multiple of five thousand dollars (\$5,000).~~

~~(e) Each series of refunding notes may not mature later than twelve (12) months from the date the refunding notes are issued, or the end of the fiscal year, whichever is sooner.~~

~~(2) (a) Before issuing or selling any note to other than a state fund or account, the state treasurer shall:~~

~~(i) Prepare a written plan of financing; and~~

~~(ii) File it with the governor.~~

~~(b) The plan of financing shall provide for:~~

~~(i) The terms and conditions under which the notes will be issued, sold and delivered;~~

~~(ii) The taxes or revenues to be anticipated;~~

- ~~(iii) The maximum amount of notes that may be outstanding at any one (1) time under the plan of financing;~~
- ~~(iv) The sources of payment of the notes;~~
- ~~(v) The rate or rates of interest, if any, on the notes or a method, formula or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and~~
- ~~(vi) All other details relating to the issuance, sale and delivery of the notes.~~
- ~~(c) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:~~
 - ~~(i) The taxes authorized by this chapter;~~
 - ~~(ii) The intercepted revenues authorized by this chapter;~~
 - ~~(iii) The proceeds of refunding notes; or~~
 - ~~(iv) Any combination of subparagraphs (i), (ii) and (iii) of this paragraph.~~
- ~~(d) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing and tender agreements to secure the notes, including payment from any legally available source of fees, charges or other amounts coming due under the agreements entered into by the state treasurer.~~
- ~~(e) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at, or below face value, and all details of issuance of the notes.~~
- ~~(f) The order and the details set forth in the order shall conform with any applicable plan of financing and with this chapter.~~
- ~~(g) (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Idaho.~~
 - ~~(ii) These general obligation notes do not constitute debt of the state for the purposes of the debt limitation of section 1, article VIII, of the constitution of the state of Idaho.~~
- ~~(h) Immediately upon the completion of any sale of notes, the state treasurer shall:~~
 - ~~(i) Make a verified return of the sale to the state controller, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms and conditions of the sale; and~~
 - ~~(ii) Credit the proceeds of the sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the general fund to be applied to the purpose for which the notes were issued~~

(2) The state has no obligation to the school district or to any person or entity to replace any moneys intercepted under the authority of this section. Any school district whose operating funds were intercepted pursuant to this section may replace those funds from other school district moneys or from property taxes, subject to the limitations provided in section 33-5307, Idaho Code.

(3) If the sources of funds set forth in subsection (1) of this section are insufficient to make a debt service payment and the school district bond is guaranteed by the credit enhancement program established pursuant to section 57-728, Idaho Code, the state treasurer shall make a request for the purchase of notes in the amount of the deficiency by the endowment fund investment board on behalf of the public school endowment as set forth in section 57-728, Idaho Code.

SECTION 4. That Chapter 53, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-5308A, Idaho Code, and to read as follows:

33-5308A. STATE NOTES ISSUED TO FINANCE DEFAULT AVOIDANCE PROGRAM. State notes issued by the state treasurer pursuant to section 33-5308, Idaho Code, shall comply with the following:

(1) Each series of notes issued shall mature not later than twelve (12) months from the date the notes are issued, or the end of the fiscal year, whichever is sooner.

(2) Notes issued may be refunded using the procedures set forth in this chapter for the issuance of notes, in an amount not more than the amount necessary to pay principal of an accrued but unpaid interest on any refunded notes plus all costs of issuance, sale and delivery of the refunding notes, rounded up to the nearest integral multiple of five thousand dollars (\$5,000).

(3) Each series of refunding notes shall mature not later than twelve (12) months from the date the refunding notes are issued, or the end of the fiscal year, whichever is sooner.

(4) Before issuing or selling any note to other than a state fund or account, the state treasurer shall prepare a written plan of financing and file it with the governor. The plan of financing shall comply with the following:

(a) The plan of financing shall provide for:

(i) The terms and conditions under which the notes will be issued, sold and delivered;

(ii) The taxes or revenues to be anticipated;

(iii) The maximum amount of notes that may be outstanding at any one (1) time under the plan of financing;

(iv) The sources of payment of the notes;

(v) The rate or rates of interest, if any, on the notes or a method, formula or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and

(vi) All other details relating to the issuance, sale and delivery of the notes.

(b) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include any combination of the following:

(i) The taxes authorized by this chapter;

(ii) The intercepted revenues authorized by this chapter;

(iii) The proceeds of refunding notes; or

(iv) The terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing and tender agreements to secure the notes, including payment from any legally available source of fees, charges or other amounts coming due under the agreements entered into by the state treasurer.

(5) When issuing the notes to other than a state fund or account, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner of sale, prices at or below face value, and all details of issuance of the notes. The order and the details set forth in the order shall conform with any applicable plan of financing and with this chapter.

(6) Each note shall recite:

(a) That it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Idaho.

(b) That these general obligation notes do not constitute debt of the state for the purposes of the debt limitation of section 1, article VIII, of the constitution of the state of Idaho.

(7) Immediately upon the completion of any sale of notes, the state treasurer shall:

(a) Make a verified return of the sale to the state controller, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms and conditions of the sale; and

(b) Credit the proceeds of the sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the general fund to be applied to the purpose for which the notes were issued.

SECTION 5. That Section 33-5309, Idaho Code, be, and the same is hereby amended to read as follows:

33-5309. UNLIMITED SALES TAX ACCOUNT RECEIPTS PLEDGE -- STATE TAX COMMISSION CONTROLLER DUTIES.

~~(1) (a) In each year after the issuance of general obligation notes under this chapter and until all outstanding notes are retired, there shall be transferred from the state sales tax account pursuant to section 63-3638, Idaho Code, an amount sufficient to pay all principal of and interest on the general obligation notes as they become due. There is hereby created in the state treasury the public school guarantee fund. Moneys in the fund shall be used only for payment of debt service payments under the provisions of this chapter, repayment of borrowing undertaken under the provisions of this chapter, to repay state funds used to make debt service payments under the provisions of this chapter, or as provided in section 33-5308, Idaho Code. Earnings of the public school guarantee fund shall be deposited into the general fund established by section 67-1205, Idaho Code.~~

~~(b) If moneys expected to be intercepted under this chapter are expected projected to be insufficient to make a debt service payment pursuant to section 33-5308, Idaho Code, to reimburse the state for its payments of school districts' scheduled debt service payments or it is necessary for the state treasurer to borrow as provided in this chapter and amounts to be intercepted under this chapter are expected to be insufficient to timely pay the general obligation notes issued or other borrowing undertaken under that section 33-5308, Idaho Code, the state treasurer shall certify to and give notice to the state tax commission controller of the amount of the deficiency.~~

~~(eb) After receipt of that certified notice from the state treasurer, the state tax commission controller shall+~~

~~(i) Immediately fix the amount necessary and in the amount of the deficiency stated in the notice; and~~
~~(ii) Cause moneys representing state sales tax receipts to be transferred from the state sales tax account pursuant to section 63-3638, Idaho Code general fund established by section 67-1205, Idaho Code, and deposited in the public school guarantee fund which is hereby statutorily created in the amount of the deficiency certified by the state treasurer.~~

(2) To the extent that other legally available revenues and funds of the state are insufficient to meet the certified deficiency, the state tax commission shall transfer moneys transferred from the sales tax account as set forth in section 63-3638, Idaho Code, ~~is abated.~~

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

Approved April 11, 2010.

CHAPTER 296
(H.B. No. 708)

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING SECTION 39-5606, IDAHO CODE, TO REMOVE A SUPPLEMENTAL COMPONENT AND TO PROVIDE FOR AN ADJUSTMENT TO PAYMENTS UNDER CERTAIN CONDITIONS; AMENDING SECTION 56-102, IDAHO CODE, TO REVISE DATES FOR DECREASING EACH SKILLED CARE FACILITY'S QUARTERLY RATE, TO REMOVE PROVISIONS REGARDING INCENTIVE PAYMENTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 56-113, IDAHO CODE, TO REVISE THE REIMBURSEMENT RATE FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED AND TO REMOVE A PROSPECTIVE RATE COMPONENT; AMENDING SECTION 56-136, IDAHO CODE, TO REVISE A DATE THROUGH WHICH A CERTAIN REIMBURSEMENT RATE SHALL REMAIN CONSTANT; AMENDING SECTION 56-209g, IDAHO CODE, TO REMOVE A POLICY STATEMENT WITH REGARD TO REDUCTION OF PHARMACY REIMBURSEMENT LEVELS FOR MEDICAID AND TO PROVIDE FOR A PERIODIC COST SURVEY TO ESTABLISH A PHARMACY REIMBURSEMENT FEE SCHEDULE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 39-5606, Idaho Code, be, and the same is hereby amended to read as follows:

39-5606. PAYMENT TO BE MADE TO PROVIDER. Within the appropriations provided by law, and as authorized by rule, the department shall reimburse the provider for personal assistance services received by the participant. To qualify for reimbursement, personal assistance services must be delivered in accordance with the participant's individual service plan and all federal requirements.

The department will establish annually uniform reimbursement rates for providers. This rate will be based on the prevailing hourly rate paid for comparable positions in the state for nursing home industry employees. ~~Providers shall also receive a fifty five percent (55%) supplemental component to cover travel, administration, training and all payroll taxes and fringe benefits~~ For state fiscal year 2011, this rate will only be adjusted if the prevailing hourly rate for comparable positions is less than the rate paid during state fiscal year 2010.

The director shall promulgate and adopt such necessary rules to implement the requirements of this section.

SECTION 2. That Section 56-102, Idaho Code, be, and the same is hereby amended to read as follows:

56-102. PRINCIPLES OF PROSPECTIVE RATES AND PAYMENT. The following principles shall apply to the reimbursement of freestanding skilled care and hospital based skilled care facilities and Idaho state veterans homes, with the exception of the nursing facility at state hospital south, which shall be reimbursed costs based on medicare reasonable cost provisions:

(1) Payments to facilities shall be through a prospective cost-based system which includes facility-specific case mix adjustments. Details of the methodology shall be set forth in rules based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital based skilled care facilities. In no event shall reimbursement to any facility exceed the usual and customary charges made to private pay patients; and

(2) Each skilled care facility's case mix index shall be calculated quarterly and rates shall be adjusted based on the case mix of that facility's medicaid residents as of a certain date during the preceding quarter as specified in rule; and

(3) With the exception of the nursing facilities at Idaho state veterans homes, each skilled care facility's quarterly rate will be decreased two and seven-tenths percent (2.7%) from July 1, 200910, through June 30, 20101; and

(4) The cost limits used for the direct care and indirect care costs of rural hospital based skilled care facilities shall be higher than the cost limits used for the direct care and indirect care costs of freestanding skilled care and urban hospital based skilled care facilities; and

(5) In computing the direct care per diem rate neither medicaid-related ancillary services nor raw food shall be case-mix adjusted; and

(6) Property costs shall not be subject to a cost limitation ~~or incentive~~. Property costs of freestanding skilled care facilities shall be reimbursed as described in section 56-108, Idaho Code, and property costs of urban and rural hospital based skilled care facilities shall be reimbursed as described in section 56-120, Idaho Code; and

(7) Cost limits shall apply to direct care costs and indirect care costs. The cost limits shall be based on percentages above the bed-weighted median of the combined costs of both freestanding skilled care and hospital based skilled care facilities; and

(8) Costs exempt from cost limits are property taxes, property insurance, utilities and costs related to new legal mandates as defined by rule; and

(9) ~~An incentive payment shall be paid to those facilities with indirect per diem costs that are less than the established indirect care cost limit. The incentive payment is calculated by taking the difference between the cost limits and the provider's per diem indirect care cost times the incentive percentage up to a maximum of nine dollars and fifty cents (\$9.50) per patient day. Freestanding skilled care and hospital based skilled care facilities shall receive the same percentage incentive payments for indirect care costs but no incentive payment for direct care costs. The percentage at which the incentive payment will be set shall be based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital based skilled care facilities; and~~

~~(10)~~ A newly constructed facility shall be reimbursed at the median rate for skilled care facilities of that type (freestanding or hospital based) for the first three (3) full years of operation; and

(140) A facility adding new beds will have its rates for the three (3) full years following the addition of the beds subjected to an additional reimbursement limitation. This limitation will apply beginning with the first rate setting period which uses a cost report that includes the date when the beds were added. The facility's rate will be limited to the bed-weighted average of two (2) rates: the facility's rate in effect immediately prior to the rate first subject to the limitation and the median rate for skilled care facilities of that type (freestanding or hospital based) at the time the beds were added; and

(121) A facility acquired prior to the end of that facility's fiscal year will be reimbursed at the rate then in effect for that facility until the next cost report can be used for rate setting. If the department determines that the facility is operationally or financially unstable, the department may negotiate a reimbursement rate different than the rate then in effect for that facility; and

(132) If the department determines that a facility is located in an underserved area, or addresses an underserved need, the department may negotiate a reimbursement rate different than the rate then in effect for that facility; and

(143) From July 1, 1999, through June 30, 2002, the nursing facility inflation rate plus one percent (1%) per year shall be added to the costs reported in a facility's cost report for purposes of setting that facility's rate. The inflation rate to be used effective July 1, 2002, and the period of its use will be based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital based skilled care facilities; and

(154) To control the growth in the cost limits, the increase in the cost limits shall not exceed the skilled nursing facility inflation rate established by data resources, inc., or its successor, plus two percent (2%) per year for the period from July 1, 1999, through June 30, 2002. The maximum rate of growth in the cost limits to be used effective July 1, 2002, and the period of its use will be based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital based skilled care facilities; and

(165) To control declines in the cost limits, the cost limits for the period from July 1, 1999, through June 30, 2002, shall not be lower than the respective cost limits effective July 1, 1999. The minimum cost limits to be used effective July 1, 2002, and the period of their use will be based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital based skilled care facilities; and

(176) Rates shall be rebased annually. Rate setting shall be prospective with new rates effective July 1 of each year, using the principles ~~applying~~ applied to skilled care facilities set forth in this chapter and the rules promulgated pursuant to this chapter. There will be no settlement between actual costs incurred during the rate year and the rate itself. Rates will be established using the most recent audited cost report trended forward to the rate year. Rates for skilled care facilities with unaudited cost reports will be interim rates established by the department until a rate is calculated based on an audited cost report. The draft audit of a cost report submitted by a facility shall be issued by the department no later than five (5) months from the date all information required for completion of the audit is filed with the department; and

(187) Changes of more than fifty cents (50¢) per patient day in allowable costs resulting from federal or state law or rule changes shall be treated as costs separate from the cost limitations until such time as they become part of the data used for calculating the cost limits and in cost reports used for rate setting; and

(198) If a review of the data submitted by a facility reveals errors that result in an incorrect case mix index, the department may retroactively adjust the facility's rate and pay the facility any amount by which the facility was underpaid or recoup from the facility any amount by which the facility was overpaid; and

(2019) The rates established under the principles set forth in this section shall be phased in using a combination of the reimbursement methodology in effect as of state fiscal year 1999 and the principles set forth in this section and in rules based on negotiations between the department, the state association(s) representing freestanding skilled care facilities, and the state association(s) representing hospital based skilled care facilities. Effective July 1, 2001, the phase in provisions will no longer apply and the department shall pay rates solely based on the principles set forth in this section and the applicable rules.

SECTION 3. That Section 56-113, Idaho Code, be, and the same is hereby amended to read as follows:

56-113. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED. (1) Services provided by intermediate care facilities for the mentally retarded, with the exception of state operated facilities, shall be paid in accordance with the provisions of this section, and not as provided in any other section of this chapter, unless otherwise provided in this section. State operated facilities shall be reimbursed costs based on medicare reasonable cost provisions.

(2) ~~Except as otherwise provided in this section, intermediate care facilities for the mentally retarded shall remain at the rate paid in state fiscal year 2009 through June 30, 2010. Thereafter, intermediate care facilities for the mentally retarded shall be reimbursed based on a prospective rate system without retrospective settlement effective October 1, 1996 2010, using audited cost reports for the calendar year ending 2008 without cost or cost limit adjustments for inflation.~~ In no event, shall payments to this class of facility exceed, in the aggregate, the amount which would be reimbursed using medicare cost reimbursement methods as defined in the medicare provider reimbursement manual (HCFA - pub. 15).

(3) The prospective rate shall consist of the following components:

(a) A component for reasonable property costs which shall be computed using the property rental rate methodology set forth in section 56-108, Idaho Code, with the exceptions that the base rate shall exclude major moveable equipment and grandfathered rates will not apply. The initial base rate shall be eight dollars and ninety-four cents (\$8.94) for facilities that accommodate residents in wheelchairs and five dollars and eighty-one cents (\$5.81) for facilities that cannot accommodate residents in wheelchairs. The rates shall be adjusted annually as provided in section 56-108, Idaho Code; and

(b) A component for forecasted reasonable day treatment costs which shall be subject to a per patient day limit as provided in rule; and

(c) A component for all other allowable costs as determined in accordance with department rules which shall be subject to a limitation based on a percentage of the forecasted median for such costs of intermediate care facilities for the mentally retarded, excluding state operated facilities; and

~~(d) A component that provides an efficiency increment payment of twenty cents (20¢) for each one dollar (\$1.00) per patient day that the facility is under the limit described in subsection (3) (c) of this section up to a maximum payment of three dollars (\$3.00) per patient day.~~

(4) The director may require retrospective settlement as provided by rule in limited circumstances including, but not limited to:

- (a) The facility fails to meet quality of care standards; or
- (b) The facility is new or operated by a new provider, until such time as a prospective rate is set; or
- (c) The prospective rate resulted from fraud, abuse or error.

(5) The director shall have authority to provide by rule, exceptions to the limitations described in subsection (3) of this section.

(6) The director shall promulgate the rules necessary to carry out the provisions of this section.

SECTION 4. That Section 56-136, Idaho Code, be, and the same is hereby amended to read as follows:

56-136. PHYSICIAN AND DENTIST REIMBURSEMENT. (1) The rate of reimbursement for all medicaid-covered physician and dentist services rendered to medicaid recipients shall remain at the rate paid in state fiscal year 2009 through June 30, 2010¹. Thereafter, the reimbursement rate for all medicaid-covered physician and dentist services rendered to medicaid recipients shall be adjusted each fiscal year. Each fiscal year adjustment shall be determined by the director and shall equal the year over year inflation rate forecasted as of the midpoint of the fiscal year by the all item, goods and services index in the pacific northwest as published by global insights, inc., or its successor. Such forecast index shall be the last published forecast prior to the start of the fiscal year. Provided however, an adjustment may exceed the index rate cited in this section at the discretion of the legislature.

(2) Actual payments made by the director to each physician and dentist shall not exceed the usual and customary charges made to private pay patients.

(3) For the purposes of this section:

- (a) "Physician" means a person licensed to practice medicine pursuant to chapter 18, title 54, Idaho Code.
- (b) "Dentist" means a person licensed to practice dentistry pursuant to chapter 9, title 54, Idaho Code.

(4) The amount to be paid under the provisions of this section shall in no event exceed any limitations imposed by federal law or regulation.

SECTION 5. That Section 56-209g, Idaho Code, be, and the same is hereby amended to read as follows:

56-209g. PHARMACY REIMBURSEMENT. (1) Medicaid pharmacy reimbursement levels are a combination of the cost of the drug and a dispensing fee which includes such pharmaceutical care services as counseling, obtaining a patient history, documentation, and dispensing. ~~From and after January 1, 1995, through June 30, 1998, it shall be the policy of the state of Idaho that there be no reduction of pharmacy reimbursement levels for medicaid under title XIX of the social security act except as necessary to comply with federal regulations, 42 CFR 447.331 through 447.334, as implemented in the state of Idaho.~~ Effective July 1, 1998, pharmacy reimbursement levels may be adjusted in accordance with rules promulgated by the director through negotiated rulemaking with interested parties including representatives of the pharmacy profession.

(2) The department will utilize periodic state cost surveys to obtain the most accurate pharmacy drug acquisition costs in establishing a pharmacy reimbursement fee schedule. Pharmacies participating in the Idaho medicaid program are required to participate in these periodic state cost surveys by disclosing the costs of all drugs net of any special discounts or allowances.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 5 of this act shall be in full force and effect on and after passage and approval, and retroactively to April 1, 2010.

Approved April 11, 2010.

CHAPTER 297
(H.B. No. 710)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDIRECT SUPPORT SERVICES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 258, Laws of 2009, to the Department of Health and Welfare for Indirect Support Services is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$680,300
Operating Expenditures	<u>521,700</u>
TOTAL	\$1,202,000

FROM:

Cooperative Welfare (General) Fund	\$1,202,000
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SECTION 2. There is hereby appropriated to the Department of Health and Welfare for Indirect Support Services the following amount to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Cooperative Welfare (General)			
Fund	\$8,845,400	\$6,387,000	\$15,232,400
Cooperative Welfare (Dedicated)			
Fund	566,900	1,124,300	1,691,200
Cooperative Welfare (Federal)			
Fund	<u>10,078,600</u>	<u>6,778,800</u>	<u>16,857,400</u>
TOTAL	\$19,490,900	\$14,290,100	\$33,781,000

SECTION 3. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare for Indirect Support Services is authorized no more than two hundred ninety-four and ninety-two hundredths (294.92) full-time equivalent positions for the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 4. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 5. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 6. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 7. TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners that currently designates the responsibility to the Division of Financial Management.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 298
(H.B. No. 711)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS FOR THE VARIOUS PURPOSES SPECIFIED; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED IN THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AND AUTHORIZING THE USE OF TAX ANTICIPATION NOTES.

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

SECTION 1. There is hereby appropriated from the Permanent Building Fund to the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair of buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, including those listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Fund for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. MAINTENANCE PROJECTS IN THE FOLLOWING AREAS:

(1) Alterations and Repairs	\$18,505,600
(2) Asbestos Abatement	\$500,000
(3) Statewide ADA Compliance	\$800,000
(4) Capitol Mall Maintenance	\$120,000

B. CAPITAL PROJECTS IN THE FOLLOWING AREAS:

(1) Idaho Department of Correction -- ICIO Maintenance Building	\$600,000
(2) Department of Juvenile Corrections -- High Voltage Power Distribution System	\$1,350,000
(3) Department of Health and Welfare -- State Hospital South Building Demolition	\$612,000
(4) Department of Administration -- Capitol Annex Renovation	\$500,000

GRAND TOTAL	\$22,987,600
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SECTION 2. It is legislative intent that the moneys appropriated in this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; and it is further the express intention of the Legislature to authorize the Division of Public Works to expend, for the purpose of paying the cost of any land, building, equipment or the rebuilding, renovation or repair of buildings, moneys appropriated for public works to various agencies as part of the respective agency operating budgets; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance.

SECTION 3. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after request for spending authority in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 4. The State Treasurer is hereby authorized and directed to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred in Sections 63-3201 through 63-3204, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Fund were being anticipated.

Approved April 11, 2010.

CHAPTER 299
(H.B. No. 712)

AN ACT

REDUCING THE APPROPRIATION TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT ON SHARING OFFICE SPACE; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 317, Laws of 2009, to the Commission for the Blind and Visually Impaired is hereby reduced by the following amounts according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

OPERATING EXPENDITURES	\$12,200
TRUSTEE AND BENEFIT PAYMENTS	<u>105,400</u>
TOTAL	\$117,600

FROM:

General Fund	\$117,600
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SECTION 2. There is hereby appropriated to the Commission for the Blind and Visually Impaired the following amount to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	\$601,400	\$48,500		\$627,400	\$1,277,300
Randolph Sheppard Fund		7,300		120,100	127,400
Rehabilitation Revenue and Refunds Fund		34,300		13,000	47,300
American Reinvestment Fund		168,900	\$45,000		213,900
Miscellaneous Revenue Fund		17,400	1,300	16,300	35,000

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	CAPITAL	TRUSTEE AND	
	COSTS	EXPENDITURES	OUTLAY	BENEFIT	TOTAL
				PAYMENTS	
Adaptive Aids and Appliances					
Fund	14,400	47,600			62,000
Federal Grant					
Fund	<u>1,626,800</u>	<u>471,800</u>	<u>91,700</u>	<u>241,500</u>	<u>2,431,800</u>
TOTAL	\$2,242,600	\$795,800	\$138,000	\$1,018,300	\$4,194,700

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Commission for the Blind and Visually Impaired is authorized no more than thirty-nine (39) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that the Idaho Industrial Commission explore the possibility of sharing office space with the Commission for the Blind and Visually Impaired during fiscal year 2011. The Idaho Industrial Commission will report its findings to the Joint Finance-Appropriations Committee during their 2011 budget hearing.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 300
(H.B. No. 713)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 2011.

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

SECTION 1. In addition to the appropriation made in Section 3 of House Bill No. 696, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature, there is hereby appropriated to the Department of Parks and Recreation \$275,000 to be expended for the Management Services Program from the Parks and Recreation Fund for the period July 1, 2010, through June 30, 2011. Such moneys are to be used to pay for the actual costs incurred by the department for the Invasive Species Sticker Program as approved in House Bill No. 533, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature.

Approved April 11, 2010.

CHAPTER 301
(H.B. No. 714)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICE INTEGRATION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICE INTEGRATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICE INTEGRATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; DIRECTING THAT FUNDS FOR TRUSTEE AND BENEFIT PAYMENTS SHALL NOT BE TRANSFERRED; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; DIRECTING THE HEAD START APPROPRIATIONS FROM THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES FUNDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 259, Laws of 2009, to the Department of Health and Welfare for the Service Integration Program is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$58,300
Operating Expenditures	<u>10,200</u>
TOTAL	\$68,500

FROM:

Cooperative Welfare (General) Fund	\$68,500
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SECTION 2. In addition to the appropriation made in Section 1, Chapter 259, Laws of 2009, there is hereby appropriated to the Department of Health and Welfare for the Service Integration Program the following amount according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Trustee and Benefit Payments	\$800,000
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FROM:

Cooperative Welfare (Federal) Fund	\$800,000
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SECTION 3. There is hereby appropriated to the Department of Health and Welfare for the Service Integration Program the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
Cooperative Welfare (General)				
Fund	\$764,400	\$125,600		\$890,000
Cooperative Welfare (Dedicated)				
Fund	19,500		\$50,000	69,500
Cooperative Welfare (Federal)				
Fund	<u>955,400</u>	<u>166,500</u>	<u>2,200,000</u>	<u>3,321,900</u>
TOTAL	\$1,739,300	\$292,100	\$2,250,000	\$4,281,400

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than thirty-one (31) full-time equivalent positions for the Service Integration Program during the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 6. TRANSFER OF TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure object code shall not be transferred to any other objects within the program budget during fiscal year 2011.

SECTION 7. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 8. TRANSFER BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners who currently designates that responsibility to the Division of Financial Management.

SECTION 9. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 10. HEAD START APPROPRIATIONS FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES FUNDS. At a minimum, the Department of Health and Welfare is directed to maintain Head Start appropriations paid from federal Temporary Assistance for Needy Families funds at the same level as was paid to the Head Start Program in fiscal year 2007.

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 302
(H.B. No. 715)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MENTAL HEALTH SERVICES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR MENTAL HEALTH SERVICES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE CHILDREN'S MENTAL HEALTH PROGRAM AND THE ADULT MENTAL HEALTH PROGRAM; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE DRUG COURT, MENTAL HEALTH COURT AND FAMILY COURT SERVICES FUND; DIRECTING AN INTERAGENCY PAYMENT FOR A JUVENILE DETENTION CLINICIANS CONTRACT; LIMITING THE TRANSFER OF TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT ON PROGRAM INTEGRITY; DIRECTING THE USE OF CERTAIN MONEYS IN THE MENTAL HEALTH GRANT PROGRAM; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 263, Laws of 2009, to the Department of Health and Welfare for Mental Health Services is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S MENTAL HEALTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$181,500	\$49,700	\$334,800	\$566,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. ADULT MENTAL HEALTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$838,300	\$123,800	\$47,200	\$1,009,300
III. MENTAL HEALTH GRANTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$312,100	\$312,100
GRAND TOTAL	\$1,019,800	\$173,500	\$694,100	\$1,887,400

SECTION 2. There is hereby appropriated to the Department of Health and Welfare for Mental Health Services the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILDREN'S MENTAL HEALTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$4,070,500	\$633,600	\$4,448,200	\$9,152,300
Cooperative Welfare (Dedicated)				
Fund			164,500	164,500
Cooperative Welfare (Federal)				
Fund	<u>1,415,600</u>	<u>1,358,000</u>	<u>1,117,600</u>	<u>3,891,200</u>
TOTAL	\$5,486,100	\$1,991,600	\$5,730,300	\$13,208,000
II. ADULT MENTAL HEALTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$11,052,300	\$1,450,100	\$627,500	\$13,129,900
Cooperative Welfare (Dedicated)				
Fund	684,300		650,000	1,334,300
Drug Court, Mental Health and Family Court Services				
Fund	155,100	98,000		253,100
Cooperative Welfare (Federal)				
Fund	<u>2,666,800</u>	<u>1,158,400</u>	<u>353,700</u>	<u>4,178,900</u>
TOTAL	\$14,558,500	\$2,706,500	\$1,631,200	\$18,896,200

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. MENTAL HEALTH GRANTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$1,870,800	\$1,870,800
GRAND TOTAL	\$20,044,600	\$4,698,100	\$9,232,300	\$33,975,000

SECTION 3. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than eighty-nine and thirty hundredths (89.30) full-time equivalent positions for the Children's Mental Health Program for the period July 1, 2010, through June 30, 2011. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred thirty-nine and four hundredths (239.04) full-time equivalent positions for the Adult Mental Health Program for the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 4. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 5. COURT SERVICES FUND TRANSFERS. As appropriated, the State Controller shall make transfers of the Court Services Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 6. INTERAGENCY PAYMENT FOR JUVENILE DETENTION CLINICIANS CONTRACT. The Children's Mental Health Program shall make, no later than July 10, 2010, an interagency payment of \$327,000 from the Cooperative Welfare (General) Fund to the Department of Juvenile Corrections to be utilized for the purchase of contract clinician services with juvenile detention facilities in Idaho, for the period July 1, 2010, through June 30, 2011.

SECTION 7. TRANSFER OF TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure object code shall not be transferred to any other objects within the program budget during fiscal year 2011.

SECTION 8. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 9. MENTAL HEALTH GRANTS. It is the intent of the Legislature that the department utilize the \$787,400 of ongoing funding within the Mental Health Grants Program for the Region 4 Dual Diagnosis Crisis Intervention beds that will contractually be operated by Ada County. It is also the intent of the Legislature that the \$1,083,400 base ongoing funding be continued in fiscal year 2011 for the Region 7 grant project that was selected in fiscal year 2008.

SECTION 10. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 11. TRANSFER BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners who currently designates that responsibility to the Division of Financial Management.

SECTION 12. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 303
(H.B. No. 716)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE MEDICALLY INDIGENT ADMINISTRATION DIVISION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE MEDICALLY INDIGENT ADMINISTRATION DIVISION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; PROVIDING LEGISLATIVE INTENT FOR TRUSTEE AND BENEFIT PAYMENTS; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 3, Chapter 210, Laws of 2009, to the Department of Health and Welfare for the Medically Indigent Administration Division is hereby reduced by the following amount, according to the des-

ignated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$14,300
Operating Expenditures	<u>12,400</u>
TOTAL	\$26,700

FROM:

Cooperative Welfare (General) Fund	\$26,700
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SECTION 2. There is hereby appropriated to the Department of Health and Welfare for the Medically Indigent Administration Division the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

FOR:

Personnel Costs	\$113,700
Operating Expenditures	<u>15,100</u>
TOTAL	\$128,800

FROM:

Cooperative Welfare (General) Fund	\$128,800
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SECTION 3. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than one (1) full-time equivalent position for the Medically Indigent Administration Division for the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 4. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 5. TRANSFER OF TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure object code shall not be transferred to any other objects within the program budget during fiscal year 2011.

SECTION 6. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 7. TRANSFER BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or

institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners who currently designates that responsibility to the Division of Financial Management.

SECTION 8. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 304
(H.B. No. 717)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE CHILD WELFARE DIVISION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR THE DEPARTMENT OF HEALTH AND WELFARE FOR THE CHILD WELFARE DIVISION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; DIRECTING THAT FUNDS FOR TRUSTEE AND BENEFIT PAYMENTS SHALL NOT BE TRANSFERRED; PROVIDING LEGISLATIVE INTENT FOR EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 261, Laws of 2009, to the Department of Health and Welfare for the Child Welfare Division is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILD WELFARE:				
FROM:				
Cooperative Welfare (General)				
Fund	\$697,800	\$130,700		\$828,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. FOSTER & ASSISTANCE PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$810,900	\$810,900
GRAND TOTAL	\$697,800	\$130,700	\$810,900	\$1,639,400

SECTION 2. There is hereby appropriated to the Department of Health and Welfare for the Child Welfare Division the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CHILD WELFARE:				
FROM:				
Cooperative Welfare (General)				
Fund	\$7,508,900	\$1,576,000		\$9,084,900
Cooperative Welfare (Dedicated)				
Fund	69,300	125,000		194,300
Cooperative Welfare (Federal)				
Fund	<u>13,855,000</u>	<u>6,090,800</u>		<u>19,945,800</u>
TOTAL	\$21,433,200	\$7,791,800		\$29,225,000
II. FOSTER & ASSISTANCE PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$10,773,500	\$10,773,500
Cooperative Welfare (Dedicated)				
Fund			955,400	955,400
Cooperative Welfare (Federal)				
Fund			<u>13,476,400</u>	<u>13,476,400</u>
TOTAL			\$25,205,300	\$25,205,300
GRAND TOTAL	\$21,433,200	\$7,791,800	\$25,205,300	\$54,430,300

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than three hundred ninety-two and sixty-seven hundredths (392.67) full-time equivalent positions for the Child Welfare Program during the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only

by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 4. GENERAL FUND TRANSFER. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 5. TRANSFER OF TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure object code shall not be transferred to any other objects within the program budget during fiscal year 2011.

SECTION 6. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 7. TRANSFER BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners who currently designates that responsibility to the Division of Financial Management.

SECTION 8. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 305
(H.B. No. 722)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICES FOR THE DEVELOPMENTALLY DISABLED FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR COMMUNITY DEVELOPMENTAL DISABILITIES SERVICES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SERVICES FOR THE DEVELOPMENTALLY DISABLED FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; DIRECTING THAT FUNDS FOR TRUSTEE AND BENEFIT PAYMENTS SHALL NOT BE TRANSFERRED; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT

OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 260, Laws of 2009, to the Department of Health and Welfare for Services for the Developmentally Disabled is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:				
FROM:				
Cooperative Welfare (General)				
Fund	\$314,900	\$88,500	\$174,000	\$577,400
II. IDAHO STATE SCHOOL AND HOSPITAL:				
FROM:				
Cooperative Welfare (General)				
Fund	\$165,500	\$13,200	\$4,900	\$183,600
GRAND TOTAL	\$480,400	\$101,700	\$178,900	\$761,000

SECTION 2. In addition to the appropriation made in Section 1, Chapter 260, Laws of 2009, there is hereby appropriated to the Department of Health and Welfare for Community Developmental Disability Services the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:		
Trustee and Benefit Payments		\$330,000
FROM:		
Cooperative Welfare (Dedicated) Fund		\$330,000

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for Services for the Developmentally Disabled the following amounts to be expended according to the designated programs from the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:				
FROM:				
Cooperative Welfare (General)				
Fund	\$4,062,300	\$1,168,100	\$2,311,000	\$7,541,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Dedicated)				
Fund	801,500	46,300	1,909,800	2,757,600
Cooperative Welfare (Federal)				
Fund	<u>4,215,900</u>	<u>2,484,900</u>	<u>945,900</u>	<u>7,646,700</u>
TOTAL	\$9,079,700	\$3,699,300	\$5,166,700	\$17,945,700
II. IDAHO STATE SCHOOL AND HOSPITAL:				
FROM:				
Cooperative Welfare (General)				
Fund	\$2,157,300	\$172,100	\$65,400	\$2,394,800
Medical Assistance				
Fund		3,500		3,500
Cooperative Welfare (Dedicated)				
Fund	612,500	437,800	10,600	1,060,900
Cooperative Welfare (Federal)				
Fund	<u>15,625,300</u>	<u>3,089,800</u>	<u>205,100</u>	<u>18,920,200</u>
TOTAL	\$18,395,100	\$3,703,200	\$281,100	\$22,379,400
GRAND TOTAL	\$27,474,800	\$7,402,500	\$5,447,800	\$40,325,100

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than one hundred sixty-nine and forty-two hundredths (169.42) full-time equivalent positions for the Community Developmental Disability Services Program for the period July 1, 2010, through June 30, 2011. The Department of Health and Welfare is authorized no more than three hundred seventy-six and fifty-three hundredths (376.53) full-time equivalent positions for the Idaho State School and Hospital for the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 6. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure object code shall not be transferred to any other objects within the program budget during fiscal year 2011.

SECTION 7. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 8. TRANSFER BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners who currently designates that responsibility to the Division of Financial Management.

SECTION 9. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 306
(H.B. No. 723)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DIVISION OF WELFARE FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; DIRECTING THAT FUNDS FOR TRUSTEE AND BENEFIT PAYMENTS SHALL NOT BE TRANSFERRED; DIRECTING APPROPRIATIONS FROM THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES FUNDS FOR HEAD START SERVICES; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; DIRECTING THE DEPARTMENT OF HEALTH AND WELFARE REGARDING EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 236, Laws of 2009, to the Department of Health and Welfare for the Division of Welfare is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SELF-RELIANCE OPERATIONS:				
FROM:				
Cooperative Welfare (General)				
Fund	\$987,100	\$328,000		\$1,315,100
II. BENEFIT PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$1,184,900	\$1,184,900
GRAND TOTAL	\$987,100	\$328,000	\$1,184,900	\$2,500,000

SECTION 2. There is hereby appropriated to the Department of Health and Welfare for the Division of Welfare the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SELF-RELIANCE OPERATIONS:				
FROM:				
Cooperative Welfare (General)				
Fund	\$12,048,800	\$3,834,800		\$15,883,600
Idaho Health Insurance Access Card				
Fund	61,800			61,800
Cooperative Welfare (Dedicated)				
Fund		2,492,400		2,492,400
Cooperative Welfare (Federal)				
Fund	<u>19,634,000</u>	<u>12,878,100</u>		<u>32,512,100</u>
TOTAL	\$31,744,600	\$19,205,300		\$50,949,900
II. BENEFIT PAYMENTS:				
FROM:				
Cooperative Welfare (General)				
Fund			\$15,742,200	\$15,742,200
Cooperative Welfare (Dedicated)				
Fund			23,500	23,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Federal)				
Fund			<u>57,967,400</u>	<u>57,967,400</u>
TOTAL			\$73,733,100	\$73,733,100
GRAND TOTAL	\$31,744,600	\$19,205,300	\$73,733,100	\$124,683,000

SECTION 3. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than six hundred twenty-two and sixty-nine hundredths (622.69) full-time equivalent positions for the Division of Welfare during the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for fiscal year 2011. Any full-time equivalent positions in excess of the Department of Health and Welfare's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 4. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers of the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 5. TRANSFER OF TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure object code shall not be transferred to any other objects within the program budget during fiscal year 2011.

SECTION 6. HEAD START APPROPRIATIONS FROM TEMPORARY ASSISTANCE FOR NEEDY FAMILIES FUNDS. At a minimum, the Department of Health and Welfare is directed to maintain Head Start appropriations paid from Temporary Assistance for Needy Families (TANF) funds at the same level as was paid to the Head Start Program in fiscal year 2007.

SECTION 7. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 8. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 9. TRANSFER BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the

Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners who currently designates that responsibility to the Division of Financial Management.

SECTION 10. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 307
(H.B. No. 724)

AN ACT

REDUCING THE APPROPRIATION TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2011; REDUCING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE TAX COMMISSION FOR FISCAL YEAR 2011; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 2011; APPROPRIATING ADDITIONAL MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 2011; AND INCREASING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE STATE TREASURER FOR FISCAL YEAR 2011.

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

SECTION 1. The appropriation made to the State Tax Commission in Section 3 of House Bill No. 698, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature, is hereby reduced for the designated programs by the following amounts according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
Abandoned Property Trust - Unclaimed Property				
Fund		\$100,300	\$15,300	\$115,600
II. AUDIT AND COLLECTIONS:				
FROM:				
Abandoned Property Trust - Unclaimed Property				
Fund	\$462,200	\$206,100		\$668,300
III. REVENUE OPERATIONS:				
FROM:				
Abandoned Property Trust - Unclaimed Property				
Fund	\$67,000	\$500		\$67,500
GRAND TOTAL	\$529,200	\$306,900	\$15,300	\$851,400

SECTION 2. The authorization made to the State Tax Commission in Section 4 of House Bill No. 698, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature, is hereby reduced by eight (8) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 1 of this act.

SECTION 3. In addition to the appropriation made in Section 3 of House Bill No. 698, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature, there is hereby appropriated to the State Tax Commission the following amounts to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. GENERAL SERVICES:				
FROM:				
Administration and Accounting				
Fund		\$100,300	\$15,300	\$115,600
II. AUDIT AND COLLECTIONS:				
FROM:				
Administration and Accounting				
Fund	\$32,200	\$206,100		\$238,300
III. REVENUE OPERATIONS:				
FROM:				
Administration and Accounting				
Fund	\$67,000	\$500		\$67,500
GRAND TOTAL	\$99,200	\$306,900	\$15,300	\$421,400

SECTION 4. In addition to the appropriation made in Section 3 of House Bill No. 689, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature, there is hereby appropriated to the State Treasurer the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

FOR:	
Personnel Costs	\$430,000
Operating Expenditures	<u>421,400</u>
TOTAL	\$851,400
FROM:	
Abandoned Property Trust - Unclaimed Property	
Fund	\$851,400

SECTION 5. In addition to the authorization provided in Section 6 of House Bill No. 689, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature, the State Treasurer is authorized no more than eight (8) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 4 of this act.

Approved April 11, 2010.

CHAPTER 308
(H.B. No. 726)

AN ACT

RELATING TO THE IDAHO SOIL AND WATER CONSERVATION COMMISSION; CLARIFYING THAT ANY REFERENCE TO THE IDAHO SOIL CONSERVATION COMMISSION SHALL MEAN THE IDAHO SOIL AND WATER CONSERVATION COMMISSION WHERE MONEYS HAVE BEEN APPROPRIATED BY A PRIOR ACT.

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

SECTION 1. In any act of appropriation made for the period July 1, 2010, through June 30, 2011, where reference is made to the Soil Conservation Commission, such reference shall mean the Idaho Soil and Water Conservation Commission, as created in House Bill No. 576, as amended in the Senate, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature.

Approved April 11, 2010.

CHAPTER 309
(H.B. No. 637)

AN ACT

RELATING TO EDUCATION AND TEACHERS; AMENDING SECTION 33-1207A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO TEACHER PREPARATION PROGRAMS AT THE INSTITUTIONS OF HIGHER EDUCATION, TO PROVIDE FOR REQUIREMENTS RELATING TO FULL CERTIFICATION OF CERTAIN TEACHERS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 33-1207A, Idaho Code, be, and the same is hereby amended to read as follows:

33-1207A. TEACHER PREPARATION. (1) Higher Education Institutions. The state board shall review teacher preparation programs at the institutions of higher education under ~~their~~ its supervision and shall assure that the course offerings and graduation requirements are consistent with the state board approved, research based "Idaho Comprehensive Literacy Plan." ~~To assure the most immediate~~ ensure compliance with this requirement, the board may allocate funds, subject to appropriation, to the higher education institutions which require revision of the program that have teacher preparation programs.

~~The state board~~ higher education institutions shall be responsible for the ~~development of a single~~ preservice assessment measure for all kindergarten through grade ~~eight~~ twelve (§~~12~~) teacher preparation programs. The assessment must include a demonstration of teaching skills and knowledge congruent with current research on best reading practices. ~~In addition the assessment must include how children acquire language; the basic sound structure of English, including phonological and phonemic awareness; phonics and structural analysis; semantics and syntactics; how to select reading textbooks; and how to use diagnostic tools and test data to improve teaching. It shall also include the preservice teacher's knowledge base of reading process: phonological awareness; sound symbol correspondence (intensive, systematic phonemes); semantics (meaning); syntax (grammar and language patterns); pragmatics (background knowledge and life experi-~~

~~ence); and comprehension and critical thinking. By September 2002, all K-8 teacher candidates from an Idaho teacher preparation program shall pass this assessment in order to qualify for an Idaho standard elementary teaching certificate. The state board shall report the number of preservice teachers taking and passing the performance based reading assessment to the legislature and governor annually. All costs associated with administration of this test shall be borne by the institution which administers the test and shall be shown as a line item in the appropriation request of the institution for state reimbursement. Each institution shall report annually to the state board of education the number of preservice teachers who have passed the assessment. The state board of education shall then compile the statewide results and report to the legislature and the governor.~~

~~(2) In-service Programs. Each teacher employed in a classroom for kindergarten through grade eight (8), Title I, or special education and each school administrator of a school which includes kindergarten through grade eight (8), Title I, or special education shall complete three (3) credits (or forty five (45) contact hours of in-service training) of a state approved reading instruction course titled "Idaho Comprehensive Literacy Course" based on the state approved research based "Idaho Comprehensive Literacy Plan" in order to recertify. Courses which qualify for credit shall be approved by the state department of education, and any educator who completes a state approved reading instruction course prior to September 2001, shall be deemed to have met the requirements of this subsection. For all Idaho teachers working on interim certificates, alternate routes or coming from out of state completion of a state approved reading instruction course shall be a one-time requirement for renewal of full certification for those currently employed in an Idaho school district and shall be included within current requirements for continuing education for renewal. The department shall provide a waiver of this requirement if the applicant successfully completes the reading assessment measure developed for preservice purposes as provided in subsection (1) of this section. The department shall establish a procedure to allow a waiver of this requirement if the applicant teaches in a secondary grade subject which does not directly involve teaching reading or writing.~~

~~(3) The board of trustees of every school district shall include in its plan for in-service training, coursework covering reading skills development, including diagnostic tools to review and adjust instruction continuously, and the ability to identify students who need special help in reading. The district plan for in-service training in reading skills shall be submitted to the state department of education for review and approval, in a format specified by the department.~~

Approved April 11, 2010.

CHAPTER 310
(H.B. No. 667, As Amended)

AN ACT

RELATING TO PUBLIC HEALTH DISTRICTS; AMENDING SECTION 39-416, IDAHO CODE, TO PROVIDE THAT CERTAIN RULES OF THE PUBLIC HEALTH DISTRICTS BE SUBMITTED FOR REVIEW AND COMMENT BY THE STATE BOARD OF ENVIRONMENTAL QUALITY, TO PROVIDE THAT SUCH RULES EXPIRE AT THE END OF A REGULAR SESSION OF THE LEGISLATURE IF NOT APPROVED BY CONCURRENT RESOLUTION AND TO PROVIDE LEGISLATIVE INTENT REGARDING CERTAIN RULES; DECLARING CERTAIN RULES NULL, VOID AND OF NO FORCE AND EFFECT AT THE END OF THE SECOND REGULAR SESSION OF THE SIXTIETH IDAHO LEGISLATURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-416, Idaho Code, be, and the same is hereby amended to read as follows:

39-416. RULES ADOPTED BY DISTRICT BOARD -- PROCEDURE. (1) The district board by the affirmative vote of a majority of its members may adopt, amend or rescind rules and standards as it deems necessary to carry out the purposes and provisions of this act.

(2) Every rule or standard adopted, amended, or rescinded by the district board shall be done in a manner conforming to the provisions of chapter 52, title 67, Idaho Code.

(3) At the same time that proposed rules and standards are transmitted to the director of legislative services, they shall be submitted for review and comment to the state board of health and welfare, and to the board of county commissioners of each county within the public health district's jurisdiction. The state board of health and welfare shall, within seventy-five (75) days of receipt of a district board's proposed rules, disapprove of the adoption of the rules if, on the advice of the attorney general, such rules would be in conflict with state laws or rules. The state board of health and welfare shall immediately advise the district board as to the reason for the disapproval.

(4) This section does not apply to measures adopted for the internal operation of the district board or for federal programs where the regulations are established by the federal government but shall apply to all measures affecting the public at large or any identifiable segment thereof.

(5) Public health districts shall have all proposed rules regarding environmental protection or programs administered by the department of environmental quality submitted for review and comment to the state board of environmental quality and such rules must be approved by adoption of a concurrent resolution by both houses of the legislature or such rules shall expire at the conclusion of a regular session of the legislature. It is the intent of the legislature that standards and rules relating to subsurface sewage systems, wastewater treatment, sewage systems and water quality be consistent statewide.

SECTION 2. That, having found that the following rules violate the legislative intent of the statute under which the rules were adopted, IDAPA 41.01.01.901; IDAPA 41.01.01.100.02; and IDAPA 41.01.01.100.06 shall be null, void and of no force and effect at the conclusion of the Second Regular Session of the Sixtieth Idaho Legislature.

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

Approved April 11, 2010.

CHAPTER 311
(H.B. No. 684)

AN ACT

RELATING TO THE STATE ATHLETIC COMMISSION; AMENDING SECTION 54-402, IDAHO CODE, TO REVISE DEFINITIONS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-406, IDAHO CODE, TO PROVIDE THE COMMISSION AUTHORITY TO ESTABLISH CERTAIN FEES, TO PROVIDE ADDITIONAL NATIONALLY RECOGNIZED SANCTIONING ASSOCIATIONS, TO PROVIDE REQUIREMENTS FOR CERTAIN PROMOTERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-408, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BOND OR OTHER SECURITY

FILED BY PROMOTERS; AMENDING SECTION 54-410, IDAHO CODE, TO REQUIRE A PAYMENT OF FEES FOR THE ISSUANCE OF A LICENSE OR SANCTIONING PERMIT; AMENDING SECTION 54-411, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A STATEMENT AND REPORT OF AN EVENT AND TO PROVIDE REQUIREMENTS RELATING TO THE PAYMENT OF A CERTAIN TAX TO THE COMMISSION; AMENDING SECTION 54-413, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-419, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN STATEMENT AND REPORT OF AN EVENT; AND AMENDING SECTION 54-420, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PROHIBITIONS AND PENALTIES.

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

SECTION 1. That Section 54-402, Idaho Code, be, and the same is hereby amended to read as follows:

54-402. DEFINITIONS. (1) The terms used in this chapter have the following meanings:

(a) "Amateur combatant" means an individual who has never been a professional combatant, as defined in this chapter, as well as an individual who has never received nor competed for any purse or other article of value, either for participating in or being associated in any way with any contest or exhibition of unarmed combat or for the expenses of training therefor, other than a noncash prize which does not exceed fifty dollars (\$50.00) in value.

(b) "Applicant" means any individual, club, association, corporation, partnership, trust or other business entity which submits an application to the commission for a license or permit pursuant to this chapter.

(c) "Booking agent" means persons who act as bookers, agents, agencies and representatives who secure engagements and contracts for combatants.

(d) "Boxing" means the pugilistic act of attack and defense with the fists, practiced as a sport. The term includes all variations of the sport permitting or using other parts of the human body to deliver blows upon an opponent including, but not limited to, the foot, knee, leg, elbow or head. "Boxing" includes, but is not limited to, kickboxing and martial arts but does not include professional wrestling.

(e) "Broadcast" means any audio or visual transmission sent by any means of signal within, into or from this state, whether live or taped or time delayed, and includes any replays thereof.

(f) "Bureau" means the Idaho bureau of occupational licenses.

(g) "Closed-circuit telecast" means any telecast of contests or exhibitions which is not intended to be available for viewing without the payment of a fee, collected or based upon each telecast viewed, or for the privilege of viewing the telecast.

(h) "Club" means an incorporated or unincorporated association or body of individuals voluntarily united and acting together for some common or special purpose.

(i) "College" and "university" means:

(i) An educational institution of higher learning that typically grants associate's, bachelor's, master's or doctorate degrees;

(ii) A division or school of a university; and

(iii) As used in this chapter, also includes educational institutions known as ~~junior colleges~~, community colleges and professional-technical schools.

(j) "Combatant" means an individual who takes part as a competitor in a contest or exhibition.

(k) "Commission" means the state athletic commission.

(l) "Commissioner" means the state athletic commissioner.

(m) "Contest" means a boxing match in which the participants strive earnestly in good faith to win.

(n) "Corner person" means, but shall not be limited to, a trainer, a second or any other individual who attends the combatant during a match.

(o) "Exhibition" means an engagement in which the participants show or display their skill without necessarily striving to win, such as a wrestling match between professional wrestlers or a ~~contest~~ boxing match where ~~combatants~~ boxers are sparring.

(p) "Judge" means an individual other than a referee who shall have a vote in determining the winner of any contest.

(q) "Kickboxing" means any form of competitive pugilistic contest or exhibition in which blows are delivered with the hand and any part of the foot.

(r) "License" means a certificate issued to a person by the commission ~~to participants of sanctioned professional contests and exhibitions or amateur contests and exhibitions which are not exempt from regulation under section 54-406(3), Idaho Code, which that~~ is required for participation the person to conduct, participate in such events or otherwise be associated with sanctioned contests or exhibitions.

(s) "Licensee" means a person who has been issued a license by the commission.

(t) "Manager" means a person who controls or administers the affairs of any professional combatant. The term "manager" includes a person acting as a booking agent or a person acting as the representative of a manager.

(u) "Martial arts" means any form of karate, kung fu, tae kwon do, sumo, judo or any other system or form of combat or self-defense art.

(v) "Matchmaker" means a person who brings together or induces combatants ~~regulated by the commission~~ to participate in contests or exhibitions ~~regulated by the commission~~ or a person who arranges contests or exhibitions ~~regulated by the commission~~.

(w) "Participant" means any person who is required by this chapter to be licensed by the commission in connection with taking part in or being associated with a contest or exhibition ~~regulated by the commission~~.

(x) "Person" means any individual, partnership, limited liability company, club, association, corporation, organization, secondary school, college, university, trust or other legal entity.

(y) "Physician" means an individual licensed under the laws of this state to engage in the general practice of medicine or osteopathic medicine.

(z) "Professional combatant" means an individual eighteen (18) years of age or older who participates as a competitor in a contest or exhibition for money, prizes or purses, or who teaches, instructs or assists in the practice of unarmed combat or sparring as a means of obtaining pecuniary gain.

(aa) "Professional contest and professional exhibition" means any contest or exhibition conducted within this state involving professional combatants.

(bb) "Professional wrestling" means an activity in which combatants struggle hand-to-hand primarily for the purpose of providing entertainment to spectators and which does not comprise a bona fide athletic contest or competition.

(cc) "Promoter" means any person including an owner, officer, partner, member, director, employee or shareholder thereof, who produces, arranges, ~~or~~ stages or otherwise promotes any contest or exhibition ~~that is not exempt from regulation pursuant to section 54-406(3), Idaho Code.~~

(dd) "Pugilistic" means an act related to the skill or practice of fighting with the fists.

(ee) "Purse" means the financial guarantee or any other remuneration or thing of value for which a person participates in a contest or exhibition.

(ff) "Ring official" means any individual who performs an official function during the progress of a regulated contest or exhibition including, but not limited to, timekeepers, judges, referees and attending physicians.

(gg) "Sanctioning permit" means a license issued by the commission ~~to a promoter which~~ or a permit issued by an approved amateur athletic sanctioning organization, that authorizes the holding of a promoter to promote a single program of contests and exhibitions at a specific venue.

(hh) "Secondary school" means a school which, for operational purposes, is organized and administered on the basis of grades seven (7) through twelve (12), inclusive, or any combination thereof.

(ii) "Sparring" means to engage in a form of unarmed combat, such as occurs in a practice or exhibition match.

(jj) "Trainer" means an individual who assists, coaches or instructs any unarmed combatant with respect to physical conditioning, strategy, techniques or preparation for competition in contests or exhibitions ~~which are not exempt from regulation pursuant to section 54-406(3), Idaho Code.~~

(kk) "Unarmed combat" means a fight or contest between individuals or groups without the use of weapons other than the natural appurtenances of the human body.

(2) To the extent the commission deems pertinent, any specialized term not otherwise defined in this chapter may be defined by rule.

SECTION 2. That Section 54-406, Idaho Code, be, and the same is hereby amended to read as follows:

54-406. DUTIES OF COMMISSION -- SANCTIONING PERMITS -- LICENSING -- EXEMPTIONS -- MEDICAL CERTIFICATION. (1) The commission shall have power, and it shall be its duty, to direct, supervise and control all amateur and professional contests and exhibitions within the state and no such contest or exhibition shall be held or given within this state except in accordance with the provisions of this chapter. The commission has authority to adopt rules to implement the provisions of this chapter and to implement each of the duties and responsibilities conferred upon the commission including, but not limited to:

(a) Development of an ethical code of conduct for commissioners, commission staff and commission officials;

(b) Facility and safety requirements relating to the ring, floor plan and apron seating, emergency medical equipment and services, and other equipment and services necessary for the conduct of a program of matches;

(c) Requirements regarding a participant's apparel, bandages, hand-wraps, gloves, mouthpiece and appearance during a match;

(d) Requirements relating to a manager's participation, presence and conduct during a match;

(e) Duties and responsibilities of all licensees under this chapter;

(f) Procedures for hearings and resolution of disputes;

(g) Qualifications for appointment of referees and judges;

(h) Designation and duties of a knockdown timekeeper;

(i) Setting fee and reimbursement schedules for referees and other officials appointed by the commission or the representative of the commission; ~~and~~

(j) Establishment of criteria for approval, disapproval, suspension of approval and revocation of approval of amateur sanctioning organizations for amateur contests and exhibitions held in this state including, but not limited to, the health and safety standards the organizations use before, during and after the matches to ensure the health, safety and well-being of the amateur combatants participating in the matches, including the qualifications and numbers of health care personnel required to be present, the qualifications required for referees, and other requirements relating to the health, safety and well-being of the amateur combatants participating in the matches. The commission may adopt by rule, or incorporate by reference into rule, the health and safety standards of United States amateur boxing, inc., as the minimum health and safety standards for an amateur boxing sanctioning organization, and the health and safety standards of the international amateur kickboxing sport association as the minimum health and safety standards for an amateur kickboxing sanctioning organization; and

(k) Establish fees to be paid by an amateur athletic sanctioning organization that is approved pursuant to subsection (3) (b) (ii) of this section, which fees shall include:

(i) Initial and annual application processing fees of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000); and

(ii) Initial and annual approval fees of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000).

(2) The commission may, in its discretion, issue or refuse to issue and for cause immediately revoke any ~~sanctioning permits to conduct, hold or give amateur and professional contests or exhibitions~~ whether or not an admission fee is charged by any person, organization, association or fraternal society. The commission may also, in its discretion, issue or refuse to issue and for cause immediately revoke, ~~or~~ suspend or otherwise ~~sanction~~ discipline licenses for participants of sanctioned contests and exhibitions.

(3) Specifically exempt from the provisions of this chapter are all contests or exhibitions that:

(a) Are contests or exhibitions conducted by any secondary school, college or university, whether public or private, where all the participating contestants are bona fide students enrolled in any secondary school, college or university, within or without this state; ~~or~~

(b) Are entirely contests or exhibitions, in which all combatants are amateurs and which have been sanctioned as amateur athletic contests or exhibitions by any of the following associations:

(i) United States amateur boxing, inc., also known as USA boxing, inc. ~~+~~

~~(ii) the amateur athletic union of the United States, inc., also known as the national amateur athletic union, the amateur athletic union and the AAU or any similar nationally recognized entity approved by the commission; or~~

~~(iii) Any other entity that the commission approves as an officially recognized amateur boxing or other to be an amateur athletic sanctioning authority organization, which approval shall be subject to annual review for purposes of renewal. Notwithstanding any other provision of this chapter, the promoter of any contest or exhibition sanctioned by an organization approved pursuant to this subparagraph shall comply with sections 54-408, 54-411, 54-413, 54-417, 54-419, 54-421 and 54-422, Idaho Code, and the promoter and each participant in such contest or exhibition are~~

subject to sections 54-416, 54-418 and 54-420, Idaho Code, unless specifically exempted by commission rule; or

(c) Are contests or exhibitions held under the auspices or sanction of an established nonprofit secondary school activities organization or of its public or nonprofit accredited secondary school members, or held under the auspices or sanction of an established college or university activities organization or its public or not-for-profit accredited college or university members; or

(d) Are contests or exhibitions conducted by any military installation or branch of the United States armed forces, or the state national guard, where the participants are employed by the military installation, are members of the branch of the armed forces, or the state national guard unit conducting the contest or exhibition.

(4) Provided further that every combatant in any contest or exhibition exempt under the provisions of this chapter, prior to engaging in and conducting such contest or exhibition, shall be examined by a licensed physician at least once in each calendar year, or where such contest is conducted by a secondary school, college or university or organization as further described in this section, once in each academic year in which instance the physician shall also designate the maximum and minimum weights at which the combatant shall be medically certified to participate. Provided further that no combatant shall be permitted to participate in any such contest or exhibition in any weight classification other than that or those for which he is certificated. Provided further that the exempted organizations shall be governed by the provisions of section 54-414, Idaho Code, as that section applies to contests or exhibitions conducted by persons exempted in this section from the general provisions of this chapter. No contest or exhibition shall be conducted within this state except pursuant to a license issued in accordance with the provisions of this chapter and the rules of the commission except as hereinabove provided.

SECTION 3. That Section 54-408, Idaho Code, be, and the same is hereby amended to read as follows:

54-408. PROMOTERS -- BOND OR OTHER SECURITY -- MEDICAL INSURANCE. (1) Before any sanctioning permit is issued to any promoter to conduct or hold a contest or exhibition ~~which is not exempt from regulation pursuant to section 54-406(3), Idaho Code~~ and before an approved amateur athletic sanctioning organization sanctions an exempt amateur event, the applicant promoter shall file with the commission a bond or other form of financial security payable to the state of Idaho in an amount determined by the commission, executed by the applicant promoter and a surety company or companies authorized to do business in this state, and conditioned upon the faithful performance by the promoter, which shall include, but not be limited to, the cancellation of a sanctioned contest or exhibition without good cause as determined by the commission ~~once the event has been approved by the commission.~~

(2) The bond or other form of financial security required under this section shall guarantee the payment of all taxes, fees, fines and other moneys due and payable pursuant to the provisions of this chapter and the rules of the commission or regulations of an approved amateur athletic sanctioning organization, as applicable, including, but not limited to, the payment of purses to the participants, other than the promoter, any contributions for required insurance, pensions, disability and medical examinations, the repayment to ticketholders of purchased tickets, and if applicable, the payment of fees to ring officials and physicians and, in the event of the cancellation of a sanctioned contest or exhibition ~~approved by the commission~~ without good cause, an amount determined by the commission.

(3) ~~After issuance of a sanctioning permit to a promoter, t~~The commission may modify the amount of bond or other form of financial security if the commission determines that modification is required to ensure adequate and sufficient coverage for payment of taxes, fees, fines, purses and other moneys due and payable pursuant to the provisions of this section. Failure of any promoter to secure a modified bond or other form of financial security required pursuant to this subsection within such period of time as the commission may prescribe, shall be grounds for ~~revocation of the commission to revoke any sanctioning permit of such promoter and cancel any contest or exhibition.~~

(4) All proceeds collected pursuant to the provisions of this section shall be deposited in the state treasury to the credit of the occupational licenses fund.

(5) Promoters must obtain health insurance to cover any injuries incurred by participants, other than the promoter, at the time of the event.

SECTION 4. That Section 54-410, Idaho Code, be, and the same is hereby amended to read as follows:

54-410. ISSUANCE OF A LICENSE OR SANCTIONING PERMIT. Upon the approval by the commission of any application for a license or sanctioning permit, ~~as hereinabove provided, and the payment of such fees as determined by the commission and the filing of the bond or other form of financial security as the commission may require,~~ the commission shall forthwith issue such license or sanctioning permit.

SECTION 5. That Section 54-411, Idaho Code, be, and the same is hereby amended to read as follows:

54-411. STATEMENT AND REPORT OF EVENT -- TAX ON GROSS RECEIPTS. (1) Any promoter as herein provided shall, within at least seven (7) days prior to the holding of any contest or exhibition, file with the commission a statement setting forth the name of each professional combatant, his manager or managers, the total number of tickets available for the contest or exhibition and such other information as the commission may require. The promoter shall simultaneously pay to the commission an initial event tax of four hundred dollars (\$400). Within seventy-two (72) hours after the termination of any contest or exhibition the promoter shall file with the commission representative a gross receipts report, duly verified as the commission may require showing the number of tickets sold for such contest or exhibition, the price charged for such tickets and the gross receipts thereof without any deduction whatsoever, and such other and further information as the commission may require. If the initial event tax previously paid is less than five percent (5%) of the gross receipts for the event, then tThe promoter shall pay to the commission at the time of filing the above report a an additional event tax equal to five percent (5%) of the gross receipts, minus the initial event tax previously paid, for deposit by the commission.

(2) The number of complimentary tickets shall be limited to two percent (2%) of the total tickets sold per event location. All complimentary tickets exceeding this set amount shall be subject to taxation. The promoter shall limit the number of persons admitted to the event to the number of available tickets that are actually sold, given away or otherwise issued for the event.

(3) Gross receipts reports signed under oath shall also include:

- (a) The name of the promoter;
- (b) The contest or exhibition sanctioning permit number;
- (c) The promoter's business address and any license or sanctioning permit number required of such promoter by law;
- (d) Gross receipts as specified by this section, during the period specified by this section; and
- (e) Such further information as the commission may require to enable it to compute correctly and collect the assessment levied pursuant to this section.

(4) In addition to the information required on gross receipts reports, the commission may request, and the promoter shall furnish, any information deemed necessary for a correct computation of the assessment levied pursuant to this section.

(5) All levies pursuant to this section shall be collected by the commission and shall be deposited in the state treasury to the credit of the occupational licenses fund.

(6) The moneys collected from the assessment levied pursuant to the provisions of this section shall be in addition to all other revenues and funds received by the commission.

(7) The promoter shall compute and pay to the commission the required assessment due. If the payment of the assessment is not postmarked or delivered to the commission as specified in subsection (1) of this section, the assessment shall be delinquent from such date. In addition, if the promoter has not paid the initial event tax as provided in subsection (1) of this section, the promoter shall not hold the event.

(8) Of the moneys collected by the commission pursuant to the tax authorized in subsection (1) of this section, up to five percent (5%) of said tax may be used by the commission for the promotion and support of amateur contests and exhibitions in this state. All parties interested in receiving a distribution must submit an application to the commission which shall include the name of the person or entity applying and a detailed description of what the applicant intends to do with the distribution if granted. The commission shall consider all applications and assign distributions, if any, at the end of each fiscal year to those applicants the commission deems most qualified. The commission may make such distributions only if the commission has a positive balance within the occupational licenses fund and sufficient revenue to cover its projected expenses for the upcoming year.

(9) It shall be the duty of every promoter required to make a gross receipts report and pay any assessment pursuant to the provisions of this section to keep and preserve suitable records and documents which may be necessary to determine the amount of assessment due as will substantiate and prove the accuracy of such reports. All such records shall be preserved for a period of three (3) years, unless the commission, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the commission or by its authorized agents.

SECTION 6. That Section 54-413, Idaho Code, be, and the same is hereby amended to read as follows:

54-413. SIMULTANEOUS OR CLOSED-CIRCUIT TELECASTS -- REPORT -- TAX ON GROSS RECEIPTS. Every licensee promoter who charges and receives an admission fee for exhibiting a simultaneous telecast of any live, current or spontaneous contest or exhibition on a closed-circuit telecast viewed within this state shall, within seventy-two (72) hours after such event, furnish to the commission a verified gross receipts report on a form which is supplied by the commission showing the number of tickets issued or sold, and the gross receipts therefor without any deductions whatsoever. Such licensee promoter shall also, at the same time pay to the commission a tax

equal to five percent (5%) of such gross receipts paid for admission to the showing of the contest or exhibition. In no event, however, shall the tax be less than twenty-five dollars (\$25.00). The tax shall apply uniformly at the same rate to all persons subject to the tax.

SECTION 7. That Section 54-419, Idaho Code, be, and the same is hereby amended to read as follows:

54-419. ~~FAILURE TO MAKE INACCURATE STATEMENT AND REPORTS OF EVENT~~ -- ADDITIONAL TAX -- NOTICE -- PENALTY FOR DELINQUENCY. Whenever any licensee promoter shall fail to make a report of any contest or exhibition within the time prescribed in this chapter or when such report is unsatisfactory to the commission, the commission or its agent shall may examine the books and records of such licensee promoter; and may subpoena and examine under oath any officer of such licensee promoter and such other person or persons as may be necessary to determine the total ~~gross receipts from any contest or exhibition and the amount of tax thereon due~~. If, upon the completion of such examination it shall be determined that an additional tax is due, notice thereof shall be served upon the licensee, promoter and if such licensee promoter shall fail to pay such additional tax within twenty (20) days after service of such notice the delinquent licensee promoter shall forfeit any licenses issued pursuant to this chapter and shall forever be disqualified from receiving any new license and in addition thereto, such licensee promoter shall be liable to this state in the penal sum of ten thousand dollars (\$10,000) to be collected by the attorney general by such action as may be necessary and in the manner provided by law. All moneys collected pursuant to the provisions of this section shall be remitted to the occupational licenses fund. Regardless of whether the delinquent promoter timely pays any additional tax, the commission may discipline the promoter for failing to make the statement and report of event within the prescribed time or for negligently or knowingly making an inaccurate statement and report of event.

SECTION 8. That Section 54-420, Idaho Code, be, and the same is hereby amended to read as follows:

54-420. PROHIBITIONS -- PENALTIES -- INJUNCTIONS. (1) Any person conducting or participating in contests or exhibitions within this state without first having obtained a license or sanctioning permit in the manner provided in this chapter is in violation of the provisions of this chapter, ~~excepting such contests excluded from the operation of the provisions of this chapter in section 54-406(3), Idaho Code.~~

(2) It is unlawful for any promoter or person associated with or employed by any promoter to destroy any ticket or ticket stub, whether sold or unsold, within three (3) months after the date of any contest or exhibition.

(3) The striking of any individual who is not a licensed combatant in that particular contest or exhibition shall constitute grounds for suspension, revocation or both of a license issued pursuant to the provisions of this chapter.

(4) Any person violating any of the provisions of this chapter or the rules of the commission for which no penalty is otherwise herein provided, upon conviction, shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than one thousand dollars (\$1,000) or by incarceration in the county jail for not more than thirty (30) days or by both such fine and incarceration. The commission shall suspend or revoke the license of any person convicted of violating the provisions of this chapter and the rules of the commission.

(5) In addition to other penalties provided by law if, after a hearing in accordance with the provisions of this chapter and the rules of the commission, the commission shall find any person to be in violation of any of the provisions of this chapter, such person may be subject to an administrative penalty equal to the greater of five hundred dollars (\$500) or one percent (1%) of gross receipts received for each violation. Each day a person is in violation of the provisions of this chapter and the rules of the commission may constitute a separate violation. All administrative penalties collected pursuant to the provisions of this subsection shall be deposited in the state treasury to the occupational licenses fund. Upon the request of the commission or its agent, the attorney general may institute action to enforce the administrative penalties imposed pursuant to this subsection in the district court for Ada county.

(6) Upon the request of the commission or its agent, the county prosecutor in the county where a violation has occurred or is about to occur may make application to the district court in the county for an order enjoining the acts or practices prohibited by the provisions of this chapter and the rules of the commission, and upon a showing that the person has engaged or is about to engage in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

Approved April 11, 2010.

CHAPTER 312
(H.B. No. 725)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 2011.

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

SECTION 1. In addition to the appropriation made in Section 5 of House Bill No. 685, as enacted by the Second Regular Session of the Sixtieth Idaho Legislature, there is hereby appropriated to the Supreme Court the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. DISTRICT COURTS:			
FROM:			
Drug Court, Mental Health and Family Court Services			
Fund	\$935,000	\$1,473,000	\$2,408,000
II. MAGISTRATES DIVISION:			
FROM:			
ISTARS Technology			
Fund		\$860,000	\$860,000
Drug Court, Mental Health and Family Court Services			
Fund	<u>\$412,000</u>	<u>170,000</u>	<u>582,000</u>
TOTAL	\$412,000	\$1,030,000	\$1,442,000
GRAND TOTAL	\$1,347,000	\$2,503,000	\$3,850,000

Approved April 11, 2010.

CHAPTER 313
(H.B. No. 721)

AN ACT

REDUCING THE APPROPRIATION TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DIVISION OF VETERANS SERVICES FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 247, Laws of 2009, to the Division of Veterans Services is hereby reduced by the following amount according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$148,300
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FROM:

General Fund	\$148,300
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SECTION 2. In addition to the appropriation made in Section 1, Chapter 247, Laws of 2009, there is hereby appropriated to the Division of Veterans Services the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$148,300
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FROM:

Miscellaneous Revenue Fund	\$148,300
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SECTION 3. There is hereby appropriated to the Division of Veterans Services the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	\$1,306,900			\$50,400	\$1,357,300
Miscellaneous Revenue Fund	9,921,300	\$3,837,900	\$277,100		14,036,300
Veterans Home Endowment Income Fund		494,100			494,100
Federal Grant Fund	<u>4,882,200</u>	<u>7,951,700</u>	<u>31,600</u>	<u> </u>	<u>12,865,500</u>
TOTAL	\$16,110,400	\$12,283,700	\$308,700	\$50,400	\$28,753,200

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Division of Veterans Services is authorized no more than three hundred and thirty hundredths (300.30) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 11, 2010.

CHAPTER 314
(S.B. No. 1432)

AN ACT

REDUCING THE APPROPRIATION TO THE COMMISSION ON AGING FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR THE COMMISSION ON AGING FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 206, Laws of 2009, to the Commission on Aging is hereby reduced by the following amounts according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$40,900
Operating Expenditures	13,300
Trustee and Benefit Payments	<u>332,300</u>
TOTAL	\$386,500

FROM:

General Fund	\$386,500
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SECTION 2. There is hereby appropriated to the Commission on Aging the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Fund	\$457,800	\$44,000		\$4,119,600	\$4,621,400
American Reinvestment Fund	28,300			583,000	611,300
Miscellaneous Revenue Fund	47,000	85,000			132,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Federal Grant					
Fund	<u>452,300</u>	<u>396,200</u>	<u>\$8,000</u>	<u>7,176,300</u>	<u>8,032,800</u>
TOTAL	\$985,400	\$525,200	\$8,000	\$11,878,900	\$13,397,500

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Commission on Aging is authorized no more than fifteen and thirty-five hundredths (15.35) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 315
(S.B. No. 1433)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE INDEPENDENT COUNCILS FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE DOMESTIC VIOLENCE COUNCIL FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR INDEPENDENT COUNCILS FOR FISCAL YEAR 2011; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FOR THE INDEPENDENT COUNCILS; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; PROVIDING LEGISLATIVE INTENT FOR PROGRAM INTEGRITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 256, Laws of 2009, to the Department of Health and Welfare for the Independent Councils is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
I. COUNCIL FOR THE DEAF AND HARD OF HEARING:			
FROM:			
Cooperative Welfare (General) Fund	\$8,800	\$1,200	\$10,000

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
II. DEVELOPMENTAL DISABILITIES COUNCIL:			
FROM:			
Cooperative Welfare (General) Fund	\$6,600	\$900	\$7,500
III. DOMESTIC VIOLENCE COUNCIL:			
FROM:			
Cooperative Welfare (General) Fund	\$800	\$100	\$900
GRAND TOTAL	\$16,200	\$2,200	\$18,400

SECTION 2. In addition to the appropriation made in Section 1, Chapter 256, Laws of 2009, there is hereby appropriated to the Department of Health and Welfare for the Domestic Violence Council the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:		
Trustee and Benefit Payments		\$350,000
FROM:		
Cooperative Welfare (Federal) Fund		\$350,000

SECTION 3. There is hereby appropriated to the Department of Health and Welfare for the Independent Councils the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. DEVELOPMENTAL DISABILITIES COUNCIL:				
FROM:				
Cooperative Welfare (General) Fund	\$85,400	\$11,800		\$97,200
Cooperative Welfare (Dedicated) Fund		15,000		15,000
Cooperative Welfare (Federal) Fund	<u>296,800</u>	<u>257,300</u>	<u>\$92,200</u>	<u>646,300</u>
TOTAL	\$382,200	\$284,100	\$92,200	\$758,500
II. DOMESTIC VIOLENCE COUNCIL:				
FROM:				
Cooperative Welfare (General) Fund	\$11,200	\$1,300		\$12,500
Domestic Violence Project Fund	149,000	163,200	\$171,800	484,000
Cooperative Welfare (Dedicated) Fund		40,000		40,000

	FOR	FOR	FOR	
	PERSONNEL	OPERATING	TRUSTEE AND	
	COSTS	EXPENDITURES	BENEFIT	TOTAL
			PAYMENTS	
Cooperative Welfare (Federal)				
Fund	<u>86,700</u>	<u>76,900</u>	<u>2,865,400</u>	<u>3,029,000</u>
TOTAL	\$246,900	\$281,400	\$3,037,200	\$3,565,500
GRAND TOTAL	\$629,100	\$565,500	\$3,129,400	\$4,324,000

SECTION 4. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 5. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than ten (10) full-time equivalent positions for the Independent Councils during the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 6. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 7. TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners that currently designates the responsibility to the Division of Financial Management.

SECTION 8. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 316
(S.B. No. 1434)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR PSYCHIATRIC HOSPITALIZATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; DIRECTING THAT FUNDS FOR TRUSTEE AND BENEFIT PAYMENTS SHALL NOT BE TRANSFERRED; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; PROVIDING LEGISLATIVE INTENT ON PROGRAM INTEGRITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 262, Laws of 2009, to the Department of Health and Welfare for Psychiatric Hospitalization is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY HOSPITALIZATION:				
FROM:				
Cooperative Welfare				
(General) Fund			\$38,700	\$38,700
II. STATE HOSPITAL NORTH:				
FROM:				
Cooperative Welfare				
(General) Fund	\$415,200	\$67,500	\$1,300	\$484,000
III. STATE HOSPITAL SOUTH:				
FROM:				
Cooperative Welfare				
(General) Fund	\$637,000	\$49,700	\$15,500	\$702,200
GRAND TOTAL	\$1,052,200	\$117,200	\$55,500	\$1,224,900

SECTION 2. There is hereby appropriated to the Department of Health and Welfare for Psychiatric Hospitalization the following amounts to be expended for the following programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. COMMUNITY HOSPITALIZATION:				
FROM:				
Cooperative Welfare (General)				
Fund			\$2,790,000	\$2,790,000
II. STATE HOSPITAL NORTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$5,366,000	\$880,000	\$17,700	\$6,263,700
Cooperative Welfare (Dedicated)				
Fund	131,000			131,000
State Hospital North Endowment Income				
Fund	<u>219,300</u>	<u>526,800</u>	<u>44,500</u>	<u>790,600</u>
TOTAL	\$5,716,300	\$1,406,800	\$62,200	\$7,185,300
III. STATE HOSPITAL SOUTH:				
FROM:				
Cooperative Welfare (General)				
Fund	\$8,187,700	\$556,700	\$205,600	\$8,950,000
Cooperative Welfare (Dedicated)				
Fund	2,356,800	679,200	900	3,036,900
Mental Hospital Endowment Income				
Fund	1,202,100	461,100		1,663,200
Cooperative Welfare (Federal)				
Fund	<u>3,146,400</u>	<u>1,579,700</u>	<u>17,300</u>	<u>4,743,400</u>
TOTAL	\$14,893,000	\$3,276,700	\$223,800	\$18,393,500
GRAND TOTAL	\$20,609,300	\$4,683,500	\$3,076,000	\$28,368,800

SECTION 3. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than one hundred nine and thirty-nine hundredths (109.39) full-time equivalent positions for State Hospital North during the period July 1, 2010, through June 30, 2011. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than two hundred sixty-two and twenty-two hundredths (262.22) full-time equivalent positions for State Hospital South during the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 4. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 5. TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure object code shall not be transferred to any other objects within the program budget during fiscal year 2011.

SECTION 6. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 7. TRANSFER BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office, or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners who currently designates that responsibility to the Division of Financial Management.

SECTION 8. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 317
(S.B. No. 1435)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR THE DEPARTMENT OF HEALTH AND WELFARE FOR SUBSTANCE ABUSE TREATMENT AND PREVENTION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; PROVIDING THAT THE STATE CONTROLLER SHALL MAKE TRANSFERS FROM THE GENERAL FUND; DIRECTING THAT FUNDS FOR TRUSTEE AND BENEFIT PAYMENTS SHALL NOT BE TRANSFERRED; PROVIDING LEGISLATIVE INTENT FOR THE EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES; ALLOWING TRANSFERS BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES; PROVIDING LEGISLATIVE INTENT FOR

PROGRAM INTEGRITY; DIRECTING EXPENDITURES FOR GAIN PROVIDER TRAINING; DIRECTING EXPENDITURES FOR A STATEWIDE MEDIA CAMPAIGN FOR UNDERAGE DRINKING; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 257, Laws of 2009, to the Department of Health and Welfare for Substance Abuse Treatment and Prevention is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$35,900
Operating Expenditures	43,600
Trustee and Benefit Payments	<u>866,500</u>
TOTAL	\$946,000

FROM:

Cooperative Welfare (General) Fund	\$946,000
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SECTION 2. In addition to the appropriation made in Section 1, Chapter 257, Laws of 2009, there is hereby appropriated to the Department of Health and Welfare for Substance Abuse Treatment and Prevention the following amount to be expended according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Operating Expenditures	\$75,000
Trustee and Benefit Payments	<u>75,000</u>
TOTAL	\$150,000

FROM:

Cooperative Welfare (Federal) Fund	\$150,000
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SECTION 3. There is hereby appropriated to the Department of Health and Welfare for Substance Abuse Treatment and Prevention the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
Cooperative Welfare (General)				
Fund	\$472,800	\$573,500	\$11,511,900	\$12,558,200
Prevention of Minors' Access to Tobacco				
Fund	6,300	43,800		50,100
Substance Abuse Treatment				
Fund			3,232,900	3,232,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Cooperative Welfare (Dedicated)				
Fund	44,000	438,300		482,300
Liquor Control Fund			650,000	650,000
Cooperative Welfare (Federal)				
Fund	<u>435,800</u>	<u>2,867,200</u>	<u>5,860,000</u>	<u>9,163,000</u>
TOTAL	\$958,900	\$3,922,800	\$21,254,800	\$26,136,500

SECTION 4. FULL-TIME EQUIVALENT POSITIONS. In accordance with Section 67-3519, Idaho Code, the Department of Health and Welfare is authorized no more than fourteen and four hundredths (14.04) full-time equivalent positions for the Substance Abuse Treatment and Prevention Program during the period July 1, 2010, through June 30, 2011. Transfers of full-time equivalent positions between appropriated programs within the department are authorized and shall be reported in the budget prepared for the next fiscal year. Any full-time equivalent positions in excess of the department's total cap may be authorized only by the Governor and promptly reported to the Joint Finance-Appropriations Committee.

SECTION 5. GENERAL FUND TRANSFERS. As appropriated, the State Controller shall make transfers from the General Fund to the Cooperative Welfare Fund, periodically, as requested by the director of the Department of Health and Welfare and approved by the Board of Examiners.

SECTION 6. TRANSFER OF TRUSTEE AND BENEFIT PAYMENTS. Notwithstanding the provisions of Section 67-3511, Idaho Code, funds budgeted in the trustee and benefit payments expenditure object code shall not be transferred to any other objects within the program budget during fiscal year 2011.

SECTION 7. EDUCATION STIPEND FOR DEPARTMENT OF HEALTH AND WELFARE EMPLOYEES. Recognizing that employee development is an essential part of a workforce but that budget shortfalls require a reprioritization of expenditures towards core functions first and development and training second, the Department of Health and Welfare is hereby directed not to pay any education stipends, with the exception of the IV-E funding source, for employees during fiscal year 2011 due to budgetary shortfalls and a reprioritization towards core expenditures.

SECTION 8. TRANSFER BETWEEN PERSONNEL COSTS AND OPERATING EXPENDITURES. Notwithstanding the provisions of Section 67-3511, Idaho Code, that state "No appropriation made for expenses other than personnel costs shall be expended for personnel costs of the particular department, office or institution for which it is appropriated,..." For fiscal year 2011, the Department of Health and Welfare may transfer funds appropriated for operating expenditures to personnel costs with the consent of the State Board of Examiners who currently designates that responsibility to the Division of Financial Management.

SECTION 9. PROGRAM INTEGRITY. Notwithstanding any other provisions of law, it is hereby declared to be the intent of the Legislature that the Department of Health and Welfare shall be required to provide those services authorized or mandated by law in each program, only to the extent of funding and available resources appropriated for each budgeted program.

SECTION 10. GAIN PROVIDER TRAINING. It is the intent of the Legislature that the Department of Health and Welfare Substance Abuse Treatment and Prevention Program is the sole program responsible for statewide provider training of GAIN. For that reason the program is directed to utilize up to \$140,000 of its fiscal year 2011 operating budget appropriation for the purposes of GAIN provider training.

SECTION 11. STATEWIDE MEDIA CAMPAIGN FOR UNDERAGE DRINKING. It is the intent of the Legislature that for fiscal year 2011, the Department of Health and Welfare Substance Abuse Treatment and Prevention Program shall continue to fund at least \$50,000 of the \$1,600,000 prevention budget for the youth and adult media campaign on underage drinking.

SECTION 12. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 318
(S.B. No. 1436)

AN ACT

REDUCING THE APPROPRIATION TO THE AMERICAN LUNG ASSOCIATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE COMMISSION ON HISPANIC AFFAIRS FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FROM THE IDAHO MILLENNIUM INCOME FUND AND DIRECTING THE STATE CONTROLLER TO TRANSFER MONEYS FOR THE PURPOSES AND PROGRAMS SPECIFIED FOR FISCAL YEAR 2011; APPROPRIATING MONEYS FROM THE IDAHO MILLENNIUM INCOME FUND TO THE STATE TREASURER FOR THE PURPOSES AND PROGRAMS SPECIFIED FOR FISCAL YEAR 2011; DIRECTING A TRANSFER FROM THE IDAHO MILLENNIUM INCOME FUND TO THE IDAHO MILLENNIUM FUND; PROVIDING THAT CERTAIN UNEXPENDED AND UNENCUMBERED MONEYS SHALL BE REVERTED TO THE IDAHO MILLENNIUM INCOME FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 2(a), Chapter 211, Laws of 2009, to the American Lung Association is hereby reduced by the following amount according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Trustee and Benefit Payments	\$11,000
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FROM:

Idaho Millennium Income Fund	\$11,000
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SECTION 2. In addition to the appropriation made in Section 1, Chapter 211, Laws of 2009, there is hereby appropriated and the State Controller is hereby directed to make cash transfers from the Idaho Millennium Income Fund at the request of the State Treasurer to the Commission on Hispanic Affairs the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Operating Expenditures	\$11,000
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FROM:

Idaho Millennium Income Fund	\$11,000
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SECTION 3. There is hereby appropriated and the State Controller is hereby directed to make cash transfers from the Idaho Millennium Income Fund to the following programs, at the request of the State Treasurer, not to exceed \$2,325,000 for the period July 1, 2010, through June 30, 2011:

(a) \$500,000 for the Public Health Districts to continue tobacco use cessation programs statewide through the Public Health Districts of Idaho and other nonprofit entities such as hospitals, primary care clinics and voluntary organizations. The tobacco use cessation programs should be available to any Idaho citizen, with primary emphasis on youth and pregnant women.

(b) \$600,000 for the Physical Health Services Program in the Department of Health and Welfare for targeted tobacco counter-marketing programs, specific to Idaho, and to be matched by private industry funds on at least a one-to-one basis.

(c) \$700,000 for the Physical Health Services Program in the Department of Health and Welfare. It is legislative intent that these funds shall be designated for nicotine replacement therapy, and that these funds shall not be used for local programs identified in the department's application proposal since they may duplicate other programs funded by the Millennium Income Fund.

(d) \$420,000 for the Idaho Supreme Court for its youth courts, tobacco and alcohol diversion courts, and status offender services programs as they relate to addressing tobacco and/or substance abuse issues.

(e) \$94,000 for Law Enforcement Programs in the Idaho State Police to offset the cost of youth tobacco investigations.

(f) \$11,000 for the Youth Tobacco Prevention Programs in conjunction with the American Lung Association in the Commission on Hispanic Affairs.

SECTION 4. There is hereby appropriated from the Idaho Millennium Income Fund to the State Treasurer \$1,041,900 to be expended for trustee and benefit payments for the following programs for the period July 1, 2010, through June 30, 2011:

(a) \$181,900 for the American Lung Association of Idaho for Teens Against Tobacco Use (T.A.T.U.) and tobacco prevention education programs.

(b) \$500,000 for the Idaho Meth Project for a drug prevention media campaign.

(c) \$150,000 for Idaho Drug Free Youth for the i2i program.

(d) \$150,000 for the American Cancer Society for the Women's Health Check cancer screening program.

(e) \$60,000 for the Idaho Academy of Family Physicians for the Tar Wars program.

SECTION 5. There is hereby appropriated and the State Controller is directed to transfer \$220,800 from the Idaho Millennium Income Fund to be deposited in the Idaho Millennium Fund for the period July 1, 2010, through June 30, 2011.

SECTION 6. Notwithstanding any other provision of law to the contrary, on June 30, 2011, any remaining unexpended and unencumbered moneys appropriated in Section 3 of this act shall be reverted to the Idaho Millennium Income Fund. The State Controller shall then transfer said reverted moneys and all earnings credited to the Idaho Millennium Income Fund to the Idaho Millennium Fund.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 319
(S.B. No. 1437)

AN ACT

REDUCING THE APPROPRIATION TO THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE COMMISSION ON THE ARTS FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 304, Laws of 2009, to the Commission on the Arts is hereby reduced by the following amounts according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$17,700
Trustee and Benefit Payments	<u>48,100</u>
TOTAL	\$65,800

FROM:

General Fund	\$65,800
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SECTION 2. In addition to the appropriation made in Section 1, Chapter 304, Laws of 2009, there is hereby appropriated to the Commission on the Arts the following amount to be expended according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Operating Expenditures	\$100,000
Trustee and Benefit Payments	<u>50,000</u>
TOTAL	\$150,000

FROM:

Federal Grant Fund	\$150,000
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SECTION 3. There is hereby appropriated to the Commission on the Arts the following amounts to be expended according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Fund	\$312,200	\$138,500	\$264,900	\$715,600
Miscellaneous Revenue Fund		85,900	16,300	102,200
Federal Grant Fund	<u>271,600</u>	<u>209,000</u>	<u>450,200</u>	<u>930,800</u>
TOTAL	\$583,800	\$433,400	\$731,400	\$1,748,600

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Commission on the Arts is authorized no more than ten (10) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 320
(S.B. No. 1438)

AN ACT

REDUCING THE APPROPRIATION TO THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF EDUCATION FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF EDUCATION FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO AND THE STATE BOARD OF EDUCATION FOR HEALTH EDUCATION PROGRAMS FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN

UNEXPENDED AND UNENCUMBERED BALANCES FOR THE SEVERAL DESIGNATED PROGRAMS; EXEMPTING THE BOARD FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS; PROVIDING LEGISLATIVE INTENT REGARDING HEALTH EDUCATION STUDENT SEATS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 253, Laws of 2009, to the Board of Regents of the University of Idaho and the State Board of Education for Health Education Programs is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:				
FROM:				
General Fund	\$37,000	\$84,800		\$121,800
II. WWAMI MEDICAL EDUCATION:				
FROM:				
General Fund	\$33,300	\$5,100	\$200,000	\$238,400
III. IDAHO DENTAL EDUCATION PROGRAM:				
FROM:				
General Fund	\$16,400	\$1,100	\$70,400	\$87,900
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:				
FROM:				
General Fund			\$84,000	\$84,000
V. FAMILY MEDICINE RESIDENCIES:				
FROM:				
General Fund	\$40,100	\$21,800	\$77,400	\$139,300
VI. WICHE:				
FROM:				
General Fund			\$17,200	\$17,200
VII. PSYCHIATRY RESIDENCY:				
FROM:				
General Fund			\$7,300	\$7,300
GRAND TOTAL	\$126,800	\$112,800	\$456,300	\$695,900

SECTION 2. In addition to the appropriation made in Section 1, Chapter 253, Laws of 2009, there is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for Health Education Programs the following amount to be expended for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:				
FROM:				
General Fund	\$37,000	\$74,000		\$111,000
II. WWAMI MEDICAL EDUCATION:				
FROM:				
General Fund	\$23,600	\$5,100	\$200,000	\$228,700
III. IDAHO DENTAL EDUCATION PROGRAM:				
FROM:				
General Fund	\$11,300	\$1,100	\$70,400	\$82,800
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:				
FROM:				
General Fund			\$84,000	\$84,000
V. FAMILY MEDICINE RESIDENCIES:				
FROM:				
General Fund	\$40,100	\$9,400	\$77,400	\$126,900
VI. WICHE:				
FROM:				
General Fund			\$17,200	\$17,200
VII. PSYCHIATRY RESIDENCY:				
FROM:				
General Fund			\$7,300	\$7,300
GRAND TOTAL	\$112,000	\$89,600	\$456,300	\$657,900

SECTION 3. There is hereby appropriated to the Board of Regents of the University of Idaho and the State Board of Education for Health Education Programs the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WASHINGTON-IDAHO VETERINARY EDUCATION:					
FROM:					
General					
Fund	\$519,100	\$1,203,400			\$1,722,500
Restricted					
Fund				\$100,000	100,000
TOTAL	\$519,100	\$1,203,400		\$100,000	\$1,822,500

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. WWAMI MEDICAL EDUCATION:					
FROM:					
General					
Fund	\$466,000	\$79,100		\$2,857,300	\$3,402,400
Unrestricted (Uncontrolled)					
Fund	<u>188,900</u>	<u>216,800</u>			<u>405,700</u>
TOTAL	\$654,900	\$295,900		\$2,857,300	\$3,808,100
III. IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General					
Fund	\$231,500	\$78,700		\$1,005,500	\$1,315,700
Unrestricted					
Fund	<u>143,300</u>	<u>10,000</u>	<u>\$5,500</u>		<u>158,800</u>
TOTAL	\$374,800	\$88,700	\$5,500	\$1,005,500	\$1,474,500
IV. UNIVERSITY OF UTAH MEDICAL EDUCATION:					
FROM:					
General					
Fund				\$1,204,200	\$1,204,200
V. FAMILY MEDICINE RESIDENCIES:					
FROM:					
General					
Fund	\$566,300	\$310,900		\$1,106,000	\$1,983,200
VI. WICHE:					
FROM:					
General					
Fund				\$218,600	\$218,600
VII. PSYCHIATRY RESIDENCY:					
FROM:					
General					
Fund				\$114,000	\$114,000
GRAND TOTAL	\$2,115,100	\$1,898,900	\$5,500	\$6,605,600	\$10,625,100

SECTION 4. In accordance with Section 67-3519, Idaho Code, there is authorized no more than twenty and fifty hundredths (20.50) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the W-I Veterinary Education Program, WWAMI Medical Education Program, Idaho Dental Education Program and Family Practice Residencies Program as specified in Section 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. There is hereby reappropriated to the Board of Regents of the University of Idaho and the State Board of Education for the W-I Veterinary Education Program, WWAMI Medical Education Program, Idaho Dental Education Program, University of Utah Medical Education Program, Family Medicine Residency Programs, the WICHE Program and the Psychiatry Residency Program the unexpended and unencumbered balance of any non-General Fund appropriation contained in Section 1, Chapter 253, Laws of 2009, to be used for nonrecurring expenditures, for the period July 1, 2010, through June 30, 2011.

SECTION 6. EXEMPTIONS FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS. To provide maximum flexibility in dealing with reduced appropriations for fiscal year 2011, the State Board of Education is hereby exempted from the provisions of Section 67-3511(1), (3) and (4), Idaho Code, for all moneys appropriated in Section 3 for the period July 1, 2010, through June 30, 2011. Legislative appropriations shall not be transferred from one fund to another fund, however, unless expressly approved by the Legislature.

SECTION 7. LEGISLATIVE INTENT. It is the intent of the Legislature that by restoring a majority of the 7% reductions and including required contract inflation--all current medical, dental, veterinary, and residency programs in Idaho will remain fully intact for fiscal year 2011. For this reason the State Board of Education may not reduce the number of seats or slots available in any of the Health Education Programs with the exception of the Optometry Program seats, which can be reduced as determined by the board. The State Board of Education must maintain the current level of education seats in all other programs through either increases in student fees, reduction in costs, or contract renegotiations. Furthermore, it is the intent of the Legislature that, during fiscal year 2011, the State Board of Education is directed to review and renegotiate all contracts for the Health Education Programs in Idaho to allow for contract adjustment in times of fiscal crisis that allow for immediate modification to the program if appropriation amounts are reduced.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 321
(S.B. No. 1439)

AN ACT

APPROPRIATING MONEYS TO THE STATE LIQUOR DIVISION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED FUND BALANCES; AND AMENDING SECTION 4, CHAPTER 323, LAWS OF 2009, TO REVISE A CERTAIN DATE.

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

SECTION 1. There is hereby appropriated to the State Liquor Division the following amounts to be expended according to the designated expense classes from the listed fund for the period July 1, 2010, through June 30, 2011:

FOR:

Personnel Costs	\$9,687,200
Operating Expenditures	5,589,300
Capital Outlay	<u>415,800</u>
TOTAL	\$15,692,300

FROM:

Liquor Control Fund	\$15,692,300
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SECTION 2. In accordance with Section 67-3519, Idaho Code, the State Liquor Division is authorized no more than two hundred three (203) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the program specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. There is hereby reappropriated to the State Liquor Division the unexpended and unencumbered balance of the appropriation made to the State Liquor Division from the Liquor Warehouse Remodel Fund for fiscal year 2010, to be used for nonrecurring expenditures for the period July 1, 2010, through June 30, 2011.

SECTION 4. That Section 4, Chapter 323, Laws of 2009, be, and the same is hereby amended to read as follows:

SECTION 4. There is hereby created in the state treasury the Liquor Warehouse Remodel Fund, for the purpose of warehouse remodeling and warehouse system improvements. This fund shall consist of moneys transferred to the fund pursuant to legislative action, and any interest earned on moneys in the fund shall be credited to the Liquor Control Fund. The Liquor Warehouse Remodel Fund shall cease to exist on and after July 1, ~~2010~~ 2011.

Approved April 12, 2010.

CHAPTER 322
(S.B. No. 1440)

AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2010;
APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL
YEAR 2010; APPROPRIATING MONEYS FOR ADMINISTRATION OF THE UNEMPLOY-
MENT INSURANCE AND EMPLOYMENT SERVICES PROGRAM FOR FISCAL YEAR 2011;
APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR FOR FISCAL YEAR 2011;
LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN
EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 3, Chapter 288, Laws of 2009, to the Department of Labor is hereby reduced by the following amount for the designated program according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

I. WAGE AND HOUR:

FOR:

Personnel Costs	\$149,200
Operating Expenditures	<u>50,800</u>
TOTAL	\$200,000

FROM:

General Fund	\$200,000
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SECTION 2. In addition to the appropriation made in Section 3, Chapter 288, Laws of 2009, there is hereby appropriated to the Department of Labor the following amount to be expended for the designated program according to the designated expense classes from the listed funds for the period July 1, 2009, through June 30, 2010:

I. WAGE AND HOUR:

FOR:

Personnel Costs	\$149,200
Operating Expenditures	<u>50,800</u>
TOTAL	\$200,000

FROM:

Unemployment Penalty and Interest Fund	\$200,000
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SECTION 3. There is hereby appropriated out of the funds made available to the Department of Labor of the State of Idaho, pursuant to Section 903 of the Federal Social Security Act, as amended, \$2,304,400 for the payment of expenses incurred for the administration of the Unemployment Insurance and Employment Services Program. This appropriation is authorized and subject to the limitations of Section 72-1346, Idaho Code. This appropriation is for the period July 1, 2010, through June 30, 2011.

SECTION 4. There is hereby appropriated to the Department of Labor the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WAGE AND HOUR:				
FROM:				
General Fund	\$222,400	\$78,800		\$301,200
Unemployment Penalty and Interest Fund	149,200	50,800		200,000
Miscellaneous Revenue Fund	<u> </u>	<u>10,600</u>		<u>10,600</u>
TOTAL	\$371,600	\$140,200		\$511,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. EMPLOYMENT SERVICES:				
FROM:				
Federal Grant				
Fund	\$191,800	\$283,700	\$1,750,000	\$2,225,500
III. CAREER INFORMATION SERVICES:				
FROM:				
Miscellaneous Revenue				
Fund	\$288,100	\$178,700		\$466,800
IV. HUMAN RIGHTS COMMISSION:				
FROM:				
General Fund	\$364,300	\$36,700		\$401,000
Unemployment Penalty and Interest				
Fund	72,000			72,000
Employment Security Special Administration				
Fund	72,000			72,000
Miscellaneous Revenue				
Fund		5,300		5,300
Federal Grant				
Fund	<u>124,800</u>	<u>146,300</u>		<u>271,100</u>
TOTAL	\$633,100	\$188,300		\$821,400
GRAND TOTAL	\$1,484,600	\$790,900	\$1,750,000	\$4,025,500

SECTION 5. In accordance with Section 67-3519, Idaho Code, the Department of Labor is authorized no more than twenty-five (25) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 4 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 323
(S.B. No. 1441)

AN ACT
REDUCING THE APPROPRIATION TO THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE HUMAN RIGHTS COMMISSION FOR FISCAL YEAR 2010; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 322, Laws of 2009, to the Human Rights Commission is hereby reduced by the following amount according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$31,100
Operating Expenditures	<u>23,600</u>
TOTAL	\$54,700

FROM:

General Fund	\$54,700
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SECTION 2. In addition to the appropriation made in Section 1, Chapter 322, Laws of 2009, there is hereby appropriated to the Human Rights Commission the following amount to be expended according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

FOR:

Personnel Costs	\$7,000
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FROM:

Federal Grant Fund	\$7,000
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SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 12, 2010.

CHAPTER 324
(S.B. No. 1442)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE CATASTROPHIC HEALTH CARE FUND FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE CATASTROPHIC HEALTH CARE FUND FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 210, Laws of 2009, there is hereby appropriated and the State Controller shall transfer \$14,000,000 from the General Fund to the Catastrophic Health Care Fund for the period July 1, 2009, through June 30, 2010.

SECTION 2. There is hereby appropriated \$18,271,200 from the General Fund to be deposited in the Catastrophic Health Care Fund for the period July 1, 2010, through June 30, 2011.

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

Approved April 12, 2010.

CHAPTER 325
(S.B. No. 1443)

AN ACT

REDUCING THE GENERAL FUND APPROPRIATION AND TRANSFER TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2010; REDUCING THE STATE INDEPENDENT LIVING COUNCIL (GENERAL) FUND APPROPRIATION TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2010; APPROPRIATING MONEYS AND DIRECTING A TRANSFER TO THE STATE INDEPENDENT LIVING COUNCIL (GENERAL) FUND FOR FISCAL YEAR 2011; APPROPRIATING MONEYS TO THE STATE INDEPENDENT LIVING COUNCIL FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation and transfer made from the General Fund in Section 1, Chapter 308, Laws of 2009, is hereby reduced by \$9,900 for the period July 1, 2009, through June 30, 2010.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 2, Chapter 308, Laws of 2009, to the State Independent Living Council from the State Independent Living Council (General) Fund is hereby reduced by \$9,900 for the period July 1, 2009, through June 30, 2010.

SECTION 3. There is hereby appropriated and the State Controller shall transfer \$102,000 from the General Fund to the State Independent Living Council (General) Fund for the period July 1, 2010, through June 30, 2011.

SECTION 4. There is hereby appropriated to the State Independent Living Council the following amounts to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

State Independent Living Council (General) Fund	\$102,000
State Independent Living Council (Dedicated) Fund	124,400
State Independent Living Council (Federal) Fund	713,000
American Reinvestment Fund	<u>47,400</u>
TOTAL	\$986,800

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 326
(S.B. No. 1422)

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-804, IDAHO CODE, TO PROVIDE THAT IN CERTAIN FISCAL YEARS THE BOARD OF TRUSTEES OF ANY SCHOOL DISTRICT WITH A PREVIOUSLY APPROVED PLANT FACILITIES LEVY MAY SUBMIT TO THE QUALIFIED ELECTORS OF THE SCHOOL DISTRICT THE QUESTION OF CONVERTING A PREVIOUSLY APPROVED PLANT FACILITIES LEVY TO A SUPPLEMENTAL LEVY SUBJECT TO CERTAIN CONDITIONS AND REQUIREMENTS, TO PROVIDE FOR A QUESTION TO BE SUBMITTED AND TO PROVIDE PROVISIONS RELATING TO ELECTIONS; AMENDING SECTION 33-804, IDAHO CODE, AS AMENDED BY SECTION 47, CHAPTER 341, LAWS OF 2009, TO PROVIDE THAT IN CERTAIN FISCAL YEARS THE BOARD OF TRUSTEES OF ANY SCHOOL DISTRICT WITH A PREVIOUSLY APPROVED PLANT FACILITIES LEVY MAY SUBMIT TO THE QUALIFIED ELECTORS OF THE SCHOOL DISTRICT THE QUESTION OF CONVERTING A PREVIOUSLY APPROVED PLANT FACILITIES LEVY TO A SUPPLEMENTAL LEVY SUBJECT TO CERTAIN CONDITIONS AND REQUIREMENTS, TO PROVIDE FOR A QUESTION TO BE SUBMITTED AND TO PROVIDE PROVISIONS RELATING TO ELECTIONS; AMENDING SECTION 33-1004, IDAHO CODE, TO PROVIDE THAT FOR A CERTAIN PERIOD A DISTRICT MAY SHIFT UP TO FIVE PERCENT OF CERTAIN POSITIONS TO FEDERAL FUNDS; PROVIDING THAT FOR A CERTAIN PERIOD CERTAIN MONEYS MAY BE SPENT AT THE DISCRETION OF THE SCHOOL DISTRICT AND TO PROVIDE THAT SUCH AMOUNT SHALL BE DETERMINED BY THE STATE DEPARTMENT OF EDUCATION PURSUANT TO A CERTAIN FORMULA; PROVIDING THAT SCHOOL DISTRICTS MAY TRANSFER MONEYS FROM A PLANT FACILITIES RESERVE FUND TO THE GENERAL FUND DURING A CERTAIN PERIOD AND SUBJECT TO CERTAIN CONDITIONS; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 33-804, Idaho Code, be, and the same is hereby amended to read as follows:

33-804. SCHOOL PLANT FACILITIES RESERVE FUND LEVY. In any school district in which a school plant facilities reserve fund has been created, either by resolution of the board of trustees or by apportionment to new districts according to the provisions of section 33-901, Idaho Code, to provide funds therefor the board of trustees shall submit to the qualified school electors of the district the question of a levy not to exceed four-tenths of one percent (.4%) of market value for assessment purposes in each year, as such valuation existed on December 31 of the previous year, for a period not to exceed ten (10) years.

The question of a levy to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is proposed to be made, the percentage of votes in favor of the proposal which are needed to approve the proposed dollar amount to be collected, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be conducted and the returns canvassed as provided in chapter 4, title 33, Idaho Code; and the dollar amount to be collected shall be approved only if:

1. Fifty-five percent (55%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of less than two-tenths of one percent (.2%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election;

2. Sixty percent (60%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of two-tenths of one percent (.2%) or more and less than three-tenths of one percent (.3%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election; or

3. Two-thirds (2/3) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of three-tenths of one percent (.3%) or more of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election.

If the question be approved, the board of trustees may make a levy, not to exceed four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, in each year for which the collection was approved, sufficient to collect the dollar amount approved and may again submit the question at the expiration of the period of such levy, for the dollar amount to be collected during each year, and the number of years which the board may at that time determine. Or, during the period approved at any such election, if such period be less than ten (10) years or the levy be less than four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, the board of trustees may submit to the qualified school electors in the same manner as before, the question whether the number of years, or the levy, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

Any bonded indebtedness incurred in accordance with the provisions of section 33-1103, Idaho Code, subsequent to the approval of a plant facilities reserve fund levy shall not affect the terms of that levy for any time during which such levy is in effect.

4. In any fiscal year in which the state department of education certifies that the statewide conditions exist for all qualifying school districts to declare financial emergencies, pursuant to section 33-522, Idaho Code, the board of trustees of any school district with a previously approved plant facilities levy may submit to the qualified electors of the school district the question of converting a previously approved plant facilities levy to a supplemental levy, subject to the following:

(a) The term of the supplemental levy shall not exceed the lesser of two (2) years or the remaining term on the previously approved plant facilities levy; and

(b) The first tax year of conversion shall be the one in which the revenues collected will accrue to the fiscal year in which the state department of education certifies that the statewide conditions exist for all qualifying school districts to declare financial emergencies, pursuant to section 33-522, Idaho Code; and

(c) Up to one hundred percent (100%) of the previously approved plant facilities levy amount may be converted; and

(d) Conversion of a plant facilities levy to a supplemental levy shall not affect any other supplemental levy; and

(e) The question to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be converted each year, the number of years to be converted, the percentage of the plant facilities levy that is proposed for conversion, and the purposes for which such funds shall be used; and

(f) Prior to January 1, 2011, the election notice shall be given, the election shall be conducted and the returns canvassed as provided in chapter 4, title 33, Idaho Code. On and after January 1, 2011, the election notice shall be given, the election shall be held subject to the provisions of section 34-106, Idaho Code, and conducted and the returns canvassed as provided in title 34, Idaho Code; and

(g) The dollar amount to be converted and collected shall be approved only if a majority of the electors voting in the election are in favor; and

(h) Upon expiration of the term of conversion, the supplemental levy shall revert to the previously approved plant facilities levy for any approved years remaining on the balance of its term; and

(i) Any years in which a previously approved plant facilities levy is converted to a supplemental levy pursuant to this subsection shall count against the years for which the plant facilities levy was approved; and

(j) If a majority of the electors voting in the election fail to vote in favor, the previously approved plant facilities levy shall not be affected.

SECTION 2. That Section 33-804, Idaho Code, as amended by Section 47, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as follows:

33-804. SCHOOL PLANT FACILITIES RESERVE FUND LEVY. In any school district in which a school plant facilities reserve fund has been created, either by resolution of the board of trustees or by apportionment to new districts according to the provisions of section 33-901, Idaho Code, to provide funds therefor the board of trustees shall submit to the qualified school electors of the district the question of a levy not to exceed four-tenths of one percent (.4%) of market value for assessment purposes in each year, as such valuation existed on December 31 of the previous year, for a period not to exceed ten (10) years.

The question of a levy to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is proposed to be made, the percentage of votes in favor of the proposal which are needed to approve the proposed dollar amount to be collected, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be held subject to the provisions of section 34-106, Idaho Code, and conducted and the returns canvassed as provided in title 34, Idaho Code; and the dollar amount to be collected shall be approved only if:

1. Fifty-five percent (55%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of less than two-tenths of one percent (.2%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election;

2. Sixty percent (60%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of two-tenths of one percent (.2%) or more and less than three-tenths of one percent (.3%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election; or

3. Two-thirds (2/3) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of three-tenths of one percent (.3%) or more of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election.

If the question be approved, the board of trustees may make a levy, not to exceed four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, in each year for which the collection was approved, sufficient to collect the dollar amount approved and may again submit the question at the expiration of the period of such levy, for the dollar amount to be collected during each year, and the number of years which the board may at that time determine. Or, during the period approved at any such election, if such period be less than ten (10) years or the levy be less than four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, the board of trustees may submit to the qualified school electors in the same manner as before, the question whether the number of years, or the levy, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

Any bonded indebtedness incurred in accordance with the provisions of section 33-1103, Idaho Code, subsequent to the approval of a plant facilities reserve fund levy shall not affect the terms of that levy for any time during which such levy is in effect.

4. In any fiscal year in which the state department of education certifies that the statewide conditions exist for all qualifying school districts to declare financial emergencies, pursuant to section 33-522, Idaho Code, the board of trustees of any school district with a previously approved plant facilities levy may submit to the qualified electors of the school district the question of converting a previously approved plant facilities levy to a supplemental levy, subject to the following:

(a) The term of the supplemental levy shall not exceed the lesser of two (2) years or the remaining term on the previously approved plant facilities levy; and

(b) The first tax year of conversion shall be the one in which the revenues collected will accrue to the fiscal year in which the state department of education certifies that the statewide conditions exist for all qualifying school districts to declare financial emergencies, pursuant to section 33-522, Idaho Code; and

(c) Up to one hundred percent (100%) of the previously approved plant facilities levy amount may be converted; and

(d) Conversion of a plant facilities levy to a supplemental levy shall not affect any other supplemental levy; and

(e) The question to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be converted each year, the number of years to be converted, the percentage of the plant facilities levy that is proposed for conversion, and the purposes for which such funds shall be used; and

(f) Prior to January 1, 2011, the election notice shall be given, the election shall be conducted and the returns canvassed as provided in chapter 4, title 33, Idaho Code. On and after January 1, 2011, the election notice shall be given, the election shall be held subject to the provisions of section 34-106, Idaho Code, and conducted and the returns canvassed as provided in title 34, Idaho Code; and

(g) The dollar amount to be converted and collected shall be approved only if a majority of the electors voting in the election are in favor; and

(h) Upon expiration of the term of conversion, the supplemental levy shall revert to the previously approved plant facilities levy for any approved years remaining on the balance of its term; and

(i) Any years in which a previously approved plant facilities levy is converted to a supplemental levy pursuant to this subsection shall count against the years for which the plant facilities levy was approved; and

(j) If a majority of the electors voting in the election fail to vote in favor, the previously approved plant facilities levy shall not be affected.

SECTION 3. That Section 33-1004, Idaho Code, be, and the same is hereby amended to read as follows:

33-1004. STAFF ALLOWANCE. For each school district, a staff allowance shall be determined as follows:

(1) Using the daily attendance reports that have been submitted for computing the February 15 apportionment of state funds as provided in section 33-1009, Idaho Code, determine the total support units for the district in the manner provided in section 33-1002(6)(a), Idaho Code;

(2) Determine the instructional staff allowance by multiplying the support units by 1.1. A district must demonstrate that it actually employs the number of certificated instructional staff allowed, except as provided in subsection (5)(f) and (g) of this section. If the district does not employ the number allowed, the staff allowance shall be reduced to the actual number employed, except as provided in subsection (5)(f) and (g) of this section;

(3) Determine the administrative staff allowance by multiplying the support units by .075;

(4) Determine the classified staff allowance by multiplying the support units by .375;

(5) Additional conditions governing staff allowance:

(a) In determining the number of staff in subsections (2), (3) and (4) of this section, a district may contract separately for services to be rendered by nondistrict employees and such employees may be counted in the staff allowance. A "nondistrict employee" means a person for whom the school district does not pay the employer's obligations for employee benefits. When a district contracts for the services of a nondistrict employee, only the salary portion of the contract shall be allowable for computations.

(b) If there are circumstances preventing eligible use of staff allowance to which a district is entitled as provided in subsections (2) and (3) of this section, an appeal may be filed with the state department of education outlining the reasons and proposed alternative use of these funds, and a waiver may be granted.

(c) For any district with less than forty (40) support units:

(i) The instructional staff allowance shall be calculated applying the actual number of support units. If the actual instructional staff employed in the school year is greater than the instructional staff allowance, then the instructional staff allowance shall be increased by one-half (1/2) staff allowance; and

(ii) The administrative staff allowance shall be calculated applying the actual number of support units. If the actual administrative staff employed in the school year is greater than the administrative staff allowance, then the administrative staff allowance shall be increased by one-half (1/2) staff allowance.

(iii) Additionally, for any district with less than twenty (20) support units, the instructional staff allowance shall be calculated applying the actual number of support units. If the number of instructional staff employed in the school year is greater than the instructional staff allowance, the staff allowance shall be increased as provided in paragraphs (i) and (ii) of this subsection, and by an additional one-half (1/2) instructional staff allowance.

(d) For any school district with one (1) or more separate secondary schools serving grades nine (9) through twelve (12), the instructional staff allowance shall be increased by two (2) additional instructional staff allowances for each such separate secondary school.

(e) Only instructional, administrative and classified personnel compensated by the school district from the general maintenance and operation fund of the district shall be included in the calculation of staff allowance or in any other calculations based upon staff, including determination of the experience and education multiplier, the reporting requirements, or the district's salary-based apportionment calculation. No food service staff or transportation staff shall be included in the staff allowance.

(f) A district may utilize up to five percent (5%) of the moneys associated with positions funded pursuant to subsection (2) of this section to defray the cost of providing virtual education coursework, including virtual dual credit coursework, without a reduction in the number of funded positions being imposed.

(g) For the period July 1, 2009, through June 30, 2011, only, a district may shift up to ~~two and sixty-three hundredths percent (2.63%)~~ five percent (5%) of the positions funded pursuant to subsection (2) of this section to federal funds, without a reduction in the number of funded positions being imposed.

(6) In the event that the staff allowance in any category is insufficient to meet accreditation standards, a district may appeal to the state board of education, demonstrating the insufficiency, and the state board may grant a waiver authorizing sufficient additional staff to be included within the staff allowance to meet accreditation standards. Such a waiver shall be limited to one (1) year, but may be renewed upon showing of continuing justification.

SECTION 4. The provisions of Section 33-1019, Idaho Code, notwithstanding, for the period July 1, 2010, through June 30, 2011, only, the current fiscal year's amount of local maintenance match moneys normally required to be allocated for the maintenance and repair of student-occupied buildings may be spent on other one-time, nonpersonnel costs, at the discretion of the school district. Such amount shall be determined by the State Department of Education as follows:

(1) Subtract from the local maintenance match requirement all plant facility levy funds levied for tax year 2010.

(2) Subtract from the balance of any funds remaining after the subtraction provided for in subsection (1) of this section, any additional funds necessary to fully remediate all recommendations and code violations identified in the most recent inspection of each student-occupied building conducted by the Division of Building Safety, excluding any recommendations for which the least expensive remediation solution is the replacement of the building.

School districts shall furnish information pursuant to the provisions of this section, as may be required by the State Department of Education.

SECTION 5. Any other provisions of law notwithstanding, school districts may transfer moneys from a plant facilities reserve fund to the general fund during the period July 1, 2010, through June 30, 2011, subject to the following conditions:

- (1) The transfer shall not include any moneys raised from a plant facilities reserve fund levy; and
- (2) The plant facilities reserve fund shall retain sufficient moneys to fully remediate all recommendations and code violations identified in the most recent inspection of each student-occupied building conducted by the Division of Building Safety, excluding any recommendations for which the least expensive remediation solution is the replacement of the building; and
- (3) Moneys so transferred shall be expended for one-time, nonpersonnel costs only.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2010; Section 2 of this act shall be in full force and effect on after January 1, 2011; and Sections 3, 4 and 5 shall be in full force and effect on and after July 1, 2010.

Approved April 12, 2010.

CHAPTER 327
(S.B. No. 1444)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE STATE BOARD OF EDUCATION FOR COLLEGE AND UNIVERSITIES FOR FISCAL YEAR 2010; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made to the State Board of Education for College and Universities in Section 1, Chapter 207, Laws of 2009, there is hereby appropriated from the listed fund for the period July 1, 2009, through June 30, 2010:

FROM:

American Reinvestment Fund	\$729,900
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SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 12, 2010.

CHAPTER 328
(S.B. No. 1426)

AN ACT

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED; REAPPROPRIATING CERTAIN UNEXPENDED

AND UNENCUMBERED BALANCES FOR CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR AIRPORT DEVELOPMENT GRANTS; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE TOURISM AND PROMOTION FUND; AND REAPPROPRIATING UNEXPENDED AND UNENCUMBERED BALANCES OF TITLE XII AND TITLE XIV AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDS.

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

SECTION 1. There is hereby appropriated to the Idaho Transportation Department the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. ADMINISTRATION:					
FROM:					
State Highway (Dedicated)					
Fund	\$13,269,000	\$8,845,200	\$15,000		\$22,129,200
State Highway (Billing)					
Fund	22,700	191,800			214,500
State Highway (Federal)					
Fund	<u>325,800</u>	<u>6,400</u>	_____		<u>332,200</u>
TOTAL	\$13,617,500	\$9,043,400	\$15,000		\$22,675,900
II. CAPITAL FACILITIES:					
FROM:					
State Aeronautics (Dedicated)					
Fund			\$50,000		\$50,000
State Highway (Dedicated)					
Fund			<u>2,800,000</u>		<u>2,800,000</u>
TOTAL			\$2,850,000		\$2,850,000
III. AERONAUTICS:					
FROM:					
State Aeronautics (Dedicated)					
Fund	\$802,300	\$525,600		\$742,200	\$2,070,100
State Aeronautics (Billing)					
Fund	74,700	125,400			200,100
State Aeronautics (Federal)					
Fund	<u>31,100</u>	<u>516,800</u>	_____		<u>547,900</u>
TOTAL	\$908,100	\$1,167,800		\$742,200	\$2,818,100
IV. PUBLIC TRANSPORTATION:					
FROM:					
State Highway (Dedicated)					
Fund	\$282,400	\$9,700		\$404,800	\$696,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
State Highway (Federal)					
Fund	<u>504,900</u>	<u>246,800</u>		<u>8,898,000</u>	<u>9,649,700</u>
TOTAL	\$787,300	\$256,500		\$9,302,800	\$10,346,600
V. PLANNING:					
FROM:					
State Highway (Dedicated)					
Fund	\$641,100	\$454,500		\$140,000	\$1,235,600
State Highway (Federal)					
Fund	<u>1,752,700</u>	<u>1,834,400</u>		<u>140,000</u>	<u>3,727,100</u>
TOTAL	\$2,393,800	\$2,288,900		\$280,000	\$4,962,700
VI. MOTOR VEHICLES:					
FROM:					
State Highway (Dedicated)					
Fund	\$11,817,000	\$16,202,600	\$163,000		\$28,182,600
VII. HIGHWAY OPERATIONS:					
FROM:					
State Highway (Dedicated)					
Fund	\$70,188,700	\$45,783,300	\$21,188,400		\$137,160,400
State Highway (Billing)					
Fund		384,900			384,900
State Highway (Local)					
Fund	188,600	104,200			292,800
State Highway (Federal)					
Fund	<u>8,156,600</u>	<u>1,729,800</u>		<u>\$2,462,500</u>	<u>12,348,900</u>
TOTAL	\$78,533,900	\$48,002,200	\$21,188,400	\$2,462,500	\$150,187,000
VIII. CONTRACT CONSTRUCTION & RIGHT-OF-WAY ACQUISITION:					
FROM:					
State Highway (Dedicated)					
Fund		\$5,053,500	\$20,471,800	\$318,000	\$25,843,300
State Highway (Local)					
Fund		705,200	4,508,400	541,000	5,754,600
State Highway (Federal)					
Fund		<u>12,153,000</u>	<u>214,969,400</u>	<u>2,914,000</u>	<u>230,036,400</u>
TOTAL		\$17,911,700	\$239,949,600	\$3,773,000	\$261,634,300
GRAND					
TOTAL	\$108,057,600	\$94,873,100	\$264,166,000	\$16,560,500	\$483,657,200

SECTION 2. In accordance with Section 67-3519, Idaho Code, the Idaho Transportation Department is authorized no more than one thousand eight hundred twenty-six and five-tenths (1,826.5) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 1 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 3. It is legislative intent that all moneys transferred to the Local Bridge Inspection Fund and to the Railroad Grade Crossing Protection Fund, as provided in Section 63-2412, Idaho Code, are hereby continuously appropriated to the Idaho Transportation Department for the stated purposes of those funds.

SECTION 4. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of the State Highway Fund appropriated for the Contract Construction and Right-of-Way Acquisition Program for fiscal year 2010, to be used for Contract Construction and Right-of-Way Acquisition only for the period July 1, 2010, through June 30, 2011.

SECTION 5. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of the State Aeronautics Fund appropriated for trustee and benefit payments for fiscal year 2010, to be used for Airport Development Grants for the period July 1, 2010, through June 30, 2011.

SECTION 6. There is hereby appropriated and the State Controller is directed to transfer \$25,000 from the State Highway Fund to the Tourism and Promotion Fund in the Department of Commerce during fiscal year 2011. This transfer will provide the matching fund support of the Gateway Visitor Centers.

SECTION 7. There is hereby reappropriated to the Idaho Transportation Department any unexpended and unencumbered balances of funding from Title XII and Title XIV of the American Recovery and Reinvestment Act of 2009 for fiscal year 2010, to be used in fiscal year 2011, according to all the requirements of the federal act.

Approved April 12, 2010.

CHAPTER 329
(S.B. No. 1361, As Amended)

AN ACT

RELATING TO DEALERS AND SALESMEN LICENSING; AMENDING SECTION 49-1602, IDAHO CODE, TO DELETE REFERENCE TO AN OPEN BOOK EXAMINATION AND TO PROVIDE EDUCATION REQUIREMENTS RELATING TO A PRELICENSING CLASS OR PROGRAM; AND AMENDING SECTION 49-1637, IDAHO CODE, TO DELETE REFERENCE TO A COMPREHENSIVE OPEN BOOK EXAMINATION AND TO REVISE PROVISIONS RELATING TO EDUCATION REQUIREMENTS FOR VEHICLE DEALERS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 49-1602, Idaho Code, be, and the same is hereby amended to read as follows:

49-1602. ADMINISTRATION -- POWERS AND DUTIES. The department shall:

(1) Issue, and for reasonable cause shown, refuse to issue an applicant any license authorized under the provisions of this chapter. The department may refuse to issue a license to any applicant, other than a partnership or corporation, if the applicant fails to comply with the terms and provisions of this chapter or the rules of the board, or if the applicant has been convicted of a violation of any of the provisions of this chapter or chapter 5, title 49, or section 49-1418 or chapter 6, title 48, Idaho Code, or of any federal odometer law or regulation. Should the applicant be a partnership or a corporation, the department may refuse to issue a license to the applicant where it determines that one (1) or more of the partners of a partnership, or one (1) or more of the stockholders or officers of a corporation, was previously the holder of a license which was revoked or suspended, and the license revoked never reissued or the suspended license never reinstated, or that one (1) or more of the partners, stockholders, or officers, though not previously the holder of a license, has violated any of the provisions of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(2) For just cause shown, revoke or suspend, on terms, conditions, and for a period of time as the department shall consider fair and just, any license or licenses issued pursuant to the provisions of this chapter. No license shall be revoked or suspended unless it shall be shown that the licensee has violated a provision of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(3) On its own motion, upon the sworn complaint of any person, investigate any suspected or alleged violation by a licensee of any of the provisions of this chapter or of an applicable rule or regulation.

(4) Prescribe forms for applications for licenses and qualifications for an applicant for licensure. Every application for a license shall contain, in addition to other information required by the department, the following:

(a) The name and residence address of the applicant and the trade name, if any, under which he intends to conduct his business. If the applicant is a copartnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted. If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city with the street number, of the principal place of business and any other and additional places of business operated and maintained by the applicant in conjunction with the principal place of business.

(c) Copies of any letters of franchise for new vehicles that the applicant has been enfranchised to sell or exchange, and the name or names and addresses of the manufacturer or distributor who has enfranchised the applicant.

(d) Names and addresses of the persons who shall act as salesmen under the authority of the license, if issued.

(e) A copy of the certificate of assumed business name, if required, shall be filed with the secretary of state.

(f) For a manufacturer's license, the name or names and addresses of each and every distributor, factory branch, and factory representative.

(g) For a salesman's license, certification by the dealer by whom the salesman will be employed, that he has examined the background of the applicant, and to the best of the dealer's knowledge, is qualified to be licensed under the sponsorship of the licensed dealer.

(h) Before a dealer who is not exempted from the continuing education requirements as provided in section 49-1637(2), Idaho Code, may apply for a renewal of a vehicle dealer's license, he shall provide to the department a certification from an accredited educational system, private vocational school, correspondence school or trade association approved by the department stating that the vehicle dealer has satisfied the four (4) hour continuing education requirements as specified in section 49-1637(1), Idaho Code.

(i) Before any vehicle dealer's license is issued by the department to an applicant who is not licensed with the department as a dealer within the previous twelve (12) calendar months and who is not exempted from the continuing education requirements as provided in section 49-1637(2), Idaho Code, the applicant shall provide to the department a certification from an accredited educational institution, private vocational school, correspondence school or trade association approved by the department stating that the applicant has satisfactorily completed the ~~open book examination~~ prelicensing class or program requirement requirements, including a written examination of material presented, specified in section 49-1637(1), Idaho Code.

(5) Refuse to issue any license under the provisions of this chapter if, upon investigation, the department finds that any information contained in the application is incomplete, incorrect or fictitious.

(6) Require that a dealer's principal place of business, and other locations operated and maintained by him in conjunction with his principal place of business, have erected or posted signs or devices providing information relating to the dealer's name, location and address of the principal place of business, and the number of the license held by the dealer.

(7) Provide for regular meetings of the dealer advisory board, to be held not less frequently than semiannually. Notices of meetings of the advisory board shall be mailed to all members not less than five (5) days prior to the date on which the meeting is to be held.

(8) Inspect, prior to licensing, the principal place of business and other sites or locations as may be operated and maintained by the applicant.

(9) Seek and consider the advisory board's recommendations and comments regarding proposed rules promulgated for the administration of the provisions of this chapter.

(10) Require the attendance of not less than one (1) or more than three (3) advisory board members at all hearings held relating to this chapter.

SECTION 2. That Section 49-1637, Idaho Code, be, and the same is hereby amended to read as follows:

49-1637. EDUCATION REQUIREMENTS FOR VEHICLE DEALERS. (1) Except as provided in subsection (2) of this section, the following continuing education requirements shall apply to a vehicle dealer for an initial dealer's license and for the annual renewal, as provided in sections 49-1607(3) and 49-1634, Idaho Code, of a dealer's license:

(a) An applicant for an annual renewal of a dealer's license must complete a four (4) hour education program as described in subsection (3) of this section prior to submitting a renewal application for a vehicle or vessel dealer license.

(b) An applicant requesting an initial vehicle or vessel dealer's license shall be required to ~~pass a comprehensive open book~~ provide certification that he has completed a department approved prelicensing class or program, including an examination on the materials that were presented prior to submitting a license application.

(2) The education requirements of subsection (1) of this section do not apply to an applicant for a full-time or part-time vehicle salesman's license, manufacturer's license, distributor's license or wholesale dealer's license. The following applicants are also exempt from the provisions of subsection (1) of this section:

(a) A vehicle dealer of nationally advertised and recognized new motor vehicles or vessels; and

(b) A franchise dealer of new recreational vehicles, new motorcycles, new all-terrain vehicles, new snowmobiles or new vessels.

(3) The continuing education programs and ~~written open book examination~~ prelicensing class requirements required in subsection (1) of this section shall be developed with input from motor vehicle industry organizations including, but not limited to, the Idaho independent automobile dealers association, and shall be approved by the department:

(a) Prelicensing classes shall consist of eight (8) hours of instruction or as otherwise approved by the department, which shall include the written examination.

(b) Fees applicable to the prelicensing class shall not exceed three hundred fifty dollars (\$350).

(c) Fees applicable to the dealer education program shall not exceed two hundred dollars (\$200).

(d) Any provider as approved by the department shall make the dealer education programs and prelicensing classes available on a monthly basis, at a minimum.

(4) The continuing education programs and the prelicensing class/programs required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations, provided that the continuing education program ~~has~~ and prelicensing class/programs have been approved by the department as required in subsection (3) of this section.

(5) The department may promulgate rules as necessary to implement the provisions of this section.

SECTION 3. This act shall be in full force and effect on and after January 1, 2011.

Approved April 12, 2010.

CHAPTER 330
(S.B. No. 1311, As Amended)

AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION; AMENDING SECTION 49-432, IDAHO CODE, TO REVISE PROVISIONS RELATING TO A CERTAIN PERMIT AND COMBINATION OF VEHICLES.

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

SECTION 1. That Section 49-432, Idaho Code, be, and the same is hereby amended to read as follows:

49-432. TEMPORARY REGISTRATION FOR RESIDENTS AND NONRESIDENTS -- FEES. (1) When a vehicle or combination of vehicles subject to registration is to be moved upon the public highways in the state of Idaho, the department may issue a permit in lieu of registration for any vehicle or combination of vehicles upon the payment of a fee as set forth in the following schedule:

- (a) One hundred twenty (120) hour permit
 - Single vehicle\$60.00
 - Combination of vehicles, where such combination of vehicles includes more than one (1) unregistered vehicles\$120.00
- (b) Fuel permit\$60.00
- (c) Thirty (30) day unladen weight permit\$60.00

An owner-operator vehicle moving between lessee fleets where the vehicle registration was issued in the name of the former lessee shall be eligible for a thirty (30) day unladen weight permit for the unladen movement from the point of entry into the state to the destination of the new lessee's place of business.

If an annual registration is purchased within thirty (30) calendar days of issuance of a permit under paragraph (a) or (c) of this subsection (1), the amount of the permit fee shall be applied to the registration fee. No portion of a permit fee is subject to refund.

(2) Permits to operate a vehicle or combination of vehicles in excess of the registered maximum gross vehicle weight up to a maximum of one hundred twenty-nine thousand (129,000) pounds gross vehicle weight shall be:

- (a) One hundred twenty (120) hour permit to increase gross weight\$50.00
- (b) Thirty (30) day permit to increase gross vehicle weight:

Maximum Registered Gross Weight of Vehicle (Pounds)	Temporary Permitted Maximum Gross Weight (Pounds)					
	80,000	86,000	96,000	106,000	116,000	129,000
50,001-60,000	\$225	\$250	\$275	\$300	\$325	\$350

The permit issued pursuant to this subsection (2) shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable. At the time of purchasing a permit, the applicant may purchase additional permits in any combination which does not exceed a maximum of ninety (90) days.

(3) Permits issued pursuant to subsection (1) or (2) of this section shall be limited to three (3) per vehicle in a calendar year except for those permits provided for in subsection (1) (b) and (c). The provisions of this subsection (3) with respect to limiting the number of permits issued shall not apply to transporters and wreckers as defined in sections 49-121 and 49-124, Idaho Code.

(4) A temporary permit shall be in a form, and issued under rules adopted by the board, and shall be displayed at all times while the vehicle is being operated on the highways by posting the permit upon the windshield of each vehicle or in another prominent place, where it may be readily legible.

(5) Any permit issued pursuant to subsection (2) of this section shall be purchased prior to movement of the vehicle on a highway, and such permit shall be in addition to and available only to a vehicle which is currently and validly registered in Idaho pursuant to section 49-432(1), 49-434(1), 49-434(8) (c) or 49-435, Idaho Code.

(6) The department may select vendors to serve as agents on state highways for the purpose of selling permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of three dollars (\$3.00) per permit sold, and he shall collect the fees specified in this section and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state in a sum as shall be fixed by the board, the premium on the bond to be paid by the department.

Approved April 12, 2010.

CHAPTER 331
(S.B. No. 1398)

AN ACT

RELATING TO MOTOR VEHICLES AND CRIMES AND PUNISHMENT; AMENDING SECTION 18-8005, IDAHO CODE, TO REVISE CERTAIN PENALTY PROVISIONS.

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

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

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

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

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

- (a) The provisions of section 18-8005(1)(a), (b) and (c), Idaho Code; and
- (b) The provisions of section 49-335, Idaho Code.

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

- (a) The provisions of section 18-8005(1)(a), (b) and (c), Idaho Code; and
- (b) The provisions of section 49-335, Idaho Code.

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

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

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

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

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

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

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

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

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

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

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

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

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; and

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

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

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

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

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

(11) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by an alcohol evaluation facility

approved by the Idaho department of health and welfare; provided however, if the defendant has no prior or pending charges with respect to the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and the court has the records and information required under subsections (12) (a), (b) and (c) of this section or possesses information from other reliable sources relating to the defendant's use or nonuse of alcohol or drugs which does not give the court any reason to believe that the defendant regularly abuses alcohol or drugs and is in need of treatment, the court may, in its discretion, waive the evaluation with respect to sentencing for a violation of section 18-8004 or 18-8004C(1), Idaho Code, and proceed to sentence the defendant. The court may also, in its discretion, waive the requirement of an alcohol evaluation with respect to a defendant's violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, and proceed to sentence the defendant if the court has a presentence investigation report, substance abuse assessment, criminogenic risk assessment, or other assessment which evaluates the defendant's degree of alcohol abuse and need for alcohol treatment conducted within twelve (12) months preceding the date of the defendant's sentencing. In the event an alcohol evaluation indicates the need for alcohol treatment, the evaluation shall contain a recommendation by the evaluator as to the most appropriate treatment program, together with the estimated cost thereof, and recommendations for other suitable alternative treatment programs, together with the estimated costs thereof. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant; however, in such event, it shall be presumed that alcohol treatment is required unless the defendant makes a showing by a preponderance of evidence that treatment is not required. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment unless this requirement is waived by the sentencing court, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

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

- (a) The results, if administered, of any evidentiary test for alcohol and/or drugs;
- (b) A computer or teletype or other acceptable copy of the person's driving record;
- (c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004, 18-8004C or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and
- (d) The alcohol evaluation required in subsection (11) of this section, if any.

(13) A minor may be prosecuted for a violation of the provisions of section 18-8004 or 18-8004C, Idaho Code, under chapter 5, title 20, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004(1) (a), (b) or (c) or 18-8004C, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any

period of suspension or revocation existing at the time of the violation, or until he reaches the age of twenty-one (21) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

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

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

Approved April 12, 2010.

CHAPTER 332
(S.B. No. 1408)

AN ACT

RELATING TO ABSENTEE BALLOTS; AMENDING SECTION 34-1002, IDAHO CODE, TO REVISE PROCEDURES FOR APPLICATION FOR ABSENTEE BALLOTS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 34-1003, IDAHO CODE, TO REVISE PROCEDURES FOR ISSUANCE OF ABSENTEE BALLOTS.

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

SECTION 1. That Section 34-1002, Idaho Code, be, and the same is hereby amended to read as follows:

34-1002. APPLICATION FOR ABSENTEE BALLOT. Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, his home address, county, and address to which such ballot shall be forwarded.

The application for an absent elector's ballot shall be signed personally by the applicant. The application for a mail-in absentee ballot shall be received by the county clerk not later than 5:00 p.m. on the sixth day before the election. An application for in person absentee voting at the absent elector's polling place described in section 34-1006, Idaho Code, shall be received by the county clerk not later than 5:00 p.m. on the ~~day~~ Friday before the election. Application for an absentee ballot may be made by using a facsimile machine or other electronic transmission. In the event

a registered elector is unable to vote in person at his designated polling place on the day of election because of an emergency situation which rendered him physically unable, he may nevertheless apply for an absent elector's ballot on the day of election by notifying the county clerk. No person may, however, be entitled to vote under an emergency situation unless the situation claimed rendered him physically unable to vote at his designated polling place within ~~forty-eight~~ ninety-six (4896) hours prior to the closing of the polls.

A person may make application for an absent elector's ballot by use of a properly executed federal ~~postcard~~ post card application as provided for in the laws of the United States known as ~~U~~uniformed and ~~O~~verseas ~~C~~itizens ~~A~~bsentee ~~V~~voting ~~A~~act (UOCAVA, 42 U.S.C. 1973 ff, et seq.). ~~A properly executed federal postcard application (F.P.C.A.), shall be considered as a request for an absent elector's ballot through the next two (2) regularly scheduled general elections for federal office following receipt of the application.~~ The issuing officer shall keep as a part of the records of his office a list of all applications so received and of the manner and time of delivery or mailing to and receipt of returned ballot.

The county clerk shall, not later than seventy-five (75) days after the date of each general election, submit a report to the secretary of state containing information concerning absentee voters as required by federal law.

SECTION 2. That Section 34-1003, Idaho Code, be, and the same is hereby amended to read as follows:

34-1003. ISSUANCE OF ABSENTEE BALLOT. Upon receipt of an application for an absent elector's ballot within the proper time, the county clerk receiving it shall examine the records of his office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested and, if found to be so, he shall arrange for the applicant to vote by absent elector's ballot. The absentee ballot may be delivered to the absent elector in the office of the county clerk, by postage prepaid mail or by other appropriate means, including use of a facsimile machine or other electronic transmission. Validly requested absentee ballots, where the request is received at least forty-five (45) days before an election, shall be sent not later than forty-five (45) days before that election to all electors who are entitled to vote by absentee ballot.

Pursuant to the uniformed and overseas citizens absentee voting act (UOCAVA, 42 U.S.C. 1973 ff, et seq., as amended) the secretary of state shall establish procedures for the transmission of blank absentee ballots by mail and by electronic transmission for all electors who are entitled to vote by absentee ballot under the uniformed and overseas citizens absentee voting act, and by which such electors may designate whether the elector prefers the transmission of such ballots by mail or electronically. If no preference is stated, the ballots shall be transmitted by mail. The secretary of state shall establish procedures for transmitting such ballots in a manner that shall protect the security and integrity of such ballots and the privacy of the elector throughout the process of transmission.

A political party may supply a witness to accompany the clerk in the personal delivery of an absentee ballot. If the political party desires to supply a witness it shall be the duty of the political party to supply the names of such witnesses to the clerk no later than forty-five (45) days prior to the election. The clerk shall notify such witnesses of the date and approximate hour the clerk or deputy clerk intends to deliver the ballot.

A candidate for public office or a spouse of a candidate for public office shall not be a witness in the personal delivery of absentee ballots.

An elector physically unable to mark his own ballot may receive assistance in marking such ballot from the officer delivering same or an available person of his own choosing. In the event the election officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. When such ballot is marked by an election officer, the witnesses on hand shall be allowed to observe such marking. No county clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

Approved April 12, 2010.

CHAPTER 333
(S.B. No. 1445)

AN ACT

APPROPRIATING AND TRANSFERRING FUNDS FROM THE ECONOMIC RECOVERY RESERVE FUND TO THE GENERAL FUND IN FISCAL YEAR 2010; APPROPRIATING AND TRANSFERRING FUNDS FROM THE BUDGET STABILIZATION FUND TO THE GENERAL FUND IN FISCAL YEAR 2010; APPROPRIATING AND TRANSFERRING FUNDS FROM THE CONSUMER PROTECTION FUND TO THE GENERAL FUND IN FISCAL YEAR 2010; APPROPRIATING AND TRANSFERRING FUNDS FROM THE CLEANWATER REVOLVING (SCC) FUND TO THE GENERAL FUND IN FISCAL YEAR 2010; APPROPRIATING AND TRANSFERRING FUNDS FROM THE RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND TO THE GENERAL FUND IN FISCAL YEAR 2010; APPROPRIATING AND TRANSFERRING FUNDS FROM THE BUDGET STABILIZATION FUND TO THE GENERAL FUND IN FISCAL YEAR 2011; APPROPRIATING AND TRANSFERRING FUNDS FROM THE ECONOMIC RECOVERY RESERVE FUND TO THE GENERAL FUND IN FISCAL YEAR 2011; DECLARING LEGISLATIVE INTENT TO PROVIDE THE GOVERNOR ACCESS TO RESERVE AND DEDICATED FUNDS TO BALANCE THE FISCAL YEAR 2010 BUDGET; APPROPRIATING AND TRANSFERRING FUNDS FROM THE BUDGET STABILIZATION FUND TO THE GENERAL FUND FOR FISCAL YEAR 2010 IF REVENUES DO NOT MEET TARGETS; APPROPRIATING AND TRANSFERRING FUNDS FROM THE ECONOMIC RECOVERY RESERVE FUND TO THE GENERAL FUND FOR FISCAL YEAR 2010 IF REVENUES DO NOT MEET TARGETS; APPROPRIATING AND TRANSFERRING FUNDS FROM THE PERMANENT BUILDING FUND TO THE GENERAL FUND FOR FISCAL YEAR 2010 IF REVENUES DO NOT MEET TARGETS; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated, and the State Controller is directed to transfer, the sum of twenty million dollars (\$20,000,000) from the Economic Recovery Reserve Fund to be deposited in the General Fund as soon as is practicable.

SECTION 2. There is hereby appropriated, and the State Controller is directed to transfer, the sum of thirty-three million five hundred five thousand dollars (\$33,505,000) from the Budget Stabilization Fund to be deposited in the General Fund as soon as is practicable.

SECTION 3. Notwithstanding the provisions of Section 48-606, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of six million eighty-four thousand seven hundred dollars (\$6,084,700) from the Consumer Protection Fund to be deposited in the General Fund as soon as is practicable.

SECTION 4. Notwithstanding the provisions of Section 39-3631, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of one hundred five thousand dollars (\$105,000) from the Cleanwater Revolving (SCC) Fund to be deposited in the General Fund as soon as is practicable. These moneys are interest earnings from the Cleanwater Revolving (SCC) Fund.

SECTION 5. Notwithstanding the provisions of Section 22-2731, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the sum of one hundred thousand dollars (\$100,000) from the Resource Conservation and Rangeland Development Fund to be deposited in the General Fund as soon as is practicable. These moneys are interest earnings from the Resource Conservation and Rangeland Development Fund.

SECTION 6. Notwithstanding the provisions of Section 57-814, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the lesser of thirty million one hundred thirty-four thousand six hundred dollars (\$30,134,600) or the remaining balance from the Budget Stabilization Fund to be deposited in the General Fund on July 1, 2010, or as soon thereafter as is practicable.

SECTION 7. Notwithstanding the provisions of Section 67-3520, Idaho Code, there is hereby appropriated, and the State Controller is directed to transfer, the lesser of forty-nine million five hundred thousand dollars (\$49,500,000) or the remaining balance from the Economic Recovery Reserve Fund to be deposited in the General Fund on July 1, 2010, or as soon thereafter as is practicable.

SECTION 8. In addition to any other provision of law, it is the intent of the Legislature to extend fiscal tools to the Governor to manage any continued loss of General Fund revenue through the end of fiscal year 2010, including supporting the Governor as prudent measures are taken at fiscal year end to minimize the approval of General Fund encumbrances for state agencies. It is also the intent of the Legislature that the Governor shall have access to utilize the Budget Stabilization Fund, the Economic Recovery Reserve Fund, and the Permanent Building Fund to the amount necessary to balance the state budget for the fiscal year ending June 30, 2010.

SECTION 9. It is the intent of the Legislature that if General Fund revenues for fiscal year 2010 do not meet the legislative target of \$2,280,000,000; and the remaining cash balance in the General Fund is insufficient to cover revenue shortfalls for the remainder of fiscal year 2010; and notwithstanding the provisions of Section 57-814A, Idaho Code, the State Board of Examiners is authorized to direct the State Controller, on or after May 1, 2010, through June 30, 2010, to transfer sufficient funds from the Budget Stabilization Fund to the General Fund for the purpose of balancing the state budget. Such transfer is an appropriation of moneys.

SECTION 10. It is the intent of the Legislature that if General Fund revenues for fiscal year 2010 do not meet the legislative target of \$2,280,000,000; and the remaining cash balance in the General Fund is insufficient to cover revenue shortfalls for the remainder of fiscal year 2010; and notwithstanding the provisions of Section 67-3520, Idaho Code, the State Board of Examiners is authorized to direct the State Controller,

on or after May 1, 2010, through June 30, 2010, to transfer sufficient funds from the Economic Recovery Reserve Fund to the General Fund for the purpose of balancing the state budget. Such transfer is an appropriation of moneys.

SECTION 11. It is the intent of the Legislature that if General Fund revenues for fiscal year 2010 do not meet the legislative target of \$2,280,000,000; and the remaining cash balance in the General Fund is insufficient to cover revenue shortfalls for the remainder of fiscal year 2010; and notwithstanding the provisions of Section 57-1108, Idaho Code, the State Board of Examiners is authorized to direct the State Controller, on or after May 1, 2010, through June 30, 2010, to transfer up to \$27,944,600 from the Permanent Building Fund to the General Fund for the purpose of balancing the state budget. In addition to delaying the budgeted expenditures for fiscal year 2011 of \$22,987,600 for alterations and repair and renovation, the following projects have been completed under budget or postponed due to the current fiscal uncertainty generating an additional \$4,957,000:

- (1) \$1,110,000 in funding for the planning and design of the secure mental health facility;
- (2) \$2,701,000 for improvements to the Idaho State School and Hospital; and
- (3) \$1,146,000 for the fencing project at the South Idaho Correctional Institution.

The Governor shall determine and advise the Permanent Building Advisory Council as to which projects may be delayed or canceled based upon the need to use such funds to balance the fiscal year 2010 budget. Such transfer is an appropriation of moneys.

SECTION 12. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1, 2, 3, 4, 5, 8, 9, 10 and 11 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 334
(S.B. No. 1427)

AN ACT

RELATING TO HIGHWAY TRANSPORTATION PROJECTS; APPROVING BONDING AUTHORITY TO FINANCE CERTAIN HIGHWAY TRANSPORTATION PROJECTS; REFERENCING PROJECTS TO BE FINANCED WITH BOND PROCEEDS; LIMITING THE SCOPE OF TRANSPORTATION PROJECTS; PROVIDING A REQUIREMENT REGARDING A GARVEE PROGRAM MANAGEMENT SERVICES AGREEMENT; PROVIDING FOR ISSUANCE OF GARVEE BONDS; PROVIDING LEGISLATIVE INTENT AS TO THE IDAHO TRANSPORTATION BOARD'S PRIORITY USE OF BOND REVENUE; PROVIDING LEGISLATIVE INTENT REGARDING WORK PERFORMED BY THE IDAHO TRANSPORTATION DEPARTMENT; AUTHORIZING A TRANSFER OF FUNDS FOR DEBT SERVICE; AND PROVIDING A DATE FOR SUBMISSION OF A REPORT TO THE LEGISLATURE.

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

SECTION 1. The Idaho Legislature hereby approves bonding authority for the issuance of highway transportation (GARVEE) bonds by the Idaho Housing and Finance Association in a principal amount sufficient to finance the highway transportation projects listed in Section 40-315, Idaho Code, in an amount up to \$12,000,000. Such bonds are expected to be paid from continuing appropriations of federal funds from the State Highway Account as provided in Section 40-707, Idaho Code.

SECTION 2. The Legislature finds that the bonding authority provided in Section 1 of this act shall be used in a manner that does not obligate future legislatures or governors for additional bonding authority. The Idaho Transportation Board shall allocate revenue generated from bonds authorized in Section 1 of this act to finance projects listed in Section 40-315, Idaho Code.

SECTION 3. The Idaho Transportation Board and the Idaho Transportation Department shall not increase the scope, nor add specific projects, nor in any manner extend or enlarge the transportation projects listed in Section 40-315, Idaho Code.

SECTION 4. To the extent the Idaho Transportation Board and the Idaho Transportation Department determine that GARVEE program management services are necessary, any agreement governing such services shall, to the extent possible, be fully transparent to the public and the Legislature and shall endeavor to negotiate those services at the best possible rates.

SECTION 5. The bonds issued under the authority provided by Section 1 of this act shall be issued upon an approved resolution by the Idaho Transportation Board requesting the Idaho Housing and Finance Association to issue bonds in amounts necessary to ensure that: the funds are necessary to meet program obligation requirements; the funds will be used and disbursed in accordance with United States Treasury regulations to ensure tax exempt status is retained; and the bonds are issued at prevailing market rates of interest. Further, it is the intent of the Legislature that the bonds authorized by the authority provided in Section 1 of this act be issued on an "as needed" basis as determined by the Idaho Transportation Board. The purpose of this intent is to delay debt service on additional bonding until funds must be obligated to pay for right-of-way acquisition, construction, and/or other project-related costs and avoid violation of arbitrage rules that may result from issuance of bonds too far in advance of the need to obligate funds for expenditure. The issuance of additional bonds shall be dependent upon advantageous market rates and costs of bonding transactions as determined by the Idaho Transportation Board.

SECTION 6. It is legislative intent that the Idaho Transportation Board direct the use of the revenue raised from the bonding authority provided in Section 1 of this act in such a manner that revenue shall be expended in a priority fashion and that the first priority of expenditures shall be for right-of-way acquisition, followed in order of priority by expenditures for construction, followed in priority by other necessary project-related costs. Further, any savings realized from lower than expected cost estimates or other efficiencies shall be applied to existing projects as soon as is practicable.

SECTION 7. Relating to the projects referenced in Section 2 of this act, it is legislative intent that, to the extent feasible and practical, the Idaho Transportation Department perform project-related work within the department itself. The goal of this directive is to preserve the expenditure of GARVEE funds for the priorities described in Section 6 of this act.

SECTION 8. The Idaho Transportation Board is hereby authorized to transfer up to \$4,000,000 from within the State Highway Account to the GARVEE debt service fund to pay the state match as required for federal funds committed to pay the annual scheduled debt service on GARVEE bonds for fiscal year 2011.

SECTION 9. Notwithstanding any other provisions of law, it is legislative intent that by September 30 of each year, the board shall submit a report to the Legislature concerning projects currently under construction using the bond financing as authorized by the provisions of this act, and shall include a list of planned highway transportation projects to be financed with such bond financing during the next succeeding fiscal year.

Approved April 12, 2010.

CHAPTER 335
(S.B. No. 1425)

AN ACT

RELATING TO STATE OFFICES; AMENDING SECTION 59-904, IDAHO CODE, TO REVISE PROVISIONS REGARDING VACANCIES IN STATE OFFICES AND APPOINTMENTS TO THOSE OFFICES AND SENATE CONFIRMATION AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-904, Idaho Code, be, and the same is hereby amended to read as follows:

59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED. (a) All vacancies in any state office, and in the supreme and district courts, unless otherwise provided for by law, shall be filled by appointment by the governor. Appointments to fill vacancies pursuant to this section shall be made as provided in subsections (b), (c), (d), (e), and (f) of this section, subject to the limitations prescribed in those subsections.

(b) Nominations and appointments to fill vacancies occurring in the office of lieutenant governor, state controller, state treasurer, superintendent of public instruction, attorney general and secretary of state shall be made by the governor, subject to the advice and consent of the senate, for the balance of the term of office to which the predecessor of the person appointed was elected.

(c) Nominations and appointments to and vacancies in the following listed offices shall be made or filled by the governor subject to the advice and consent of the senate for the terms prescribed by law, or in case such terms are not prescribed by law, then to serve at the pleasure of the governor:

Director of the department of administration,
Director of the department of finance,
Director of the department of insurance,
Director, department of agriculture,
Director of the department of water resources,
Director of the Idaho state police,
Director of the department of commerce,
Director of the department of labor,
Director of the department of environmental quality,
Director of the department of juvenile corrections,
Executive director of the commission of pardons and parole,
The state historic preservation officer,
The administrator of the division of human resources,
Member of the state tax commission,
Members of the board of regents of the university of Idaho and the state board of education,
Members of the Idaho water resources board,

Members of the state fish and game commission,
 Members of the Idaho transportation board,
Voting mMembers of the state board of health and welfare,
 Members of the board of environmental quality,
 Members of the board of directors of state parks and recreation,
 Members of the board of correction,
 Members of the industrial commission,
 Members of the Idaho public utilities commission,
 Members of the Idaho personnel commission,
 Members of the board of directors of the Idaho state retirement system,
 Members of the board of directors of the state insurance fund,
 Members of the commission of pardons and parole.

(d) Appointments made by the state board of land commissioners to the office of director, department of lands, and appointments to fill vacancies occurring in those offices shall be submitted by the president of the state board of land commissioners to the senate for the advice and consent of the senate in accordance with the procedure prescribed in this section.

(e) Appointments made pursuant to this section while the senate is in session shall be submitted along with the letter of appointment to the senate forthwith for the advice and consent of that body. ~~The appointment so made and submitted shall not be effective until the approval of the senate has been recorded in the journal of the senate.~~ Appointments made pursuant to this section while the senate is not in session shall be ~~effective until the appointment has been submitted to the senate for the advice and consent of the senate~~ submitted along with the letter of appointment to the senate pursuant to section 67-803, Idaho Code. Should the senate adjourn without granting its consent to such an interim appointment the appointment shall thereupon become void and a vacancy in the office to which the appointment was made shall exist, and the office shall be deemed vacant upon the date of adjournment. It is the duty of the appointing authority to supply the senate with the letter of appointment. The appointee shall supply the senate with the documentation it requests.

All appointments made pursuant to subsection (c) of this section, except those appointments for which a term of office is fixed by law, shall terminate at the expiration of any gubernatorial term. Appointments to fill the vacancies thus created by the expiration of the term of office of the governor shall be forthwith submitted to the senate for the advice and consent of that body, and when so submitted shall be as expeditiously considered as possible.

Upon receipt of an appointment along with the letter of appointment in the senate for the purpose of securing the advice and consent of the senate, the appointment shall be referred by the presiding officer to the appropriate committee of the senate for consideration and report prior to action thereon by the full senate.

(f) It is the intent of the legislature that the provisions of this section as amended by this chapter shall not apply to appointments which have been made prior to the effective date of this chapter. It is the further intent of the legislature that the provisions of this section shall apply to the offices listed in this section and to any office created by law or executive order which succeeds to the powers, duties, responsibilities and authorities of any of the offices listed in subsections (c) and (d) of this section.

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

CHAPTER 336

(S.B. No. 1335, As Amended in the House)

AN ACT

RELATING TO IMMUNIZATION; AMENDING SECTION 39-4803, IDAHO CODE, TO REMOVE A CERTAIN AUTHORIZATION REQUIREMENT FOR INCLUSION IN THE REGISTRY, TO PROVIDE FOR EXCLUSION FROM THE REGISTRY UPON A CERTAIN STATEMENT THAT MAY NOT BE PART OF A GENERAL AUTHORIZATION OR RELEASE, TO CLARIFY THE PURPOSES FOR WHICH THE REGISTRY SHALL BE MAINTAINED AND FOR WHICH THE REGISTRY INFORMATION SHALL BE DISCLOSED, TO CLARIFY THAT CERTAIN INFORMATION SHALL BE INCLUDED IN THE REGISTRY AND TO CLARIFY THAT DISCLOSURE OF REGISTRY INFORMATION SHALL BE LIMITED TO CERTAIN PERSONS; AND AMENDING SECTION 39-4804, IDAHO CODE, TO REVISE NOTIFICATION REQUIREMENTS AND TO PROVIDE THAT CERTAIN DECISIONS OF THE PARENT OR GUARDIAN SHALL NOT BE USED AGAINST THE PARENT OR GUARDIAN IN CERTAIN ACTIONS.

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

SECTION 1. That Section 39-4803, Idaho Code, be, and the same is hereby amended to read as follows:

39-4803. IMMUNIZATION REGISTRY. (1) The department of health and welfare shall provide for the establishment of a voluntary registry of the immunization status of Idaho children against childhood diseases. The registry ~~may~~ shall be maintained and its data disclosed as set out herein to further the following purposes:

- (a) To make immunizations readily available to every Idaho citizen that desires to have their child immunized;
- (b) To increase the voluntary immunization rate in Idaho to the maximum extent possible without mandating such immunizations;
- (c) To recognize and respect the rights of parents and guardians to make health care decisions for their children; and
- (d) To provide for timely reminders to parents of children in the registry.

(2) The name of a child ~~or~~ and information relating to the immunization status of that child ~~may~~ shall be collected ~~or~~ and included in the registry ~~only upon the separate and specific written authorization of~~ unless a parent, guardian or other person legally responsible for the care of the child chooses not to have the child included in the registry upon a specified written statement. Such ~~authorization~~ statement may not be part of a general authorization or release. The registry ~~may~~ shall contain ~~only~~ the following information for each child:

- (a) The child's name, address and birth date;
- (b) The name and address of each parent of the child;
- (c) The month, day, year and type of each immunization that has been administered to the child;
- (d) The name, address and phone number of each provider that has administered an immunization to the child;
- (e) If requested by a parent or guardian, any statement made pursuant to subsection (4) of this section; and
- (f) Other information as authorized or requested by a parent or guardian.

(3) The department of health and welfare ~~may~~ shall only disclose information relating to an individual child in the registry to the following upon a specific request:

- (a) Employees of the health district in which the child resides or seeks medical services;

- (b) Health records staff of the school or school district in which the child is enrolled;
 - (c) The operator of a licensed ~~child~~ daycare facility in which the child is enrolled;
 - (d) Persons who are legally responsible for the long-term care of the child, including operators of licensed ICF/MR's and residential or assisted living facilities, adoptive and foster parents and a guardian appointed pursuant to chapter 5, title 15, Idaho Code;
 - (e) Any health care provider rendering treatment to the child, and the provider's agents;
 - (f) Any person possessing a lawful release, properly executed by the child's parent or guardian;
 - (g) A parent of the child; or
 - (h) Any hospital where the child is receiving care.
- (4) A parent or guardian of the child shall have free and open access to all information in the registry that relates to their child or themselves. Upon the written request of a parent or guardian, the department of health and welfare shall:
- (a) Cause all information relating to the child to be removed from the registry and any databases or files of other entities or persons to which information in the database has been disclosed;
 - (b) Include in the registry the statement of a physician or parent pursuant to section 39-4802(2) or 39-1118(2), Idaho Code.
- (5) All information contained in the registry or disclosed from it is confidential and may not be sold and may only be disclosed as specifically authorized in this section. A person or entity to whom information is disclosed from the registry may not thereafter disclose it to others. Any person who discloses or authorizes disclosure of any information contained in the registry, except as authorized in this section is guilty of a misdemeanor and is liable for civil damages in the amount of one hundred dollars (\$100) for each violation.

SECTION 2. That Section 39-4804, Idaho Code, be, and the same is hereby amended to read as follows:

39-4804. NOTIFICATION TO PARENT OR GUARDIAN. (1) Before an immunization is administered to any child in this state, the parent or guardian of the child shall be notified that:

- ~~(1a)~~ Immunizations are not mandatory and may be refused on religious or other grounds;
 - ~~(2b)~~ Participation in the immunization registry is voluntary;
 - ~~(3c)~~ The parent or guardian is entitled to an accurate explanation of the complications known to follow such immunization.
- (2) At the time information is initially collected regarding any child for entry into the registry created pursuant to this chapter, the parent or guardian shall be notified that:
- (a) They have the right under Idaho law to submit a statement pursuant to the provisions of sections 39-1118 and 39-4802, Idaho Code, which exempts them from any requirement to have information regarding the child entered into the registry;
 - (b) At any time they have the right to remove any information from the registry regarding the child; and
 - (c) Immunizations are not mandatory and may be refused on religious or other grounds.
- (3) The decision of a parent or guardian to:
- (a) Submit a statement pursuant to the provisions of either section 39-1118(2) or 39-4802(2), Idaho Code;
 - (b) Remove any information regarding the child from the registry pursuant to the provisions of section 39-4803(4), Idaho Code; or

(c) Refuse the immunization on religious or other grounds;
shall not be used in any manner against the interests of the parent or
guardian in any administrative, civil or criminal action.

Approved April 12, 2010.

CHAPTER 337

(S.B. No. 1403, As Amended in the House)

AN ACT

RELATING TO THE FIRE PROTECTION BOARD; AMENDING SECTION 31-1408, IDAHO CODE,
TO REVISE CERTAIN RESIDENCE REQUIREMENTS RELATING TO FIRE PROTECTION
DISTRICT COMMISSIONERS, TO REVISE PROVISIONS RELATING TO WHEN THE OATH
OF OFFICE OF FIRE PROTECTION COMMISSIONERS SHALL BE TAKEN AND TO REVISE
EXCEPTION PROVISIONS RELATING TO TAKING THE OATH.

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

SECTION 1. That Section 31-1408, Idaho Code, be, and the same is hereby
amended to read as follows:

31-1408. FIRE PROTECTION BOARD -- APPOINTMENT OF COMMISSIONERS --
OATH. (1) There shall be three (3) fire protection commissioners in each
district, who shall constitute the fire protection board. The first
fire protection commissioners of such fire protection district shall be
appointed by the governor. The certificate of such appointment shall be
made in triplicate; one (1) certificate shall be filed in the office of
the county recorder of the county; one (1) with the clerk of the board of
county commissioners, and one (1) with the assessor and tax collector of the
county. Every fire protection commissioner and appointed officer shall take
and subscribe the official oath, which oath shall be filed in the office of
the board of fire protection commissioners. If ~~the~~ thirty-three percent
(33%) of the property and/or population in the fire protection district
is situated in two (2) or more counties, not more than two (2) of the fire
protection district commissioners shall be from the same county, unless
pursuant to section 31-1410A, Idaho Code, the board is comprised of five (5)
members, in which event not more than three (3) of the commissioners shall be
from the same county.

(2) The oath of office of fire protection commissioners and appointed
officers shall be taken before the secretary or the president of the board
of the fire district ~~on the second Monday of~~ at the first regularly sched-
uled board meeting in January succeeding each ~~general~~ election. Provided
however, in the event, ~~for any reason,~~ of an inability to appear for the tak-
ing of the oath, a duly elected fire protection commissioner may be sworn in
and may subscribe to the oath wherever he may be, provided he appear before
an officer duly authorized to administer oaths, and provided further, that
any person who is in any branch of the armed forces of the United States of
America, may appear before any person qualified to administer oaths as pre-
scribed in section 55-705, Idaho Code, and may take and subscribe the oath of
office as provided for in section 59-401, Idaho Code, and the oath of office
shall have the same force and effect as though it were taken before the secre-
tary or the president of the fire district pursuant to this subsection.

Approved April 12, 2010.

CHAPTER 338
(S.B. No. 1419)

AN ACT

REDUCING THE APPROPRIATION TO THE STATE BOARD OF EDUCATION FOR GENERAL EDUCATION PROGRAMS AT BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE, THE UNIVERSITY OF IDAHO AND FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR GENERAL EDUCATION PROGRAMS AT BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE, THE UNIVERSITY OF IDAHO AND FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2011; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; ESTABLISHING AMOUNTS TO BE EXPENDED FOR SYSTEMWIDE PROGRAMS; PROVIDING LEGISLATIVE INTENT FOR AMERICAN RECOVERY AND REINVESTMENT ACT MONEYS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the appropriation made to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, the University of Idaho, Lewis-Clark State College, and the Office of the State Board of Education in Section 1, Chapter 207, Laws of 2009, is hereby reduced by the following amount for the period July 1, 2009, through June 30, 2010:

FROM:

General Fund	\$29,206,600
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SECTION 2. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College, the University of Idaho, and the Office of the State Board of Education the following amount to be expended for the designated programs from the listed funds for the period July 1, 2010, through June 30, 2011:

FOR:

General Programs	\$377,686,300
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FROM:

General Fund	\$217,510,800
American Reinvestment Fund	4,305,900
Agricultural College Endowment Income Fund	850,800
Charitable Institutions Endowment Income Fund	790,600
Normal School Endowment Income Fund	2,661,600
Scientific School Endowment Income Fund	2,984,400
University Endowment Income Fund	2,329,200
Unrestricted Fund	121,660,400
Restricted Fund	<u>24,592,600</u>
TOTAL	\$377,686,300

SECTION 3. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, the University of Idaho, Lewis-Clark State College, and the Office of the State Board of Education, any non-General Fund unexpended and unencumbered balances of any appropriation contained in Section 1, Chapter 207, Laws of 2009, to be used for nonrecurring expenditures for the period July 1, 2010, through June 30, 2011.

SECTION 4. It is the intent of the Legislature that of the amount appropriated from the General Fund in Section 2 of this act:

(1) An amount not to exceed \$140,000 may be used by the Office of the State Board of Education for systemwide needs;

(2) An amount not to exceed \$1,435,500 may be used for the mission and goals of the Higher Education Research Council; and

(3) An amount not to exceed \$1,151,100 may be used by the State Board of Education for instructional projects specifically designed to foster innovative learning approaches using technology and to promote the Idaho Electronic Campus.

SECTION 5. As appropriated in Section 2 of this act, it is the intent of the Legislature that the remaining \$4,305,900 of the college and university allocation of one-time American Reinvestment and Recovery Act state fiscal stabilization funds are to be allocated to the institutions of higher education and systemwide programs in amounts determined by the State Board of Education. Pursuant to Section 14004 of the American Recovery and Reinvestment Act, uses of these funds may be for education and general expenditures, but shall not be used for maintenance of systems, equipment or facilities. After initial allocations to the institutions and systemwide programs, any moneys allocated by the State Board of Education to the Center for Advanced Energy Studies shall be divided equally among the University of Idaho, Idaho State University and Boise State University, only.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 339
(S.B. No. 1420)

AN ACT

REPEALING SECTION 5, CHAPTER 248, LAWS OF 2009; REDUCING THE APPROPRIATION TO PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR PROFESSIONAL-TECHNICAL EDUCATION FOR FISCAL YEAR 2011; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES; EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 5, Chapter 248, Laws of 2009, be, and the same is hereby repealed.

SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 248, Laws of 2009, to the State Board of Education for Professional-Technical Education is hereby reduced by the following amount for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR				
	FOR	FOR	TRUSTEE AND	FOR	
	PERSONNEL	OPERATING	BENEFIT	LUMP	
	COSTS	EXPENDITURES	PAYMENTS	SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:					
FROM:					
General					
Fund	\$60,000	\$20,000			\$80,000
II. GENERAL PROGRAMS:					
FROM:					
General					
Fund			\$567,000		\$567,000
III. POSTSECONDARY PROGRAMS:					
FROM:					
General					
Fund				\$2,603,800	\$2,603,800
GRAND TOTAL	\$60,000	\$20,000	\$567,000	\$2,603,800	\$3,250,800

SECTION 3. There is hereby appropriated to the State Board of Education for Professional-Technical Education the following amounts to be expended by the Division of Professional-Technical Education for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR				
	FOR	FOR	TRUSTEE AND	FOR	
	PERSONNEL	OPERATING	BENEFIT	LUMP	
	COSTS	EXPENDITURES	PAYMENTS	SUM	TOTAL
I. STATE LEADERSHIP AND TECHNICAL ASSISTANCE:					
FROM:					
General					
Fund	\$1,579,800	\$284,200			\$1,864,000
Federal Grant					
Fund	<u>247,900</u>	<u>102,700</u>			<u>350,600</u>
TOTAL	\$1,827,700	\$386,900			\$2,214,600
II. GENERAL PROGRAMS:					
FROM:					
General					
Fund	\$191,200	\$22,500	\$10,341,300		\$10,555,000

	FOR	FOR	FOR	FOR	
	PERSONNEL	OPERATING	TRUSTEE AND	LUMP	
	COSTS	EXPENDITURES	BENEFIT	SUM	TOTAL
			PAYMENTS		
Hazardous Materials/Waste Enforcement					
Fund			67,800		67,800
Federal Grant					
Fund	<u>164,700</u>	<u>23,700</u>	<u>4,600,400</u>		<u>4,788,800</u>
TOTAL	\$355,900	\$46,200	\$15,009,500		\$15,411,600
III. POSTSECONDARY PROGRAMS:					
FROM:					
General					
Fund				\$33,992,800	\$33,992,800
Unrestricted					
Fund				<u>467,000</u>	<u>467,000</u>
TOTAL				\$34,459,800	\$34,459,800
IV. UNDERPREPARED ADULTS/DISPLACED HOMEMAKERS:					
FROM:					
General					
Fund			\$200,000		\$200,000
Displaced Homemaker					
Fund			170,000		170,000
Federal Grant					
Fund			<u>1,975,700</u>		<u>1,975,700</u>
TOTAL			\$2,345,700		\$2,345,700
V. RELATED SERVICES:					
FROM:					
General					
Fund	\$114,000	\$10,700	\$840,900		\$965,600
Miscellaneous Revenue					
Fund	188,300	46,500			234,800
Seminars and Publications					
Fund		140,000			140,000
Federal Grant					
Fund	<u>44,200</u>	<u>53,800</u>	<u>2,038,800</u>		<u>2,136,800</u>
TOTAL	\$346,500	\$251,000	\$2,879,700		\$3,477,200
GRAND TOTAL	\$2,530,100	\$684,100	\$20,234,900	\$34,459,800	\$57,908,900

SECTION 4. There is hereby reappropriated to the State Board of Education for Professional-Technical Education any non-General Fund unexpended and unencumbered balance of any appropriation contained in Section 1, Chapter 248, Laws of 2009, to be used for nonrecurring expenditures, for the period July 1, 2010, through June 30, 2011.

SECTION 5. It is the intent of the Legislature to have Legislative Services Office staff evaluate midway through fiscal year 2011 the extent to which Professional-Technical Education may have fallen below the maintenance of effort (MOE) requirement to receive federal Carl D. Perkins funding. If it is determined that the MOE will not be met in fiscal year 2011, the Joint Finance-Appropriations Committee will consider a request for supplemental General Fund moneys sufficient to meet the MOE so as to avoid potential repayment of funds at a later date.

SECTION 6. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 340
(S.B. No. 1423)

AN ACT

REDUCING THE APPROPRIATION TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DIVISION OF FINANCIAL MANAGEMENT FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the General Fund appropriation made in Section 1, Chapter 245, Laws of 2009, to the Division of Financial Management is hereby reduced by \$117,800 for the period July 1, 2009, through June 30, 2010.

SECTION 2. There is hereby appropriated to the Division of Financial Management the following amounts to be expended from the listed funds for the period July 1, 2010, through June 30, 2011:

FROM:

General Fund	\$1,364,500
Miscellaneous Revenue Fund	<u>39,000</u>
TOTAL	\$1,403,500

SECTION 3. In accordance with Section 67-3519, Idaho Code, the Division of Financial Management is authorized no more than eighteen (18) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 341
(S.B. No. 1424)

AN ACT

REDUCING THE APPROPRIATION TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE EXECUTIVE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. Notwithstanding any other provision of law to the contrary, the General Fund appropriation made in Section 1, Chapter 212, Laws of 2009, to the Executive Office of the Governor is hereby reduced by \$136,300 for the period July 1, 2009, through June 30, 2010.

SECTION 2. There is hereby appropriated to the Executive Office of the Governor the following amounts to be expended for the designated programs from the listed funds for the period July 1, 2010, through June 30, 2011:

I. ACTING GOVERNOR PAY:

FROM:

General Fund	\$18,200
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II. ADMINISTRATION - GOVERNOR'S OFFICE:

FROM:

General Fund	\$1,846,600
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III. EXPENSE ALLOWANCE:

FROM:

General Fund	\$5,000
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IV. GOVERNOR ELECT TRANSITION:

FROM:

Budget Stabilization Fund	\$15,000
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GRAND TOTAL	\$1,884,800
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SECTION 3. In accordance with Section 67-3519, Idaho Code, the Executive Office of the Governor is authorized no more than twenty-six (26) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 2 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, Section 1 of this act shall be in full force and effect on and after passage and approval.

Approved April 12, 2010.

CHAPTER 342
(S.B. No. 1344, As Amended)

AN ACT

RELATING TO INVASIVE SPECIES; AMENDING SECTION 22-1904, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 22-1908, IDAHO CODE, TO REQUIRE CERTAIN PRESENTATIONS FOR INSPECTION; AMENDING SECTION 22-1910, IDAHO CODE, TO REVISE HOLD ORDER PROVISIONS AND TO PROVIDE THAT HOLD ORDERS SHALL CONTAIN CERTAIN INFORMATION; AND AMENDING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1910A, IDAHO CODE, TO SPECIFY PROVISIONS FOR ENFORCEMENT BY PEACE OFFICERS AND TO PROVIDE THAT THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE SHALL ISSUE HOLD ORDERS UPON IMPOUNDMENT.

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

SECTION 1. That Section 22-1904, Idaho Code, be, and the same is hereby amended to read as follows:

22-1904. DEFINITIONS. Unless otherwise noted in this chapter the definitions as set forth in section 22-2005, Idaho Code, are adopted by reference.

(1) "Conveyance" means a terrestrial or aquatic vehicle or a vehicle part that may carry or contain an invasive species or plant pest. A conveyance includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a trailer or any other means or method of transportation. "Conveyance" also includes a live well or a bilge area of a watercraft.

(2) "Environmental harm" means to cause significant adverse effects on uses of natural resources or on plants or animals.

(23) "Invasive species" means species not native to Idaho, including their seeds, eggs, spores, larvae or other biological material capable of propagation, that cause economic or environmental harm and are capable of spreading in the state. "Invasive species" does not include crops, improved forage grasses, domestic livestock, or other beneficial nonnative organisms.

SECTION 2. That Section 22-1908, Idaho Code, be, and the same is hereby amended to read as follows:

22-1908. AUTHORITY TO CONDUCT INSPECTIONS. (1) In order to accomplish the purposes of this chapter, the director may enter upon and inspect any public or private premises, lands, bodies of water, or means of conveyance, or article of any person within this state, for the purpose of inspecting, surveying, treating, controlling, collecting samples, or destroying any invasive species.

(2) The director may establish check stations at points of entry to the state, or other facilities and sites throughout the state, as necessary to carry out the provisions of this chapter.

(3) No person shall proceed past or travel through an established inspection station during its hours of operation while towing, carrying or transporting any conveyance without presenting such conveyance for inspection.

SECTION 3. That Section 22-1910, Idaho Code, be, and the same is hereby amended to read as follows:

22-1910. HOLD ORDER. The director may issue hold orders to take prompt regulatory action in invasive species emergencies on any article, commodity, conveyance, vehicle or other means of transportation entering this state when it is reasonably believed that the article, commodity, conveyance, vehicle or other means of transportation is in violation of this chapter or rules promulgated hereunder. The hold order shall contain contact information for the owner of the article, commodity, conveyance, vehicle or other means of transportation, the reason for the hold order, and the conditions for release.

SECTION 4. That Chapter 19, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-1910A, Idaho Code, and to read as follows:

22-1910A. LAW ENFORCEMENT. (1) It shall be the duty of all peace officers within the state of Idaho, as defined by section 19-5101(d), Idaho Code, to enforce the provisions of this chapter by making a complaint or citation as described in section 19-3901, Idaho Code.

(2) Peace officers within the state of Idaho, upon reasonable suspicion that a conveyance is infested with quagga mussels or zebra mussels, may require a driver of a vehicle to stop and submit to an inspection of the exterior of any conveyance(s) in plain view.

(3) If the peace officer has probable cause to believe that the conveyance(s) are contaminated with quagga mussels or zebra mussels, or when a conveyance is found to be contaminated or otherwise carrying quagga mussels or zebra mussels, the peace officer shall detain the vehicle and conveyance(s) and immediately summon a tow truck to transport the conveyance(s) to the nearest available impound yard.

(4) Upon impoundment, the director shall issue a hold order as provided in this chapter specifying the conditions for release.

Approved April 12, 2010.

CHAPTER 343
(S.B. No. 1346, As Amended)

AN ACT

RELATING TO BEEF CATTLE ANIMAL FEEDING OPERATIONS; AMENDING SECTION 22-4902, IDAHO CODE, TO PROVIDE THAT THE IDAHO DEPARTMENT OF AGRICULTURE SHALL HAVE AUTHORITY TO ADMINISTER WATER QUALITY LAWS IN REGARD TO CERTAIN BEEF CATTLE ANIMAL FEEDING OPERATIONS; AND AMENDING SECTION 22-4909A, IDAHO CODE, TO PROVIDE THAT THE IDAHO DEPARTMENT OF AGRICULTURE SHALL HAVE AUTHORITY TO ADMINISTER WATER QUALITY LAWS IN REGARD TO CERTAIN BEEF CATTLE ANIMAL FEEDING OPERATIONS AND TO PROVIDE THAT THE NUTRIENT MANAGEMENT PLAN AND CERTAIN INFORMATION GENERATED AS A RESULT OF THE PLAN SHALL BE CONFIDENTIAL.

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

SECTION 1. That Section 22-4902, Idaho Code, be, and the same is hereby amended to read as follows:

22-4902. DECLARATION OF POLICY AND STATEMENT OF LEGISLATIVE INTENT. (1) The legislature recognizes the importance of protecting state natural resources including, surface water and ground water. It is the intent of the legislature to protect the quality of these natural resources while maintaining an ecologically sound, economically viable, and socially responsible beef cattle industry in the state. The beef cattle industry produces manure and process wastewater which, when properly used, supplies valuable nutrients and organic matter to soils and is protective of the environment, but may, when improperly stored and managed, create adverse impacts on natural resources, including waters of the state. This chapter is intended to ensure that manure and process wastewater associated with beef cattle operations are handled in a manner which protects the natural resources of the state.

(2) Further, the legislature recognizes that the beef cattle industry is potentially subject to various state and federal laws designed to protect state natural resources and that the Idaho department of agriculture is in the best position to administer and implement these various laws. It is therefore the intent of the legislature that the administration of this law by the department of agriculture fully meets the goals and requirements of the federal clean water act and state laws designed to further protect state waters and that administration of this chapter by the department of agriculture shall not be more stringent than or broader in scope than the requirements of the clean water act and applicable state and federal laws. The department shall have authority to administer all laws to protect the quality of water within the confines of a beef cattle animal feeding operation that is not under permit issued by the federal environmental protection agency. In carrying out this chapter the department shall prioritize its resources on operations which have the greatest potential to significantly impact the environment and ensure that any requirements imposed under this chapter upon operators of beef cattle animal feeding operations are cost-effective and economically, environmentally and technologically feasible.

(3) Successful implementation of this chapter is dependent upon the department receiving adequate funding from the legislature and is dependent upon the department executing a memorandum of agreement with the United States environmental protection agency, the department of environmental quality and the Idaho cattle association which sets forth a working arrangement between the agencies to ensure compliance with this chapter and applicable state and federal laws, including the federal clean water act. Moreover, the legislature recognizes that it is important for the state to obtain a delegated national pollutant discharge elimination system (NPDES) permit program from the EPA under the clean water act.

SECTION 2. That Section 22-4909A, Idaho Code, be, and the same is hereby amended to read as follows:

22-4909A. EFFECT OF FEDERAL ENVIRONMENTAL PROTECTION AGENCY ENFORCEMENT ACTION. The Idaho department of agriculture shall have authority to administer all laws to protect the quality of water within the confines of a beef cattle animal feeding operation that is not under permit issued by the federal environmental protection agency. In addition, the nutrient management plan, and all information generated by the beef cattle feeding operation as a result of such plan, shall be deemed to be trade secrets, production records or other proprietary information, shall be kept confidential and shall be exempt from disclosure pursuant to section 9-340D, Idaho Code. In any case in which the United States environmental protection agency initiates an enforcement action regarding an alleged noncompliance

at a beef cattle animal feeding operation, any pending administrative or civil enforcement action initiated by the director regarding the same alleged noncompliance shall be deemed void. If a compliance order addressing the alleged noncompliance has already been issued by the director, that order shall remain in full force and effect.

Approved April 12, 2010.

CHAPTER 344
(S.B. No. 1390)

AN ACT

RELATING TO IMMUNITY FOR USE OF AUTOMATED EXTERNAL DEFIBRILLATOR; AMENDING SECTION 5-337, IDAHO CODE, TO DELETE PROVISIONS RELATING TO IMMUNITY FROM CIVIL DAMAGES FOR CERTAIN PERSONS OR ENTITIES WHO ACQUIRE OR MAINTAIN A DEFIBRILLATOR.

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

SECTION 1. That Section 5-337, Idaho Code, be, and the same is hereby amended to read as follows:

5-337. IMMUNITY FOR USE OF AUTOMATED EXTERNAL DEFIBRILLATOR (AED). (1) As used in this section, "defibrillator" means an "automated external defibrillator (AED)" which has been prescribed by a physician or osteopath licensed pursuant to chapter 18, title 54, Idaho Code.

(2) In order to promote public health and safety:

(a) A person or entity who acquires a defibrillator as a result of a prescription shall ensure that:

(i) Expected defibrillator users receive training in its use and care equivalent to the CPR and AED training of the American heart association, the American red cross or similar entities;

(ii) The defibrillator is maintained and tested by the owner according to the manufacturer's operational guidelines;

(iii) There is involvement of a licensed physician in the owner's program to ensure compliance with requirements for training, notification, maintenance and guidelines for use;

(iv) Any person who renders emergency care or treatment to a person in cardiac arrest by using a defibrillator must activate the emergency medical services system as soon as possible, and must report any clinical use of the defibrillator to the prescribing physician.

(b) Any person or entity who acquires a defibrillator as a result of a prescription shall notify an agent of the emergency communications system or emergency vehicle dispatch center of the existence, location and type of defibrillator.

(3) (a) Any person who reasonably renders emergency care using a defibrillator, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from the person's acts or omissions.

(b) No cause of action shall be maintained against a licensed physician, osteopath, physician assistant, nurse practitioner, or nurse, or against an emergency medical technician, fireman, peace officer, ambulance attendant or other person trained to use a defibrillator, or against a person or entity who acquires or maintains a defibrillator which arises from the reasonable use of a defibrillator in an emergency setting and no cause of action shall be maintained against the physician

or osteopath who wrote the prescription for the defibrillator if the prescription was written in good faith.

(c) This immunity from civil liability does not apply if the acts or omissions amount to gross negligence or willful or wanton or reckless misconduct.

~~(d) The protection afforded within paragraph (a) of this subsection is applicable to a person or entity who acquires or maintains a defibrillator if such person or entity complies with the maintenance requirements set forth in subsection (2)(a)(ii) of this section.~~

(4) A defibrillator acquired pursuant to a prescription and possessed in compliance with subsection (2) of this section is exempt from the provisions of chapter 10, title 56, Idaho Code.

Approved April 12, 2010.

CHAPTER 345

(S.B. No. 1401, As Amended)

AN ACT

RELATING TO CONSTRUCTION OF PUBLIC PROJECTS; AMENDING SECTION 67-5711C, IDAHO CODE, TO REVISE PREQUALIFICATION REQUIREMENTS WHEN THE DEPARTMENT OF ADMINISTRATION AND THE RESPECTIVE STATE AGENCY DEEM IT IN THE BEST INTEREST OF THE STATE AND TO REVISE PREQUALIFICATION PROVISIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-5711C, Idaho Code, be, and the same is hereby amended to read as follows:

67-5711C. CONSTRUCTION OF PUBLIC PROJECTS -- COMPETITIVE SEALED BIDDING. (1) All construction contracts for public works shall be awarded to the lowest responsible and responsive bidder after receipt of competitive sealed bidding except as otherwise provided in sections 67-5711B, 67-5711D and 67-5713, Idaho Code.

(2) An invitation for bids shall be issued and shall include a project description and all contractual terms and conditions applicable to the public works.

(3) Adequate public notice of the invitation for bids shall be given at least fourteen (14) days prior to the date set forth therein for the opening of bids. Such notice shall include publication at least fourteen (14) days prior to bid opening in a newspaper of general circulation in the area where the work is located.

(4) When prequalification is deemed by the department and by the respective state agency to be in the best interest of the state, competitive bidding procedures shall be open only to licensed public works contractors that meet preliminary supplemental qualifications. The solicitation for bids in a prequalified bidder public works project shall consist of two (2) stages, an initial stage for identifying prequalified contractors, either prime or specialty contractors, followed by a stage during which bid prices will be accepted only from prequalified contractors. Notice of the prequalification stage shall be given in the same manner that notice of open competitive bidding is provided. Prequalification standards must be premised upon demonstrated technical competence, experience constructing similar facilities, prior experience with the state, past performance (related to quality, workmanship and timeliness), reliability, safety record, available nonfinancial resources, equipment and personnel as they relate to the subject project, and overall performance history based upon a con-

tractor's entire body of work. Any request for qualifications must include the standards for evaluating the qualifications of prospective bidders. Licensed contractors desiring to be prequalified to bid on a project must submit a written response to a request for qualifications. After a review of qualification submittals, licensed contractors that meet the prequalification standards shall be so notified and licensed contractors that do not meet the prequalification standards shall also be so notified. Thereafter, bids may be solicited from contractors that meet the prequalification standards. The department may promulgate rules or develop procedures to implement the prequalification process.

(5) Bids shall be opened publicly at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record and the record shall be open to public inspection. After the time of the award all bids and bid documents shall be open to public inspection in accordance with the provisions of sections 9-337 through 9-347 and 67-5725, Idaho Code.

(6) With respect to a project having a written cost estimate of greater than twenty-five thousand dollars (\$25,000) but less than the public works limit established in section 67-5711, Idaho Code, the agency, if it does not perform the work with existing physical plant staff, must award a written contract to the lowest responsible and responsive bidder after soliciting at least three (3) documented informal bids from contractors licensed in Idaho to perform public works contracts, if reasonably available. Adequate public notice of the invitation for informal bids shall be given at least seven (7) days prior to the date set forth therein for the receipt of the informal bids. Such notice may include publication at least seven (7) days prior to bid opening in a newspaper of general circulation in the area where the work is located; or the agency may advertise the invitation for bids in appropriate trade journals, and otherwise notify persons believed to be interested in the award of a contract. Informal bids must be submitted by the contractor in writing in response to a prepared written document describing the project's scope of work in sufficient detail so as to enable a contractor familiar with such work to prepare a responsible bid. Nothing herein exempts an agency from the responsibility of utilizing formal plans and specifications if the work involves the public health or safety as described in chapters 3 and 12, title 54, Idaho Code. The agency must document receipt of the informal bids in the project file.

(7) Any personal property including goods, parts, supplies and equipment which is to be supplied or provided by a state agency for use in any public work, project, or preventive maintenance programs, whether the public work, project, or preventive maintenance program is constructed, undertaken or performed by agency in-house personnel, or by delegation pursuant to section 67-5710A, Idaho Code, or otherwise provided or supplied by the agency to a contractor, the personal property, goods, parts, supplies or equipment supplied or provided by the agency must be purchased or procured by the agency through the division of purchasing in accordance with the Idaho Code.

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

Approved April 12, 2010.

CHAPTER 346
(S.B. No. 1301)

AN ACT

RELATING TO PHARMACEUTICALS; AMENDING SECTION 54-1721, IDAHO CODE, TO PROVIDE FOR THE LABELING AND DELIVERY OF CERTAIN PREPACKAGED ITEMS BY LICENSED PRACTICAL OR PROFESSIONAL NURSES WHEN SUCH ITEMS HAVE BEEN PRESCRIBED BY CERTAIN LICENSED PROFESSIONAL HEALTH CARE PROVIDERS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1721, Idaho Code, be, and the same is hereby amended to read as follows:

54-1721. UNLAWFUL PRACTICE. (1) It shall be unlawful for any person to engage in the practice of pharmacy unless licensed to so practice under the provisions of this act; provided, however, physicians, dentists, veterinarians, osteopaths or other practitioners of the healing arts who are licensed under the laws of this state may deliver and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this state.

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

(a) Prenatal vitamins;

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

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

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

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

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

Approved April 12, 2010.

CHAPTER 347
(S.B. No. 1310)

AN ACT

RELATING TO PERSONAL ASSISTANCE SERVICES; AMENDING SECTION 39-5601, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION 39-5602, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 39-5603, IDAHO CODE, TO REVISE TERMINOLOGY; AND AMENDING SECTION 39-5606, IDAHO CODE, TO PROVIDE FOR THE ESTABLISHMENT OF ANNUAL UNIFORM REIMBURSEMENT RATES FOR CERTAIN AGENCIES, TO PROVIDE FOR A CERTAIN SUPPLEMENTAL COMPONENT FOR CERTAIN AGENCIES AND TO PROVIDE FOR THE ESTABLISHMENT OF ANNUAL UNIFORM REIMBURSEMENT RATES FOR CERTAIN PROVIDERS ACCORDING TO A METHODOLOGY.

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

SECTION 1. That Section 39-5601, Idaho Code, be, and the same is hereby amended to read as follows:

39-5601. LEGISLATIVE INTENT. The purpose and intent of this chapter is to authorize personal assistance services for medicaid eligible participants in the participant's home and community. It is further the purpose of this chapter to help maintain these eligible participants in their own homes in order to provide for the greatest degree of independence and self-reliance possible.

Personal assistance services are an integral component of the long-term care service delivery system and they are to be designed to provide a range of services for persons who are elderly, ~~and~~ for persons with disabilities ~~and~~ for children who meet medical necessity criteria for personal care services (PCS). These services are to help individuals compensate for functional limitations and are to be delivered over a sustained period of time to persons who lost or never acquired some degree of functional capacity. Services will be viewed as enhancing the quality of life, individual choice, consumer control, independence and community integration.

Personal assistance services related to functional need shall be provided in order to maintain the independence, privacy, and dignity of the individual in the least restrictive, most cost-effective setting.

The participant and, at the option of the participant, the family of the participant, if available, shall be involved in the development of the individual service plan based on the participant's needs identified through an assessment conducted by the department.

SECTION 2. That Section 39-5602, Idaho Code, be, and the same is hereby amended to read as follows:

39-5602. DEFINITIONS. As used in this chapter, the following terms shall have the following meanings:

(1) ~~"Case management" means a service which coordinates multiple services for individual participants through a process of assessment, planning, arranging for and monitoring services.~~

~~(2)~~ "Department" means the department of health and welfare of the state of Idaho.

~~(3)~~ "Director" means the director of the department of health and welfare.

~~(4)~~ "Eligible participant" or "participant" means an individual determined eligible by the department for Idaho medicaid services, as authorized by title XIX, of the social security act, as amended.

(54) "Fiscal intermediary agency" means an entity that provides services that allow the participant receiving personal assistance services, or his designee or legal representative, to choose the level of control he will assume in recruiting, selecting, managing, training, and dismissing his personal assistant and over the manner in which services are delivered.

(65) "Individual service plan" means a document which outlines all services including, but not limited to, personal assistance services and IADLs, required to maintain the individual in his or her home and community.

(76) "Instrumental activities of daily living (IADL)" means those activities performed in supporting the activities of daily living for an adult, including, but not limited to: managing money, preparing meals, shopping, light housekeeping, using the telephone, or getting around in the community.

(7) "PCS family alternate care provider" means an individual licensed by the department to provide personal care services to one (1) or two (2) children who are unable to reside in their own home and require assistance with medically oriented tasks related to the child's physical or functional needs.

(8) "Personal assistance agency" means an entity that recruits, hires, fires, trains, supervises, schedules, oversees quality of work, takes responsibility for services provided, provides payroll and benefits for personal assistants working for them, is the employer of record and in fact.

(9) "Personal assistance services" includes both attendant care services and personal care services and means services that involve personal and medically oriented tasks dealing with the functional needs of the participant and accommodating the participant's needs for long-term maintenance, supportive care or IADLs. These services may include, but are not limited to, personal assistance and medical tasks that can be done by unlicensed persons or delegated to unlicensed persons by a health care professional or participant. Services shall be based on the participant's abilities and limitations, ~~regardless of age,~~ medical diagnosis or other category of disability.

(10) "Personal assistant" means an individual who directly provides personal assistance services.

(11) "Personal care services (PCS)" means a range of medically oriented care services related to a participant's physical or functional requirements. These services are provided in the participant's home or personal residence but do not include housekeeping or skilled nursing care.

(142) "Provider" means a personal assistance agency, ~~or~~ a fiscal intermediary agency or a PCS family alternate care provider.

(123) "Representative" means an employee of the department of health and welfare.

(14) "Service coordination" means a case management activity that assists individuals eligible for medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of the individual. Service coordination is a brokerage model of case management.

(135) "Voucher service option" means a method of service provision whereby the participant receives vouchers to pay for personal assistance services.

SECTION 3. That Section 39-5603, Idaho Code, be, and the same is hereby amended to read as follows:

39-5603. STANDARDS FOR PROVISION OF PERSONAL ASSISTANCE SERVICES. The director shall have the power and it shall be his duty to promulgate and adopt appropriate rules necessary to implement and enforce standards for provision of personal assistance services.

The following standards for provision of personal assistance services and other provisions contained throughout this chapter and rules shall apply to participants and providers receiving or providing personal assistance services either as a medicaid option service or a waived service, unless prohibited by federal law or contents of the federal waiver agreement.

(1) Personal care services shall be included in the medicaid services described in section 56-255(3) and (4), Idaho Code.

(2) Attendant care shall be included as a service under medicaid home and community-based waiver(s).

(3) All attendant care services must be authorized by the department or its designee.

(4) The department will establish by rule maximum hours per month of personal care services available to the individual participant under the state medicaid plan.

(5) The department shall enter into agreements with providers for the provision of personal assistance services. A single provider may operate as both a personal assistance agency and a fiscal intermediary agency. However, the agency must clearly document whether it is operating as a personal assistance agency or as a fiscal intermediary for each participant. The department may deny provider status or revoke that status when a provider is found to endanger the health, person or property of the participant, or is in violation of rules promulgated by the department or the provider agreement.

(6) A personal assistance agency shall have the responsibility for the following:

(a) Recruitment, hiring, firing, training, supervision, scheduling, payroll, and the assurance of quality of service, of its personal assistants;

(b) Complying with state and federal labor and tax laws, rules and regulations;

(c) Maintaining liability insurance coverage;

(d) Provision of an appropriately qualified nurse when required;

(e) Assignment of a qualified personal assistant to each authorized participant after consultation with and prior approval of that participant;

(f) Assuring all personal assistants providing services meet the standards and qualifications of this chapter;

(g) Billing medicaid for services approved and authorized;

(h) Collecting any participant contribution due;

(i) Referring participants to the department for ~~case management~~ service coordination services based on established criteria;

(j) Providing for care by a qualified replacement when the regular personal assistant is unable to provide the services, and providing for unanticipated services approved on the individual service plan when requested by the participant; and

(k) Conducting, at least annually, participant satisfaction/quality control reviews available to the department and general public.

(7) A fiscal intermediary agency shall have the responsibility for the following:

(a) To assure compliance with legal requirements related to the employment of participant/family directed personal assistants;

(b) To offer services to enable participants or families to perform required employer tasks themselves;

(c) To bill the medicaid program for services approved and authorized by the department;

(d) To collect any participant contribution due;

(e) To pay personal assistants for services;

(f) To perform all necessary withholding as required by state and federal labor and tax laws, rules and regulations;

- (g) To assure that all personal assistants providing services meet the standards and qualifications of this chapter;
- (h) To refer participants to ~~case management~~ service coordination services based on established criteria;
- (i) To maintain liability insurance coverage;
- (j) To conduct, at least annually, participant satisfaction and quality control reviews which shall be available to the department and to the general public; and
- (k) To maintain documentation that the participant or his legal representative agrees in writing that he takes responsibility for and accepts potential risks, and any resulting consequences, for his choice to manage his own personal assistance services.
- (8) Personal assistants are not employees of the state.
- (9) ~~Case management~~ Service coordination shall be made available to personal assistance participants where and when appropriate. In order to avoid a conflict of interest, ~~case management~~ service coordination shall not be provided by the same agency that provides personal assistance services to the participant.
- (10) The department's regional medicaid staff shall review and approve the individual service plan, authorize personal assistance services, the hours of service, and make appropriate referrals for ~~case management~~ service coordination for eligible individuals.
- (11) The department shall establish and maintain a community awareness program that will educate Idaho citizens regarding the purpose and function of all long-term care alternatives including, but not limited to, personal assistance services and individual participant rights. This program will be developed in cooperation with other state agencies including, but not limited to, the commission on aging and the state independent living council.
- (12) It shall be the responsibility of the participant or his designee or legal representative, when appropriate, to select the provider of personal assistance services.
- (13) The department shall provide the participant, his designee or legal representative, with a list of available providers of personal assistance services; however, this does not relieve the participant or his designee or legal representative of the responsibility of provider selection.
- (14) In those cases where the participant or his designee or legal representative cannot arrange for personal assistance services or asks for help in making arrangements, a representative of the department may arrange for or help arrange for personal assistance services on behalf of the participant.

SECTION 4. That Section 39-5606, Idaho Code, be, and the same is hereby amended to read as follows:

39-5606. PAYMENT TO BE MADE TO PROVIDER. Within the appropriations provided by law, and as authorized by rule, the department shall reimburse the provider for personal assistance services received by the participant. To qualify for reimbursement, personal assistance services must be delivered in accordance with the participant's individual service plan and all federal requirements.

The department will establish annually uniform reimbursement rates for ~~providers~~ personal assistance agencies. This rate will be based on the prevailing hourly rate paid for comparable positions in the state for nursing home and intermediate care facility for the mentally retarded (ICF/MR) industry employees. ~~Providers~~ Personal assistance agencies and fiscal intermediary agencies shall also receive a fifty-five percent (55%) supplemental component to cover travel, administration, training and all payroll taxes and fringe benefits. The department will establish annually

uniform reimbursement rates for the PCS family alternate care providers according to methodology described in agency rule.

The director shall promulgate and adopt such necessary rules to implement the requirements of this section.

Approved April 12, 2010.

CHAPTER 348
(S.B. No. 1320, As Amended)

AN ACT

RELATING TO THE IDAHO LEGEND DRUG DONATION ACT; AMENDING SECTION 54-1761, IDAHO CODE, TO REMOVE A DEFINITION, TO FURTHER DEFINE A TERM AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1762, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE IDAHO LEGEND DRUG DONATION ACT; AMENDING SECTION 54-1763, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE BOARD OF PHARMACY'S DUTIES AND POWERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1761, Idaho Code, be, and the same is hereby amended to read as follows:

54-1761. DEFINITIONS. As used in sections 54-1760 through 54-1765, Idaho Code:

(1) ~~"Donating entity" means pharmacies, hospitals, nursing homes, drug manufacturers and wholesale distributors.~~

~~(2)~~ "Legend drug" has the same meaning as provided in section 54-1705 ~~(2830)~~, Idaho Code.

(3) "Medically indigent" means any person who is in need of a legend drug and who is not eligible for medicaid or medicare, who cannot afford private prescription drug insurance or who does not have income and other resources available sufficient to pay for the legend drug.

(4) "Qualifying charitable clinic or center" means a community health center as defined in section 39-3203, Idaho Code, and means a free medical clinic as defined in section 39-7702, Idaho Code, acting in consultation with a pharmacist licensed in the state of Idaho.

SECTION 2. That Section 54-1762, Idaho Code, be, and the same is hereby amended to read as follows:

54-1762. IDAHO LEGEND DRUG DONATION ACT. (1) The board of pharmacy shall establish and implement a program through which legend drugs may be transferred from a ~~donating entity nursing home~~ that elects to participate in the program for the purpose of distribution to a qualifying charitable clinic's or center's pharmacy or to a qualifying charitable center or clinic acting in consultation with a pharmacist for donation to qualifying medically indigent patients.

(2) A qualifying charitable ~~center or clinic in consultation with a pharmacist~~ or center shall establish procedures consistent with the Idaho legend drug donation act and rules promulgated thereunder.

(3) The acceptance and distribution of legend drugs for use in the program shall be subject to the following requirements:

(a) Only Donated drugs shall be in the manufacturer's original, sealed and tamper evident packaging, shall be accepted and dispensed, except that including drugs packaged in single unit doses may be accepted and distributed when the outside packaging is open and the single unit dose packaging is intact. Drugs that have been previously dispensed by a pharmacy in unit dose packaging may be donated provided that the packaging is sealed, tamper evident and properly labeled.

(b) Only drugs that bear a clear and verifiable lot number and expiration date may be accepted and dispensed. However, drugs that bear an expiration date that is less than three (3) months from the date the drug is donated shall not be accepted and dispensed.

(c) Drugs and other substances provided in schedules II through V of article II, chapter 27, title 37, Idaho Code, shall not be accepted and shall not be dispensed.

(d) A drug shall not be accepted or dispensed if the person accepting or dispensing the drug has reason to believe that the drug has been adulterated.

(4) The following entities that are licensed or registered in the state of Idaho may donate legend drugs to a qualifying charitable clinic or center:

- (a) Pharmacies;
- (b) Hospitals and nursing homes;
- (c) Drug manufacturers; and
- (d) Wholesale distributors.

(5) The following entities may accept legend drugs:

- (a) A qualifying charitable clinic's or center's pharmacy; or
- (b) A qualifying charitable ~~center or~~ clinic or center in consultation with a pharmacist licensed in the state of Idaho.

(6) Any qualifying charitable clinic or center that participates in the program may dispense drugs donated under the Idaho legend drug donation act to persons who are medically indigent residents of the state of Idaho.

(7) Any qualifying charitable clinic or center dispensing legend drugs shall:

- (a) Comply with the provisions of the Idaho legend drug donation act and all rules promulgated thereunder;
- (b) Comply with all applicable federal and state laws related to the storage and distribution of drugs;
- (c) Inspect all drugs prior to dispensing to determine that such drugs have not been adulterated; and
- (d) Dispense drugs only pursuant to a valid prescription.

(8) Participation in the program is voluntary and nothing in the Idaho legend drug donation act shall require any person or entity to participate in the program.

(9) Nothing in the Idaho legend drug donation act shall prohibit or restrict the return of unused prescription drugs to the Idaho medicaid program pursuant to rules promulgated by the Idaho department of health and welfare.

SECTION 3. That Section 54-1763, Idaho Code, be, and the same is hereby amended to read as follows:

54-1763. BOARD DUTIES AND POWERS. (1) The board of pharmacy shall adopt rules necessary for the ~~implementation and enforcement of the program established under the Idaho legend drug donation act and for the enforcement of board rules promulgated thereunder~~ donation of legend drugs to qualifying charitable clinics or centers by nursing homes, including:

- (a) Standards and procedures for the transfer, acceptance and safe storage of donated drugs;

(b) Standards and procedures for inspecting donated drugs to ensure that the drugs are in compliance with the provisions of the Idaho legend drug donation act and all federal and state product integrity standards and regulations;

(c) Standards and procedures for the distribution of donated drugs to a qualifying charitable centers or clinics or center;

(d) Standards and procedures for the dispensing of donated drugs to qualifying medically indigent patients; and

(e) Any other standards and procedures the board deems appropriate or necessary to implement or enforce the provisions of the Idaho legend drug donation act.

(2) The board shall provide technical assistance to ~~entities that participate~~ participants in the program.

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

Approved April 12, 2010.

CHAPTER 349
(S.B. No. 1340, As Amended)

AN ACT

RELATING TO CIVIL ACTIONS; AMENDING SECTION 5-311, IDAHO CODE, TO REFERENCE A CODE SECTION IN RELATION TO THE DEFINITION OF A TERM, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 5-327, IDAHO CODE, TO PROVIDE FOR THE CONTINUATION OF CERTAIN CAUSES OF ACTION RELATING TO PERSONAL INJURY OR PROPERTY DAMAGE UPON THE DEATH OF THE INJURED PERSON, TO LIMIT DAMAGES AND TO PROVIDE FOR THE COMMENCEMENT OR CONTINUATION OF SUCH ACTIONS BY THE DECEDENT'S PERSONAL REPRESENTATIVE OR HEIRS.

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

SECTION 1. That Section 5-311, Idaho Code, be, and the same is hereby amended to read as follows:

5-311. SUIT FOR WRONGFUL DEATH BY OR AGAINST HEIRS OR PERSONAL REPRESENTATIVES -- DAMAGES. (1) When the death of a person is caused by the wrongful act or neglect of another, his or her heirs or personal representatives on their behalf may maintain an action for damages against the person causing the death, or in case of the death of such wrongdoer, against the personal representative of such wrongdoer, whether the wrongdoer dies before or after the death of the person injured. If any other person is responsible for any such wrongful act or neglect, the action may also be maintained against such other person, or in case of his or her death, his or her personal representatives. In every action under this section, such damages may be given as under all the circumstances of the case as may be just.

(2) For the purposes of subsection (1) of this section, and subsection (2) of section 5-327, Idaho Code, "heirs" means:

(a) Those persons who would be entitled to succeed to the property of the decedent according to the provisions of subsection (2~~1~~2) of section 15-1-201, Idaho Code.

(b) Whether or not qualified under subsection (2) (a) of this section, the decedent's spouse, children, stepchildren, parents, and, when partly or wholly dependent on the decedent for support or services, any blood relatives and adoptive brothers and sisters. It includes the illegitimate child of a mother, but not the illegitimate child of the father unless the father has recognized a responsibility for the child's support.

1. "Support" includes contributions in kind as well as money.

2. "Services" means tasks, usually of a household nature, regularly performed by the decedent that will be a necessary expense to the heirs of the decedent. These services may vary according to the identity of the decedent and heir and shall be determined under the particular facts of each case.

(c) Whether or not qualified under subsection (2) (a) or (2) (b) of this section, the putative spouse of the decedent, if he or she was dependent on the decedent for support or services. As used in this subsection, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid.

(d) Nothing in this section shall be construed to change or modify the definition of "heirs" under any other provision of law.

SECTION 2. That Section 5-327, Idaho Code, be, and the same is hereby amended to read as follows:

5-327. PERSONAL INJURIES -- PROPERTY DAMAGE -- DEATH OF WRONGDOER -- DEATH OF INJURED PARTY -- SURVIVAL OF ACTION. (1) Causes of action arising out of injury to the person or property, or death, caused by the wrongful act or negligence of another, except actions for slander or libel, shall not abate upon the death of the wrongdoer, and each injured person or the personal representative of each one meeting death, as above stated, shall have a cause of action against the personal representative of the wrongdoer; provided, however, the punitive damages or exemplary damages shall not be awarded nor penalties adjudged in any such action; provided, however, that the injured person shall not recover judgment except upon some competent, satisfactory evidence corroborating the testimony of said injured person regarding negligence and proximate cause.

(2) A cause of action for personal injury or property damage caused by the wrongful act or negligence of another shall not abate upon the death of the injured person from causes not related to the wrongful act or negligence. Provided however, that the damages that may be recovered in such action are expressly limited to those for: (i) medical expenses actually incurred, (ii) other out-of-pocket expenses actually incurred, and (iii) loss of earnings actually suffered, prior to the death of such injured person and as a result of the wrongful act or negligence. Such action shall be commenced or, if already commenced at the time of the death of the injured person, shall be thereafter prosecuted by the personal representative of the estate of the deceased person or, if there be no personal representative appointed, then by those persons who would be entitled to succeed to the property of the deceased person according to the provisions of section 5-311(2) (a), Idaho Code.

Approved April 12, 2010.

CHAPTER 350
(S.B. No. 1383, As Amended)

AN ACT

RELATING TO THE SUSPENSION OF JUDGMENT AND SENTENCE; AMENDING SECTION 19-2601, IDAHO CODE, TO EXTEND THE PERIOD OF TIME THE COURT RETAINS JURISDICTION OVER A PRISONER AND TO PROVIDE THAT THE STATE BOARD OF CORRECTION SHALL BE RESPONSIBLE FOR DETERMINING THE APPROPRIATE PLACEMENT, EDUCATION, PROGRAMMING AND TREATMENT OF PRISONERS DURING THE PERIOD OF RETAINED JURISDICTION; AND AMENDING SECTION 19-2604, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE AMENDMENT OF JUDGMENT.

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

SECTION 1. That Section 19-2601, Idaho Code, be, and the same is hereby amended to read as follows:

19-2601. COMMUTATION, SUSPENSION, WITHHOLDING OF SENTENCE -- PROBATION. Whenever any person shall have been convicted, or enter a plea of guilty, in any district court of the state of Idaho, of or to any crime against the laws of the state, except those of treason or murder, the court in its discretion, may:

1. Commute the sentence and confine the defendant in the county jail, or, if the defendant is of proper age, commit the defendant to the custody of the state department of juvenile corrections; or

2. Suspend the execution of the judgment at the time of judgment or at any time during the term of a sentence in the county jail and place the defendant on probation under such terms and conditions as it deems necessary and expedient; or

3. Withhold judgment on such terms and for such time as it may prescribe and may place the defendant on probation; or

4. Suspend the execution of the judgment at any time during the first ~~one~~ three hundred ~~eighty~~ sixty-five (~~180~~365) days of a sentence to the custody of the state board of correction. The court shall retain jurisdiction over the prisoner for a period of up to the first one three hundred eighty sixty-five (180~~365~~) days or, if the prisoner is a juvenile, until the juvenile reaches twenty-one (21) years of age. During the period of retained jurisdiction, the state board of correction shall be responsible for determining the placement of the prisoner and such education, programming and treatment as it determines to be appropriate. The prisoner will remain committed to the board of correction if not affirmatively placed on probation by the court. In extraordinary circumstances, where the court concludes that it is unable to obtain and evaluate the relevant information within the ~~one hundred eighty (180) day~~ period of retained jurisdiction, or where the court concludes that a hearing is required and is unable to obtain the defendant's presence for such a hearing within such period, the court may decide whether to place the defendant on probation or release jurisdiction within a reasonable time, not to exceed thirty (30) days, after the ~~one hundred eighty (180) day~~ period of retained jurisdiction has expired. Placement on probation shall be under such terms and conditions as the court deems necessary and expedient. The court in its discretion may sentence a defendant to more than one (1) period of retained jurisdiction after a defendant has been placed on probation in a case. In no case shall the board of correction or its agent, the department of correction, be required to hold a hearing of any kind with respect to a recommendation to the court for the grant or denial of probation. Probation is a matter left to the sound discretion of the court. Any recommendation made by the department to the court regarding the prisoner shall be in the nature of an addendum to the presentence report. The

board of correction and its agency, the department of correction, and their employees shall not be held financially responsible for damages, injunctive or declaratory relief for any recommendation made to the district court under this section.

5. If the crime involved is a felony and if judgment is withheld as provided in subsection 3. of this section or if judgment and a sentence of custody to the state board of correction is suspended at the time of judgment in accordance with subsection 2. of this section or as provided by subsection 4. of this section and the court shall place the defendant upon probation, it shall be to the board of correction, to a county juvenile probation department, or any other person or persons the court, in its discretion, deems appropriate.

6. If the crime involved is a misdemeanor, indictable or otherwise, or if the court should suspend any remaining portion of a jail sentence already commuted in accordance with subsection 1. of this section, the court, if it grants probation, may place the defendant on probation. If the convicted person is a juvenile held for adult criminal proceedings, the court may order probation under the supervision of the county's juvenile probation department.

7. The period of probation ordered by a court under this section under a conviction or plea of guilty for a misdemeanor, indictable or otherwise, may be for a period of not more than two (2) years; and under a conviction or plea of guilty for a felony the period of probation may be for a period of not more than the maximum period for which the defendant might have been imprisoned.

SECTION 2. That Section 19-2604, Idaho Code, be, and the same is hereby amended to read as follows:

19-2604. DISCHARGE OF DEFENDANT -- AMENDMENT OF JUDGMENT. (1) If sentence has been imposed but suspended, or if sentence has been withheld, upon application of the defendant and upon satisfactory showing that the defendant has at all times complied with the terms and conditions upon which he was placed on probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant; and this shall apply to the cases in which defendants have been convicted and granted probation by the court before this law goes into effect, as well as to cases which arise thereafter. The final dismissal of the case as herein provided shall have the effect of restoring the defendant to his civil rights.

(2) If sentence has been imposed but suspended for any period during the first one three hundred eighty sixty-five (180365) days of a sentence to the custody of the state board of correction, and the defendant placed upon probation as provided in subsection 4. of section 19-2601, Idaho Code, upon application of the defendant, the prosecuting attorney, or upon the court's own motion, and upon satisfactory showing that the defendant has at all times complied with the terms and conditions of his probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.

(3) Subsection (2) of this section shall not apply to any judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code. A judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, shall not be subject to dismissal or reduction under this section. A conviction for the purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

Approved April 12, 2010.

CHAPTER 351
(S.B. No. 1384)

AN ACT

RELATING TO THE STATE PENITENTIARY; AMENDING SECTION 20-111, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE JUSTIFIABLE KILLING OR WOUNDING OF A PRISONER IN A STATE PENITENTIARY OR IN CERTAIN PRIVATE PRISON FACILITIES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-209B, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DUTIES OF THE STATE DIRECTOR OF CORRECTION IN PRIVATE PRISON FACILITIES AND TO CORRECT A CODIFIER'S ERROR; AND AMENDING SECTION 20-241A, IDAHO CODE, TO PROVIDE THAT CERTAIN CONTRACTS BETWEEN THE STATE BOARD OF CORRECTION AND A PRIVATE PRISON CONTRACTOR SHALL CONTAIN CERTAIN TERMS AND TO REVISE PROVISIONS RELATING TO THE POWERS AND RESPONSIBILITIES OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF CORRECTION WHEN ACTING AS THE CHIEF CONTRACT MONITOR OF THE PRIVATE PRISON CONTRACT AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 20-111, Idaho Code, be, and the same is hereby amended to read as follows:

20-111. PRISONERS IN STATE PENITENTIARY -- JUSTIFIABLE KILLING OR WOUNDING. If any ~~convict~~ prisoner threatens personal injury to any officer, keeper or guard of the ~~State Penitentiary~~ or other place maintained by the state board of correction, or acts in such manner as may reasonably lead the officer, keeper or guard to believe his life or the life of any ~~convict~~ prisoner is in danger, or which leads the officer, keeper or guard, to believe the ~~convict~~ prisoner is attempting escape, then such officer, keeper or guard, may proceed forthwith to use any weapon he may have to enforce obedience, and if in so doing any ~~convict~~ prisoner shall be necessarily wounded or killed, the officer, keeper or guard is justified and shall be held guiltless. For purposes of this section, a facility operated by a private prison contractor and housing prisoners pursuant to a contract between the contractor and the state board of correction, as set forth in section 20-241A, Idaho Code, shall be deemed to be maintained by or under the control of the state board of correction.

SECTION 2. That Section 20-209B, Idaho Code, be, and the same is hereby amended to read as follows:

20-209B. DUTY TO CONTROL DISTURBANCES AT STATE PENITENTIARY. It shall be the primary duty of the state director of correction, or his designee, to prevent, control and suppress all riots, escapes, affrays and insurrections at the state penitentiary or other place maintained by the state board of

correction which come to his knowledge, and to control and suppress all attempts to riot or escape.

The director of correction, or his designee, shall be primarily responsible for all security measures to be taken at the time of any riot, escape, affray or insurrection, or attempts to commit the same, at the state penitentiary or other place under the control of the state board of correction.

Any county sheriff, deputy sheriff or any person so acting, and all other law enforcement officers, shall be subject to the authority herein conferred upon the director of correction, or his designee, and shall be subject to his direction and control during any riots, escapes, affrays, insurrections, or attempts to commit the same, at the state ~~penitentiary~~ penitentiary or other place maintained by the state board of correction.

Nothing in this act shall preclude the use of any county sheriff or other law enforcement officers by the director of correction during any such existing emergency. If at any such time the director of correction shall find need for the assistance of any county sheriff or other law enforcement officers, the sheriff and such other officers may respond and render assistance at the direction of the director of correction.

For purposes of this section, a facility operated by a private prison contractor and housing prisoners pursuant to a contract between the contractor and the state board of correction, as set forth in section 20-241A, Idaho Code, shall be deemed to be maintained by or under the control of the state board of correction.

SECTION 3. That Section 20-241A, Idaho Code, be, and the same is hereby amended to read as follows:

20-241A. AGREEMENTS FOR CONFINEMENT OF INMATES. The state board of correction shall have the power and it shall be its duty:

(1) To determine the availability of state facilities suitable for the detention and confinement of prisoners held under authority of state law. If the state board of correction determines that suitable state facilities are not available, it may enter into an agreement with the proper authorities of the United States, another state, a political subdivision of this state or another state, or a private prison contractor, to provide for the safekeeping, care, subsistence, proper government, discipline, and to provide programs for the reformation, rehabilitation and treatment of prisoners. Facilities made available to the state board of correction by agreement may be in this state, or in any other state, territory or possession of the United States. The state board of correction shall not enter into an agreement with an authority unable to provide the degree or kind of safekeeping, care and subsistence required by state or federal laws, the constitution of the state of Idaho, the United States constitution, and the rules adopted by the state board of correction. All contracts or agreements entered into by the state board of correction and a private prison contractor shall ~~by~~ be subject to the provisions of this section and section 20-209, Idaho Code.

(a) An authority or private prison contractor, receiving physical custody for the purpose of incarceration of a person sentenced by a court under the terms of an agreement made under this section, shall be considered as acting solely as an agent of this state. This state retains jurisdiction over a person incarcerated in an institution of another state, the United States, a political subdivision of this state or another state, or of a private institution;

(b) The attorney general of this state shall enforce an agreement or contract made under this section in a civil suit.

(2) The state board of correction shall have the authority to enter into contracts with private prison contractors for the site selection, design, design/building, acquisition, construction, construction management, maintenance, leasing, leasing/purchasing, management or operation of private prison facilities or any combination of these services, subject to the following requirements and limitations:

(a) Any request for proposals, any original contract, any contract renewal, any price or cost adjustment or any other amendment to any contract for the incarceration of individuals in a private institution, shall be reviewed by the board of correction;

(b) No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the state board of correction that the contractor possesses the necessary qualifications and experience to provide the services specified in the contract; that the contractor can provide the necessary qualified personnel to implement the terms of the contract; that the financial condition of the contractor is such that the terms of the contract can be fulfilled; that the contractor has the ability to comply with applicable court orders and corrections standards; and that the proposed private prison facilities or the correctional services proposed by the contractor meet constitutional minimums;

(c) No contract authorized by the provisions of this section shall be awarded until the private prison contractor demonstrates to the satisfaction of the state board of correction that the contractor can obtain insurance or provide self-insurance to indemnify the state against possible claims arising from the operation of prison facilities by the contractor, and to compensate the state for any losses incurred due to the operation of prison facilities;

(d) Contracts awarded to private prison contractors pursuant to the provisions of this section shall be entered into for a period specified in each contract, subject to availability of funds annually appropriated by the Idaho legislature for that purpose. No contract awarded pursuant to this section shall provide for the encumbrance of funds beyond the amount available for a fiscal year;

(e) A contract may provide for annual contract price or cost adjustments, except that any adjustments may be made only once each year effective on the anniversary of the effective date of the contract.

(3) Any contract between the state board of correction and a private prison contractor, whereby the contractor provides for the housing, care, and control of inmates in a nondepartmental facility operated by the contractor, shall contain, in addition to other provisions, terms and conditions:

(a) A requirement that the contractor is to provide said services in a facility which meets standards as required by the Idaho department of correction;

(b) If a private prison institution is to be located in the state of Idaho on private land, it shall be required that the contractor obtain written authorization from the governing board of any municipality in which the facility is to be located, or if the facility is not to be located within the municipality, written authorization from the board of county commissioners of the county in which the facility is to be located;

(c) A requirement that the private prison contractor shall provide training to its personnel to a level acceptable to the Idaho department of correction. The Idaho department of correction may provide training to the personnel of a private prison contractor and may charge a reasonable fee for the training, not to exceed the cost of training. The provisions of this section shall not be construed to confer peace officer status upon any employee of the private prison contractor or to

authorize the use of firearms except to prevent escape from the facility or from custody while being transported to or from the facility or to prevent an act which would cause death or serious bodily injury to any person. The provisions of this section shall not be construed to confer Idaho state employee status upon any employee of the private prison contractor;

(d) A requirement that any private prison contractor operating a facility that houses prisoners pursuant to a contract between the contractor and the state board of correction shall cooperate with the Idaho department of correction for the prevention and suppression of serious disturbances, including riots, escapes, affrays or insurrections, at the private prison facilities. To effectuate this provision, the contract shall, at a minimum, provide:

(i) For participation by the private prison contractor in multi-agency training for the preventing and responding to serious disturbances at a private prison facility;

(ii) For participation by the private prison contractor in multi-agency agreements for the prevention of and response to serious disturbances at a private prison facility and reimbursement for emergency services provided by governmental entities;

(iii) For notification by the private prison contractor to the director of the Idaho department of correction in the event of a serious disturbance at a private prison facility and for consultation by the director of the Idaho department of correction with the private prison contractor prior to a response by the director of the Idaho department of correction;

(iv) That the private prison contractor shall provide access to the private prison facility for the Idaho department of correction and such other governmental entities or agencies as the Idaho department of correction may designate, including space to establish a command post, for responding to a serious disturbance;

(v) That, in the event of a serious disturbance, the private prison contractor shall participate in a unified command structure under the director of the Idaho department of correction until, in the director of the Idaho department of correction's discretion, the serious disturbance is resolved.

(4) Contracts awarded under the provisions of this section shall, at a minimum, comply with the following:

(a) Provide for internal and perimeter security to protect the public, employees and inmates;

(b) Provide that the private prison contractor shall not benefit financially from the labor of inmates nor shall any inmate ever be placed in a position of authority over another inmate. Any profits realized from the operation of a prison enterprise program shall revert to the department of correction or appropriate governmental authority. Private prison contractors may work with the Idaho department of correction in setting up work and training programs. Private prison contractors shall be authorized to purchase services and commodities from the Idaho department of correction which are necessary for implementing work or training opportunities as outlined in this section;

(c) Impose discipline on inmates only in accordance with applicable Idaho department of correction rules and procedures;

(d) Provide proper food, clothing, housing and medical care as provided for in the contract.

(5) A private prison contractor, in carrying out its duties and responsibilities under contract with the state board of correction, shall not be bound by the enactments of the legislature which govern the appointment, qualifications, duties, salaries or benefits of wardens, managers or other correctional employees. No employee of the private prison contractor shall be considered an employee of the state of Idaho. A private prison contractor shall not employ any person who does not satisfy the board of correction's personnel policies.

(6) The director of the Idaho department of correction or his designee shall monitor the performance of the private prison contractor. In all such contracts the state shall retain clear supervisory and monitoring powers over the operation and management of the private institutions to insure that the inmates are properly cared for and that the employees of the facility and the public are adequately protected. Included in the powers and responsibilities of the director of the Idaho department of correction or his designee when acting as the chief contract monitor of the private prison contract are:

- (a) Approval of all inmate releases on furlough or work release;
- (b) Approval of the type of work offenders may perform pursuant to this section and review and approval of any incentive pay plan presented by the private prison contractor for offender pay;
- (c) Approval of the training program for the private prison contractor's employees;
- (d) A determination if the minimum requirements of the contract are being satisfactorily performed;
- (e) Promulgation of rules interpreting or making specific application of the provisions of this section;
- (f) A determination if appropriate policies and procedures of the Idaho department of correction are being followed by the private prison contractor and its personnel;
- (g) The duty, as set forth in section 20-209B, Idaho Code, to prevent, control and suppress serious disturbances, including riots, escapes, affrays and insurrections at a private prison facility that houses prisoners pursuant to a contract between the private prison contractor and the state board of correction, that, in the director of the Idaho department of correction's discretion, threaten the health, safety, security and property of the facility, facility staff, prisoners, the public and the state of Idaho. This duty shall be exercised in the director of the Idaho department of correction's discretion after consultation with the private prison contractor. The director of the Idaho department of correction shall designate personnel and facilities under the control of the state board of correction and shall enter into such agreements as deemed necessary with other governmental entities, to respond to serious disturbances at a private prison facility.

(7) No contract for correctional services may authorize, allow, or imply a delegation of authority or responsibility to a private prison contractor which would allow the contractor to:

- (a) Develop or implement procedures for calculating inmate release dates;
- (b) Approve the type of work inmates may perform and the wages which may be given to inmates engaging in the work;
- (c) Place an inmate under less restrictive custody or more restrictive custody or take any disciplinary actions contrary to rules and procedures approved by the Idaho department of correction;
- (d) Develop or implement procedures regarding the care, custody and treatment of inmates which are contrary to the Idaho department of correction's policies and procedures, state or federal law.

(8) Any offense, which if committed in a state institution or facility would be a crime, including escape, shall also be a crime if committed by or with regard to offenders assigned to an institution or facility operated pursuant to a contract between the state and a private prison contractor.

(9) Any reference in the Idaho Code to imprisonment in a state penitentiary, or state prison, or incarceration under the control and custody of the Idaho board of correction shall be interpreted to include incarceration in a private prison facility.

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

Approved April 12, 2010.

CHAPTER 352
(S.B. No. 1385)

AN ACT

RELATING TO RAPE; AMENDING SECTION 18-6101, IDAHO CODE, TO REVISE THE CIRCUMSTANCES THAT CONSTITUTE RAPE, TO PROVIDE THAT CERTAIN CIRCUMSTANCES CONSTITUTING RAPE DO NOT AFFECT CERTAIN OTHER PROVISIONS OF LAW AND TO SPECIFY THE METHOD FOR DETERMINING A CERTAIN AGE DIFFERENCE; AMENDING SECTION 18-6107, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 18-6108, IDAHO CODE, TO REVISE THE CIRCUMSTANCES THAT CONSTITUTE MALE RAPE, TO PROVIDE THAT CERTAIN CIRCUMSTANCES CONSTITUTING MALE RAPE DO NOT AFFECT CERTAIN OTHER PROVISIONS OF LAW AND TO SPECIFY THE METHOD FOR DETERMINING A CERTAIN AGE DIFFERENCE; AMENDING SECTION 18-609A, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-609G, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-8303, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE THAT CERTAIN PERSONS ARE NOT SUBJECT TO THE APPLICATION OF THE SEXUAL OFFENDER REGISTRATION ACT, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 18-8314, IDAHO CODE, TO PROVIDE AN EXCEPTION RELATING TO THE DUTIES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-401, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTION 20-509, IDAHO CODE, TO PROVIDE THAT CERTAIN JUVENILES WHO HAVE ALLEGEDLY COMMITTED MALE RAPE SHALL BE CHARGED, ARRESTED AND PROCEEDED AGAINST AS AN ADULT, TO PROVIDE A CORRECT CODE REFERENCE AND TO DELETE REFERENCE TO STATUTORY RAPE.

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

SECTION 1. That Section 18-6101, Idaho Code, be, and the same is hereby amended to read as follows:

18-6101. RAPE DEFINED. Rape is defined as the penetration, however slight, of the oral, anal or vaginal opening with the perpetrator's penis accomplished with a female under any one (1) of the following circumstances:

1-(1) Where the female is under the age of ~~eighteen~~ sixteen (16) years and the perpetrator is eighteen (18) years of age or older.

2-(2) Where the female is sixteen (16) or seventeen (17) years of age and the perpetrator is three (3) years or more older than the female.

(3) Where she is incapable, through any unsoundness of mind, due to any cause including, but not limited to, mental illness, mental deficiency or developmental disability, whether temporary or permanent, of giving legal consent.

~~3-~~(4) Where she resists but her resistance is overcome by force or violence.

~~4-~~(5) Where she is prevented from resistance by the infliction, attempted infliction, or threatened infliction of bodily harm, accompanied by apparent power of execution; or is unable to resist due to any intoxicating, narcotic, or anaesthetic substance.

~~5-~~(6) Where she is at the time unconscious of the nature of the act. As used in this section, "unconscious of the nature of the act" means incapable of resisting because the victim meets one (1) of the following conditions:

(a) Was unconscious or asleep;

(b) Was not aware, knowing, perceiving, or cognizant that the act occurred.

~~6-~~(7) Where she submits under the belief that the person committing the act is her husband, and the belief is induced by artifice, pretense or concealment practiced by the accused, with intent to induce such belief.

~~7-~~(8) Where she submits under the belief, instilled by the actor, that if she does not submit, the actor will cause physical harm to some person in the future; or cause damage to property; or engage in other conduct constituting a crime; or accuse any person of a crime or cause criminal charges to be instituted against her; or expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt or ridicule.

The provisions of subsections (1) and (2) of this section shall not affect the age requirements in any other provision of law, unless otherwise provided in any such law. Further, for the purposes of subsection (2) of this section, in determining whether the perpetrator is three (3) years or more older than the female, the difference in age shall be measured from the date of birth of the perpetrator to the date of birth of the female.

SECTION 2. That Section 18-6107, Idaho Code, be, and the same is hereby amended to read as follows:

18-6107. RAPE OF SPOUSE. No person shall be convicted of rape for any act or acts with that person's spouse, except under the circumstances cited in ~~paragraphs 3. and 4.~~ subsections (4) and (5) of section 18-6101, Idaho Code.

SECTION 3. That Section 18-6108, Idaho Code, be, and the same is hereby amended to read as follows:

18-6108. MALE RAPE. Male rape is defined as the penetration, however slight, of the oral or anal opening of another male, with the perpetrator's penis, for the purpose of sexual arousal, gratification or abuse, under any of the following circumstances:

~~1-~~(1) Where the victim is under the age of sixteen (16) years and the perpetrator is eighteen (18) years of age or older.

(2) Where the victim is sixteen (16) or seventeen (17) years of age and the perpetrator is three (3) years or more older than the victim.

(3) Where the victim is incapable, through any unsoundness of mind, whether temporary or permanent, of giving consent.

~~2-~~(4) Where the victim resists but his resistance is overcome by force or violence.

~~3-~~(5) Where the victim is prevented from resistance by threats of immediate and great bodily harm, accompanied by apparent power of execution.

~~4-(6)~~ Where the victim is prevented from resistance by the use of any intoxicating, narcotic, or anaesthetic substance administered by or with the privity of the accused.

~~5-(7)~~ Where the victim is at the time unconscious of the nature of the act, and this is known to the accused.

The provisions of subsections (1) and (2) of this section shall not affect the age requirements in any other provision of law, unless otherwise provided in any such law. Further, for the purposes of subsection (2) of this section, in determining whether the perpetrator is three (3) years or more older than the victim, the difference in age shall be measured from the date of birth of the perpetrator to the date of birth of the victim.

SECTION 4. That Section 18-609A, Idaho Code, be, and the same is hereby amended to read as follows:

18-609A. CONSENT REQUIRED FOR ABORTIONS FOR MINORS. (1) Except as otherwise provided in this section, a person shall not knowingly perform an abortion on a pregnant unemancipated minor unless the attending physician has secured the written consent from one (1) of the minor's parents or the minor's guardian or conservator.

(2) A judge of the district court shall, on petition or motion, and after an appropriate hearing, authorize a physician to perform the abortion if the judge determines, by clear and convincing evidence, that:

(a) The pregnant minor is mature and capable of giving informed consent to the proposed abortion; or

(b) The performance of an abortion would be in her best interests.

(3) The pregnant minor may participate in the court proceedings on her own behalf. The court may appoint a guardian ad litem for her. The court shall provide her with counsel unless she appears through private counsel.

(4) Proceedings in the court under this section shall be closed and have precedence over other pending matters. A judge who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the decision and shall order a confidential record of the evidence to be maintained including the judge's own findings and conclusions. The minor may file the petition using a fictitious name. All records contained in court files of judicial proceedings arising under the provisions of this section shall be confidential and exempt from disclosure pursuant to section 9-340G, Idaho Code. Dockets and other court records shall be maintained and court proceedings undertaken so that the names and identities of the parties to actions brought pursuant to this section will not be disclosed to the public.

(5) The court shall hold the hearing within forty-eight (48) hours, excluding weekends and holidays, after the petition is filed, and shall issue its ruling at the conclusion of the hearing. If the court fails to issue its ruling at the conclusion of the hearing, the petition is deemed to have been granted and the consent requirement is waived.

(6) An expedited confidential appeal is available to a pregnant minor for whom the court denies an order authorizing an abortion without parental consent. A minor shall file her notice of appeal within five (5) days, excluding weekends and holidays, after her petition was denied by the district court. The appellate court shall hold the hearing within forty-eight (48) hours, excluding weekends and holidays, after the notice of appeal is filed and shall issue its ruling at the conclusion of the hearing. If the appellate court fails to issue its ruling at the conclusion of the hearing, the petition is deemed to have been granted and the consent requirement is waived. Filing fees are not required of the pregnant minor at either the district court or the appellate level.

(7) Parental consent or judicial authorization is not required under this section if either:

(a) The pregnant minor certifies to the attending physician that the pregnancy resulted from rape as defined in section 18-6101, Idaho Code, excepting subsections (1-) and (2) thereof, or sexual conduct with the minor by the minor's parent, stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or foster parent.

(b) A medical emergency exists for the minor and the attending physician records the symptoms and diagnosis upon which such judgment was made in the minor's medical record.

SECTION 5. That Section 18-609G, Idaho Code, be, and the same is hereby amended to read as follows:

18-609G. STATISTICAL RECORDS. (1) The bureau of vital statistics of the department of health and welfare shall, in addition to other information required pursuant to section 39-261, Idaho Code, require the complete and accurate reporting of information relevant to each abortion performed upon a minor which shall include, at a minimum, the following:

(a) Whether the abortion was performed following the physician's receipt of:

(i) The written informed consent of a parent, guardian or conservator and the minor; or

(ii) The written informed consent of an emancipated minor for herself; or

(iii) The written informed consent of a minor for herself pursuant to a court order granting the minor the right to self-consent; or

(iv) The court order which includes a finding that the performance of the abortion, despite the absence of the consent of a parent, is in the best interests of the minor; or

(v) Certification from the pregnant minor to the attending physician pursuant to section 18-609A, Idaho Code, that parental consent is not required because the pregnancy resulted from rape as defined in section 18-6101, Idaho Code, excepting subsections (1-) and (2) thereof, or sexual conduct with the minor by the minor's parent, stepparent, uncle, grandparent, sibling, adoptive parent, legal guardian or foster parent.

(b) If the abortion was performed due to a medical emergency and without consent from a parent, guardian or conservator or court order, the diagnosis upon which the attending physician determined that the abortion was immediately necessary due to a medical emergency.

(2) The knowing failure of the attending physician to perform any one (1) or more of the acts required under this section is grounds for discipline pursuant to section 54-1814(6), Idaho Code, and shall subject the physician to assessment of a civil penalty of one hundred dollars (\$100) for each month or portion thereof that each such failure continues, payable to the bureau of vital statistics of the department of health and welfare, but such failure shall not constitute a criminal act.

SECTION 6. That Section 18-8303, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) "Aggravated offense" means any of the following crimes: 18-1506A (ritualized abuse of a child); 18-1508 (lewd conduct); 18-4003(d) (murder committed in the perpetration of rape); 18-4502 (first-degree kidnapping committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-4503

(second degree kidnapping where the victim is an unrelated minor child and the kidnapping is committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-6101 (rape, but excluding section 18-6101(1) where the victim is at least twelve years of age or the defendant is eighteen years of age ~~or younger~~); 18-6108 (male rape, but excluding section 18-6108(1) where the victim is at least twelve years of age or the defendant is eighteen years of age); 18-6608 (forcible sexual penetration by use of a foreign object); 18-8602(1) (sex trafficking); and any other offense set forth in section 18-8304, Idaho Code, if at the time of the commission of the offense the victim was below the age of thirteen years.

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

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

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

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

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

(7) "Incarceration" means committed to the custody of the Idaho department of correction or department of juvenile corrections, but excluding cases where the court has retained jurisdiction.

(8) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another state or in a federal, tribal or military court or the court of another country.

(9) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(10) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(11) "Psychosexual evaluation" means an evaluation which specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(12) "Recidivist" means an individual convicted two (2) or more times of any offense requiring registration under this chapter.

(13) "Residence" means the offender's present place of abode.

(14) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(15) "Violent sexual predator" means a person who has been convicted of an offense listed in section 18-8314, Idaho Code, and who has been determined to pose a high risk of committing an offense or engaging in predatory sexual conduct.

SECTION 7. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1507A (possession of sexually exploitative material for other than a commercial purpose), 18-1508 (lewd conduct with a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5609 (inducing person under eighteen years of age into prostitution), 18-6101 (rape, but excluding 18-6101(1-)) where the defendant is eighteen years of age or younger or where the defendant is exempted under subsection (4) of this section), 18-6108 (male rape, but excluding 18-6108(1) where the defendant is eighteen years of age or where the defendant is exempted under subsection (4) of this section), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), upon a second or subsequent conviction under 18-6609 (video voyeurism) or 18-8602(1), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and enters the state to establish permanent or temporary residence.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1) (a) of this section and was required to register as a sex offender in any other state or jurisdiction when he established permanent or temporary residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) An offender shall not be required to comply with the registration provisions of this chapter while incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) When a defendant is convicted of rape under section 18-6101~~4~~(2) or 18-6108(2), Idaho Code, and at the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more than three (3) years older than the victim of the rape, the court may order that the defendant is exempt from the requirements of this chapter upon a finding by the court that:

(a) All parties have stipulated to the exemption; or

(b) The defendant has demonstrated by clear and convincing evidence that he is not a risk to commit another crime identified in subsection (1) of this section and in the case there were no allegations by the victim of any violation of section 18-6101~~2~~(3) through ~~7~~(8) or 18-6108(3) through (7), Idaho Code.

SECTION 8. That Section 18-8314, Idaho Code, be, and the same is hereby amended to read as follows:

18-8314. POWERS AND DUTIES OF THE SEXUAL OFFENDER CLASSIFICATION BOARD. (1) The board shall consider for review offenders scheduled for release from incarceration who are referred by the department of correction or parole commission to determine whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense. Only offenders who were sentenced and convicted for one (1) or more of the crimes set forth in sections 18-1506, 18-1506A, 18-1507, 18-1508, 18-4003(d), 18-4502, 18-6101 (but excluding subsection (1) of such section when the offender is eighteen (18) years of age ~~or younger~~), 18-6108 (but excluding subsection (1) of such section when the offender is eighteen (18) years of age), 18-6602, 18-6605 and 18-6608, Idaho Code, or any violation of the duty to register as provided in this chapter, or are recidivists as defined in this chapter, are eligible for review by the board.

(2) The board shall consider for review offenders who were sentenced and convicted for one (1) or more crimes enumerated in subsection (1) of this section, or any violation of the duty to register as provided in this chapter, or offenders who are recidivists as defined in this chapter, who have been released under supervision, for the purpose of determining whether the offender should be designated as a violent sexual predator presenting a high risk of reoffense. Such review shall be undertaken upon request of the district court having jurisdiction over the offender on probation or of the parole commission if the offender has been released on parole regardless of whether the offender has been reviewed by the board prior to release from incarceration. For purposes of seeking a board review pursuant to this subsection, the court or parole commission may consider all relevant evidence including, but not limited to, the probation or parole official's observations and opinions of these offenders while under supervision, in light of the circumstances of the underlying offense.

(3) The board shall consider for review offenders living in Idaho who were sentenced and convicted for one (1) or more crimes enumerated in subsection (1) of this section, or substantially equivalent to those enumerated in subsection (1) of this section and committed in another state, territory, commonwealth or other jurisdiction of the United States, including tribal courts and military courts, and who have been released under federal or tribal court supervision. Such review shall be for the purpose of determining whether the offender should be designated as a violent sexual preda-

tor presenting a high risk of reoffense, and shall be undertaken upon request of the federal or tribal court having jurisdiction over the offender. For purposes of seeking a board review pursuant to this subsection, the federal or tribal court may consider all relevant evidence including, but not limited to, the probation official's observations and opinions of these offenders while under supervision, in light of the circumstances of the underlying offense.

(4) The board shall by rule:

(a) Establish standards for psychosexual evaluations and the qualifications for certified evaluators performing evaluations pursuant to sections 18-8316 and 18-8317, Idaho Code.

(b) Set forth procedures for the approval, certification and quality assurance of evaluators pursuant to this section.

(c) Establish a nonrefundable initial certification processing fee not to exceed one hundred fifty dollars (\$150) and a nonrefundable annual recertification processing fee not to exceed one hundred fifty dollars (\$150).

(5) The board shall establish guidelines to determine whether an offender who meets the criteria of this section is a violent sexual predator presenting a high risk of reoffense. The guidelines shall be established with the assistance of sexual offender treatment and law enforcement professionals who have, by education, experience or training, expertise in the assessment and treatment of sexual offenders.

(a) Factors to be used in establishment of the guidelines must be supported in the sexual offender assessment field as criteria reasonably related to the risk of reoffense and be objective criteria that can be gathered in a consistent and reliable manner.

(b) The guidelines shall include, but are not limited to, the following general categories for risk assessment: seriousness of the offense, offense history, whether the offense was predatory, characteristics of the offender, characteristics of the victim, the relationship of the offender to the victim, the number of victims and the number of violations of each victim.

(6) If the offender has indicated an intention to reoffend if released into the community and the available record reveals credible evidence to support this finding, then the offender shall be deemed a violent sexual predator regardless of application of the guidelines.

(7) Once the board has made its determination, it shall set forth written findings which shall include:

(a) The board's risk assessment and the reasons upon which the risk assessment was based; and

(b) The board's determination whether the offender should be designated as a violent sexual predator and the reasons upon which the determination was based.

(8) The board shall have authority to promulgate rules to carry out the provisions of this chapter.

SECTION 9. That Section 19-401, Idaho Code, be, and the same is hereby amended to read as follows:

19-401. NO STATUTE OF LIMITATIONS FOR CERTAIN FELONIES. Notwithstanding any other provision of law, there is no limitation of time within which a prosecution for the following crimes must be commenced:

(1) Murder;

(2) Voluntary manslaughter;

(3) Rape pursuant to section 18-6101-~~2, 3, 4, 5, or 7~~ (3) through (8), or section 18-6108 (3) through (7), Idaho Code;

(4) Sexual abuse of a child or lewd conduct with a child as set forth in sections 18-1506 and 18-1508, Idaho Code; or

(5) An act of terrorism as set forth in sections 18-8102, 18-8103, 18-3322, 18-3323 and 18-3324, Idaho Code.

SECTION 10. That Section 20-509, Idaho Code, be, and the same is hereby amended to read as follows:

20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any juvenile, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes or any person under age fourteen (14) years who is alleged to have committed any of the following crimes and, pursuant to section 20-508, Idaho Code, has been ordered by the court to be held for adult criminal proceedings:

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape, ~~but excluding statutory rape as defined in section 18-6101, Idaho Code;~~

(d) Male rape as defined in section 18-6108, Idaho Code;

(e) Forcible sexual penetration by the use of a foreign object;

(~~ef~~) Infamous crimes against nature, committed by force or violence;

(~~fg~~) Mayhem;

(~~gh~~) Assault or battery with the intent to commit any of the above serious felonies;

(~~hi~~) A violation of the provisions of section 37-2732(a)(1)(A), (B) or (C), Idaho Code, when the violation occurred on or within one thousand (1,000) feet of the property of any public or private primary or secondary school, or in those portions of any building, park, stadium or other structure or grounds which were, at the time of the violation, being used for an activity sponsored by or through such a school;

(~~ij~~) Arson in the first degree and aggravated arson;

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one (1) or more acts or transactions as the violent or controlled substances offense shall similarly be charged, arrested and proceeded against as an adult. Any juvenile proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that juvenile were an adult defendant.

(2) Once a juvenile has been formally charged or indicted pursuant to this section or has been transferred for criminal prosecution as an adult pursuant to the waiver provisions of section 20-508, Idaho Code, or this section, the juvenile shall be held in a county jail or other adult prison facility unless the court, after finding good cause, orders otherwise.

(3) Except as otherwise allowed by subsection (4) of this section, once a juvenile has been found to have committed the offense for which the juvenile was charged, indicted or transferred pursuant to this section or section 20-508, Idaho Code, or has been found guilty or pled guilty to a lesser offense or amended charge growing out of or included within the original charge, whether or not such lesser offense or amended charge is included within the acts enumerated in subsection (1) of this section, the juvenile shall thereafter be handled in every respect as an adult. For any subsequent violation of Idaho law, the juvenile shall be handled in every respect as an adult.

(4) Upon the conviction of a juvenile pursuant to this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence or withhold judgment pursuant to section 19-2601, Idaho Code, and commit the defendant to the custody of the department of juvenile corrections for an indeterminate period of time in accordance with section 20-520(1)(r), Idaho Code. The court, in its discretion, may order that the suspended sentence or withheld judgment be conditioned upon the convicted person's full compliance with all reasonable program requirements of the department of juvenile corrections. Such a sentence may also set terms of probation, which may be served under the supervision of county juvenile probation. However, in no event may the total of the actual time spent by the convicted person in the custody of the department plus any adult sentence imposed by the court exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(c) If a convicted person is given a suspended sentence or withheld judgment conditioned upon the convicted person's compliance with all reasonable program requirements of the department pursuant to paragraph (b) of this subsection, and if the department reasonably believes that the convicted person is failing to comply with all reasonable program requirements, the department may petition the sentencing court to revoke the commitment to the department and transfer the convicted person to the county jail or to the custody of the state board of correction for the remainder of the sentence.

Approved April 12, 2010.

CHAPTER 353
(S.B. No. 1399)

AN ACT

RELATING TO PHYSICIANS AND SURGEONS; AMENDING CHAPTER 18, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1821, IDAHO CODE, TO PROVIDE NO PHYSICIAN-PATIENT RELATIONSHIP FOR CERTAIN INFORMAL CONSULTATIONS.

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

SECTION 1. That Chapter 18, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1821, Idaho Code, and to read as follows:

54-1821. NO PHYSICIAN-PATIENT RELATIONSHIP FOR INFORMAL CONSULTATIONS. (1) No physician-patient relationship is created between a physician licensed under this chapter and an individual not otherwise a patient of that physician when a physician is contacted by another physician or licensed health care practitioner who is treating the patient for a consultation or advice, if:

(a) The consulted physician does not examine the patient; and

(b) Such consultation or advice is given by the physician to the physician or health care practitioner treating the patient without expectation of compensation for providing such consultation or advice.

(2) A consulted physician who does not have a physician-patient relationship with a patient by virtue of this section shall not be named on any special verdict form concerning care provided to the patient unless there is a basis of liability to the patient independent of the consultation.

Approved April 12, 2010.

CHAPTER 354
(H.B. No. 630)

AN ACT

RELATING TO INCOME TAX CREDITS FOR CHARITABLE CONTRIBUTIONS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 63-3029A, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT OF THE INCOME TAX CREDIT THAT INDIVIDUAL AND CORPORATE TAXPAYERS MAY RECEIVE, TO EXPAND THE NUMBER OF ENTITIES THAT MAY RECEIVE DONATIONS TO QUALIFY FOR THE INCOME TAX CREDIT AND TO DEFINE "CONTRIBUTION"; REPEALING SECTION 63-3029A, IDAHO CODE, RELATING TO AN INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029A, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature that trustee and benefit payments for the fiscal year July 1, 2010, through June 30, 2011, and for fiscal years thereafter for the Council for the Deaf and Hard of Hearing, the Developmental Disabilities Council, the Commission for the Blind and Visually Impaired, the Commission on Hispanic Affairs, and the State Independent Living Council be increased by contributions received by those entities pursuant to Section 2 of this act.

SECTION 2. That Section 63-3029A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the council for the deaf and hard of hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on hispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ~~twenty~~ fifty percent (~~25~~50%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or ~~one~~ five hundred dollars (~~\$1~~500), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or ~~one~~ five thousand dollars (\$5,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It is accredited by the northwest association of schools and colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest association of schools and colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

SECTION 3. That Section 63-3029A, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029A, Idaho Code, and to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, and to nonprofit public or private museums or their foundations located within the state of Idaho.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under the provisions of this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars (\$100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under the provisions of this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or one thousand dollars (\$1,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the northwest association of schools and colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest association of schools and colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

SECTION 5. This act shall be in full force and effect on and after January 1, 2011. Sections 3 and 4 of this act shall be in full force and effect on and after January 1, 2016.

Approved April 8, 2010.

CHAPTER 355
(H.B. No. 492)

AN ACT

RELATING TO COUNTY CORONERS AND VITAL STATISTICS; AMENDING SECTION 39-252, IDAHO CODE, TO REVISE FEES THE STATE REGISTRAR SHALL BE ENTITLED TO RECEIVE, TO PROVIDE A FEE FOR CERTIFIED COPIES OF DEATH CERTIFICATES, TO PROVIDE FOR REMITTANCE OF FEES, TO PROVIDE FOR WHAT THE FEES MAY BE USED AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-622, IDAHO CODE, TO REQUIRE NEWLY ELECTED OR APPOINTED COUNTY CORONERS WITHIN ONE YEAR OF TAKING OFFICE TO ATTEND A CORONER'S SCHOOL EITHER SPONSORED OR ENDORSED BY THE IDAHO STATE ASSOCIATION OF COUNTY CORONERS; AND AMENDING CHAPTER 28, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-2810, IDAHO CODE, TO PROVIDE CONTINUING EDUCATION REQUIREMENTS FOR COUNTY CORONERS.

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

SECTION 1. That Section 39-252, Idaho Code, be, and the same is hereby amended to read as follows:

39-252. FEE FOR COPIES, SEARCHES AND OTHER SERVICES -- DEATH CERTIFICATES. (1) The state registrar shall be entitled to receive a fee of ~~four~~ thirteen dollars (\$13.00) for the making of certified copies of records or for a search of the files when no copies are made, provided that the national agency in charge of vital statistics may obtain copies or certifications of data from records without payment of fees, provided that the state incurs no expense in connection therewith. The fee shall be reviewed by the board of health and welfare, and future changes in the fee and enactment of fees for other services shall be established by ~~regulations~~ rules adopted by the board.

(2) For each certified copy of a death certificate there shall be charged an additional fee of one dollar (\$1.00) to be deposited in the state treasurer's local government investment pool, a fund hereby created for the Idaho state association of county coroners. Such moneys shall be used for the training of newly elected coroners and for the continuing education of county coroners and their deputies.

SECTION 2. That Section 34-622, Idaho Code, be, and the same is hereby amended to read as follows:

34-622. ELECTION OF COUNTY CORONERS -- QUALIFICATIONS. (1) At the general election, 1986, and every four (4) years thereafter, a coroner shall be elected in every county.

(2) No person shall be elected to the office of coroner unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

(5) All newly elected or appointed county coroners shall attend a coroner's school within one (1) year of taking office. Such school shall be sponsored or endorsed by the Idaho state association of county coroners.

SECTION 3. That Chapter 28, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-2810, Idaho Code, and to read as follows:

31-2810. CONTINUING EDUCATION REQUIREMENTS. After January 1, 2010, each county coroner shall complete twenty-four (24) hours of continuing education on a biennial calendar basis. The Idaho state association of county coroners shall either sponsor or provide courses pursuant to this section and monitor this requirement.

Law without signature.

CHAPTER 356

(S.B. No. 1407, As Amended in the House)

AN ACT

RELATING TO THE COMPREHENSIVE AQUIFER PLANNING AND MANAGEMENT EFFORT; AMENDING SECTION 42-1780, IDAHO CODE, TO PROVIDE FOR THE SECONDARY AQUIFER PLANNING, MANAGEMENT AND IMPLEMENTATION FUND, TO PROVIDE FOR THE CREATION OF THE SECONDARY AQUIFER PLANNING, MANAGEMENT AND IMPLEMENTATION FUND IN THE STATE TREASURY, TO PROVIDE THAT THE SECONDARY FUND SHALL CONSIST OF SPECIFIED MONEYS, TO PROVIDE FOR THE USE OF ALL MONEYS IN THE SECONDARY FUND, TO PROVIDE FOR CONTINUOUS APPROPRIATION OF MONEYS IN THE SECONDARY FUND TO THE WATER RESOURCE BOARD FOR SPECIFIED PURPOSES, TO PROVIDE THAT SPECIFIED PROVISIONS OF LAW SHALL NOT BE APPLICABLE AND TO PROVIDE FOR THE INVESTMENT OF IDLE MONEYS OF THE SECONDARY FUND AND THE RETENTION BY THE SECONDARY FUND OF INTEREST EARNED ON SUCH INVESTMENTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-1780, Idaho Code, be, and the same is hereby amended to read as follows:

42-1780. AQUIFER PLANNING AND MANAGEMENT FUND -- SECONDARY AQUIFER PLANNING, MANAGEMENT AND IMPLEMENTATION FUND. (1) The aquifer planning and management fund is hereby created in the state treasury. Pursuant to appropriation, moneys in the fund shall be used for technical studies, facilitation services, hydrologic monitoring, measurement and comprehensive plan development as well as for personnel costs, operating expenditures and capital outlay associated with the statewide comprehensive aquifer planning and management effort. The state treasurer shall invest the idle moneys of the fund, and the interest earned on such investments shall be retained by the fund.

(2) There is hereby created in the state treasury, the secondary aquifer planning, management and implementation fund, hereinafter referred to as the secondary fund. The secondary fund shall consist of moneys appropriated to the fund, moneys voluntarily contributed by water users or through water delivery entities or districts having authority to contribute, or through contributions, gifts or grants from any other source, and any other moneys that may hereafter be provided by law. All moneys in the secondary fund shall be used for the purposes for which the moneys were provided through appropriation, contribution or otherwise, and moneys in the secondary fund are appropriated continuously to the water resource board for technical studies, project management services, hydrologic monitoring, measurement and comprehensive plan development, as well as for personnel costs, operating expenditures, capital outlay and water projects associated with the statewide comprehensive aquifer planning and management effort, and shall not be subject to the provisions of the standard appropriations act of 1945 or the provisions of section 67-3516, Idaho Code. The state treasurer shall invest the idle moneys of the fund, and the interest earned on such investments shall be retained by the fund.

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

Approved April 12, 2010.

CHAPTER 357
(H.B. No. 727)

AN ACT

RELATING TO THE IDAHO EDUCATION NETWORK; AMENDING SECTION 33-125A, IDAHO CODE, TO REVISE THE DUTIES OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE STATE DEPARTMENT OF EDUCATION WITH REGARD TO THE IDAHO EDUCATION NETWORK AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 67-5745D, IDAHO CODE, TO PROVIDE A CODE REFERENCE AND TO REMOVE LANGUAGE PROVIDING FOR GOVERNANCE AND OPERATIONS OF THE IDAHO EDUCATION NETWORK AND FOR THE IDAHO EDUCATION NETWORK FUND; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5745E, IDAHO CODE, TO PROVIDE FOR THE IDAHO EDUCATION NETWORK PROGRAM AND RESOURCE ADVISORY COUNCIL (IPRAC); AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-125A, Idaho Code, be, and the same is hereby amended to read as follows:

33-125A. IDAHO EDUCATION NETWORK -- DUTIES OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE STATE DEPARTMENT OF EDUCATION. ~~(1)~~ Under the direction of the state superintendent of public instruction, the state department of education shall:

~~(a1)~~ Coordinate with the Idaho digital learning academy as provided for in chapter 55, title 33, Idaho Code, the state board of education and school districts to distribute telecourses, teleconferences and other instructional and training services to and between public schools;

~~(b2)~~ Coordinate with the Idaho digital learning academy, the state board of education and institutions of higher education to distribute college credit telecourses, teleconferences and other instructional and training services;

~~(e3)~~ Act as a clearinghouse for the materials, courses, publications and other applicable information related to the requirements of this section; ~~and~~

~~(d4)~~ Coordinate all e-rate funding applications for Idaho's school districts and implement e-rate funds through the department of administration for related services provided under the purview of the Idaho education network (IEN); ~~and~~

~~(25)~~ ~~(a)~~ ~~The superintendent of public instruction shall appoint an~~ four (4) representatives to the Idaho education network program and resource advisory council (IPRAC) made up of representatives from public and higher education, the Idaho digital learning academy, state government and the private sector to advise and assist the department of education in performing its duties pursuant to this section and the provisions of section 67-5745DE, Idaho Code.

~~(b)~~ ~~The superintendent of public instruction shall determine the number of persons necessary to provide the assistance required from the IPRAC. Members of the IPRAC shall be selected for their knowledge of education curricula, content, professional training and such other issues that may be essential for the productive delivery of education resources to schools throughout the state utilizing the IEN for the benefit and enhancement of the education system statewide. Persons appointed may be from the public or private sector and shall possess special knowledge in the areas of need for the successful operation and management of the IEN.~~

~~(c)~~ ~~The superintendent of public instruction shall, in consultation with the department of administration, establish a technical subcommittee of the IPRAC, to be co-chaired by the chief information officer of the department of administration, or his designee, and a person currently employed in a related public or higher education technology function, to advise and assist the department of administration in the technical development and operation of the IEN as required pursuant to section 67-5745D, Idaho Code. Members of the technical subcommittee shall be selected for their knowledge and experience in the development and technology necessary for the procurement and/or ongoing operation of a network that will enable the delivery of educational materials and resources, as provided in this section and section 67-5745D, Idaho Code.~~

~~(d)~~ ~~The superintendent of public instruction may establish other subcommittees to provide specific assistance to the department of administration or the department of education, as may be deemed expedient and necessary for such purpose.~~

~~(e) Membership on the technical or any other subcommittee is not limited to the members of the IPRAC. Members of the IPRAC or any associated subcommittee shall not be compensated for service as such member, but shall receive per diem and travel allowance as provided for state employees, in such amount as is provided for in section 67-2008, Idaho Code.~~

SECTION 2. That Section 67-5745D, Idaho Code, be, and the same is hereby amended to read as follows:

67-5745D. IDAHO EDUCATION NETWORK. (1) The legislature finds that:

(a) Idaho does not have a statewide coordinated and funded high-bandwidth education network;

(b) Such a network will enable required and advanced courses, concurrent enrollment and teacher training to be deliverable to all public high schools through an efficiently-managed statewide infrastructure; and

(c) Aggregating and leveraging demand at the statewide level will provide overall benefits and efficiencies in the procurement of telecommunications services, including high-bandwidth connectivity, internet access, purchases of equipment, federal subsidy program expertise and other related services.

(2) As used in this section and in section 67-5745E, Idaho Code, "Idaho Education Network (IEN)" means the coordinated, statewide telecommunications distribution system for distance learning for each public school, including two-way interactive video, data, internet access and other telecommunications services for providing distance learning. The term also includes connections to each institution of higher education and other locations as necessary to facilitate distance education, teacher training and other related services.

~~(3) The department of administration shall provide administrative oversight for IEN.~~

~~(4) In performing the duties under this section, the department of administration shall consider the following goals to ensure that:~~

~~(a) Idaho will utilize technology to facilitate comparable access to educational opportunities for all students;~~

~~(b) Idaho will be a leader in the use of technology to deliver advanced high school curricula, concurrent college credit, and ongoing teacher training on an equitable basis throughout the state; and~~

~~(c) Idaho will leverage its statewide purchasing power for the IEN to promote private sector investment in telecommunications infrastructure that will benefit other technology applications such as telemedicine, telecommuting, telegovernment and economic development.~~

~~(5) In performing the duties under this section, subject to the availability of funds, the department of administration shall:~~

~~(a) Coordinate the development, outsourcing and implementation of a statewide network for education, which shall include high bandwidth connectivity, two way interactive video and internet access, using primarily fiber optic and other high bandwidth transmission media;~~

~~(b) Consider statewide economic development impacts in the design and implementation of the educational telecommunications infrastructure;~~

~~(c) Coordinate and support the telecommunications needs, other than basic voice communications of public education;~~

~~(d) Procure high quality, cost-effective internet access and appropriate interface equipment to public education facilities;~~

~~(e) Procure telecommunications services and equipment on behalf of public education;~~

~~(f) Procure and implement technology and equipment for the delivery of distance learning;~~

- ~~(g) In conjunction with the state department of education, apply for state and federal funding for technology on behalf of IEN services;~~
- ~~(h) Procure telecommunications services and equipment for the IEN through an open and competitive bidding process;~~
- ~~(i) Work with the private sector to deliver high quality, cost effective services statewide; and~~
- ~~(j) Cooperate with state and local governmental and educational entities and provide leadership and consulting for telecommunications for education.~~
- ~~(6) The department of administration shall follow an implementation plan that:~~
- ~~(a) In the first phase, will connect each public high school with a scalable, high bandwidth connection, including connections to each institution of higher education and the Idaho digital learning academy as provided for in chapter 55, title 33, Idaho Code, as necessary, thereby allowing any location on IEN to share educational resources with any other location;~~
- ~~(b) Upon completion of the first phase, shall provide that each public high school will be served with high bandwidth connectivity, internet access and equipment in at least one (1) two way interactive video classroom; and~~
- ~~(c) In subsequent phases, will evaluate and make recommendations to the legislature for:~~
- ~~(i) Connectivity to each elementary and middle school;~~
- ~~(ii) The addition of libraries to the IEN; and~~
- ~~(iii) The migration of state agency locations from current technology and services.~~
- ~~(7) The department of administration shall, in its administration of the provisions of this section, comply with all provisions of federal law and regulations necessary to obtain and maintain qualification of the IEN and its participating schools in order to enable receipt of federal universal service support funding and the federal e rate discount program for schools and libraries including, but not limited to, maintenance of the IEN as a separate and distinct network to the extent necessary to obtain and maintain such qualification.~~
- ~~(8) Educational institutions served by the IEN shall manage site operations under policies established by the department of administration and the state department of education.~~
- ~~(9) Idaho education network fund. There is hereby created in the state treasury the Idaho education network fund. Moneys in the fund shall consist of funds received from state appropriations, grants, federal moneys, donations or funds from any other source. Moneys in the fund may be expended, pursuant to appropriation, for implementation and ongoing costs of the Idaho education network. The treasurer shall invest all idle moneys in the fund. Any interest earned on the investment of idle moneys shall be returned to the fund.~~

SECTION 3. That Chapter 57, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-5745E, Idaho Code, and to read as follows:

67-5745E. IDAHO EDUCATION NETWORK PROGRAM AND RESOURCE ADVISORY COUNCIL (IPRAC). (1) The administrative oversight for the Idaho education network (IEN) shall be provided by the Idaho education network program and resource advisory council (IPRAC) that is hereby created within the department of administration. The IPRAC shall be composed of thirteen (13) members, as follows:

- (a) The superintendent of public instruction or his designee, who shall serve as the chairman of the council;
 - (b) The director of the department of administration or his designee, who shall serve as vice chairman of the council;
 - (c) The chief executive officer of the Idaho digital learning academy;
 - (d) Two (2) individuals appointed by the superintendent of public instruction representing public and higher education in Idaho, selected for their knowledge and experience in the development and technology necessary for the procurement and/or ongoing operation of a network that will enable the delivery of educational materials and resources. One (1) of the individuals appointed by the superintendent of public instruction shall serve an initial term of one (1) year and one (1) of such individuals shall serve an initial term of two (2) years, as determined by the superintendent. After such initial terms, these individuals shall serve four (4) year terms. Vacancies in such appointment shall be filled by appointment by the superintendent for the remaining term;
 - (e) Two (2) individuals appointed by the superintendent of public instruction to represent the private sector. One (1) of the individuals appointed by the superintendent of public instruction shall serve an initial term of two (2) years and one (1) of such individuals shall serve an initial term of three (3) years, as determined by the superintendent. After such initial terms, these individuals shall serve terms of four (4) years. Vacancies in such appointment shall be filled by appointment by the superintendent for the remaining term;
 - (f) The chairman of the senate education committee or his designee;
 - (g) The chairman of the house of representatives education committee or his designee; and
 - (h) Four (4) members of the joint finance-appropriations committee, appointed by the president pro tempore of the senate and the speaker of the house of representatives in consultation with the cochairmen of the joint finance-appropriations committee, with one (1) such appointee being a member of the minority political party.
- (2) In performing the duties pursuant to this section, IPRAC shall consider the following goals to ensure that:
- (a) Idaho will utilize technology to facilitate comparable access to educational opportunities for all students;
 - (b) Idaho will be a leader in the use of technology to deliver advanced high school curricula, concurrent college credit, and ongoing teacher training on an equitable basis throughout the state; and
 - (c) Idaho will leverage its statewide purchasing power for the IEN to promote private sector investment in telecommunications infrastructure that will benefit other technology applications such as telemedicine, telecommuting, telegovernment and economic development.
- (3) In performing the duties pursuant to this section, subject to the availability of funds, the IPRAC shall:
- (a) Coordinate the development, outsourcing and implementation of a statewide network for education, which shall include high-bandwidth connectivity, two-way interactive video and internet access, using primarily fiber optic and other high-bandwidth transmission media;
 - (b) Consider statewide economic development impacts in the design and implementation of the educational telecommunications infrastructure;
 - (c) Coordinate and support the telecommunications needs, other than basic voice communications of public education;
 - (d) Procure high-quality, cost-effective internet access and appropriate interface equipment to public education facilities;
 - (e) Procure telecommunications services and equipment on behalf of public education;
 - (f) Procure and implement technology and equipment for the delivery of distance learning;

(g) In conjunction with the state department of education, apply for state and federal funding for technology on behalf of IEN services;

(h) Procure telecommunications services and equipment for the IEN through an open and competitive bidding process;

(i) Establish a technical subcommittee of the IPRAC to advise and assist the IPRAC in the technical development and operation of the IEN as required pursuant to this section. Members of the technical subcommittee shall be selected for their knowledge and experience in the development and technology necessary for the procurement and/or ongoing operation of a network that will enable the delivery of educational materials and resources, as provided in this section;

(j) Establish other subcommittees to provide specific assistance to the IPRAC, as may be deemed expedient and necessary for such purpose;

(k) Work with the private sector to deliver high-quality, cost-effective services statewide; and

(l) Cooperate with state and local governmental and educational entities and provide leadership and consulting for telecommunications for education.

(4) The IPRAC shall follow an implementation plan that:

(a) In the first phase, will connect each public high school with a scalable, high-bandwidth connection, including connections to each institution of higher education and the Idaho digital learning academy as provided for in chapter 55, title 33, Idaho Code, as necessary, thereby allowing any location on the IEN to share educational resources with any other location;

(b) Upon completion of the first phase, shall provide that each public high school will be served with high-bandwidth connectivity, internet access and equipment in at least one (1) two-way interactive video classroom; and

(c) In subsequent phases, will evaluate and make recommendations to the legislature for:

(i) Connectivity to each elementary and middle school;

(ii) The addition of libraries to the IEN; and

(iii) The migration of state agency locations from current technology and services.

(5) The IPRAC shall, in its administration of the provisions of this section, comply with all provisions of federal law and regulations necessary to obtain and maintain qualification of the IEN and its participating schools in order to enable receipt of federal universal service support funding and the federal e-rate discount program for schools and libraries including, but not limited to, maintenance of the IEN as a separate and distinct network to the extent necessary to obtain and maintain such qualification.

(6) Educational institutions served by the IEN shall manage site operations under policies established by the IPRAC and the state department of education.

(7) Idaho education network fund. There is hereby created in the state treasury the Idaho education network fund. Moneys in the fund shall consist of funds received from state appropriations, grants, federal moneys, donations or funds from any other source. Moneys in the fund may be expended, pursuant to appropriation, for implementation and ongoing costs of the IEN. The treasurer shall invest all idle moneys in the fund. Any interest earned on the investment of idle moneys shall be returned to the fund.

(8) Members of the IPRAC or any associated subcommittee shall not be compensated for service as such member, but shall receive per diem and travel allowance as provided for state employees, in such amount as is provided for in section 67-2008, Idaho Code.

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

Law without signature.

CHAPTER 358
(H.B. No. 728)

AN ACT

APPROPRIATING ADDITIONAL MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2010; REDUCING THE APPROPRIATION TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; PROVIDING LEGISLATIVE INTENT ON STATE EMPLOYEE HEALTH INSURANCE BENEFITS; DIRECTING THE TRANSFER OF MONEYS ON OR AFTER JULY 1, 2010; DIRECTING THE TRANSFER OF MONEYS ON OR AFTER JANUARY 1, 2011; PROVIDING LEGISLATIVE INTENT ON THE IDAHO EDUCATION NETWORK; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made in Section 1, Chapter 205, Laws of 2009, there is hereby appropriated to the Department of Administration the following amount to be expended for the designated program according to the designated expense class from the listed fund for the period July 1, 2009, through June 30, 2010:

I. PUBLIC WORKS:

FOR:

Operating Expenditures	\$200,000
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FROM:

Permanent Building Fund	\$200,000
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SECTION 2. Notwithstanding any other provision of law to the contrary, the appropriation made in Section 1, Chapter 205, Laws of 2009, to the Department of Administration is hereby reduced by the following amounts for the designated programs according to the designated expense classes from the listed fund for the period July 1, 2009, through June 30, 2010:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	\$77,500	\$5,000		\$82,500
II. INFORMATION TECHNOLOGY RESOURCE MANAGEMENT COUNCIL:				
FROM:				
General Fund	\$10,400	\$2,400		\$12,800

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
III. INFORMATION TECHNOLOGY:				
FROM:				
General Fund	\$22,800	\$56,800		\$79,600
IV. PUBLIC WORKS:				
FROM:				
General Fund		\$44,200		\$44,200
V. PURCHASING:				
FROM:				
General Fund	\$66,500	\$5,900		\$72,400
VIII. BOND PAYMENTS:				
FROM:				
General Fund			\$234,900	\$234,900
GRAND TOTAL	\$177,200	\$114,300	\$234,900	\$526,400

SECTION 3. There is hereby appropriated to the Department of Administration the following amounts to be expended for the designated programs according to the designated expense classes from the listed funds for the period July 1, 2010, through June 30, 2011:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. DIRECTOR'S OFFICE:				
FROM:				
General Fund	\$140,300	\$57,400		\$197,700
Indirect Cost Recovery Fund	619,200	258,300		877,500
Administration and Accounting Services Fund	62,400	20,000		82,400
Industrial Special Indemnity Fund	<u>147,500</u>	<u>109,700</u>		<u>257,200</u>
TOTAL	\$969,400	\$445,400		\$1,414,800
II. ADMINISTRATIVE RULES:				
FROM:				
Administrative Code Fund	\$201,000	\$312,500		\$513,500
III. INFORMATION TECHNOLOGY RESOURCE MGMT COUNCIL:				
FROM:				
General Fund	\$70,400	\$9,500		\$79,900
Administration and Accounting Services Fund	<u>408,700</u>	<u>327,800</u>		<u>736,500</u>
TOTAL	\$479,100	\$337,300		\$816,400

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
IV. INFORMATION TECHNOLOGY:				
FROM:				
General Fund	\$561,000	\$465,800		\$1,026,800
Idaho Education Network Fund	354,400	2,055,400	\$590,200	3,000,000
Indirect Cost Recovery Fund	422,400	69,900		492,300
Administration and Accounting Services Fund	<u>437,800</u>	<u>586,200</u>		<u>1,024,000</u>
TOTAL	\$1,775,600	\$3,177,300	\$590,200	\$5,543,100
V. PUBLIC WORKS:				
FROM:				
General Fund		\$306,900		\$306,900
Permanent Building Fund	\$1,624,600	1,689,000		3,313,600
Administration and Accounting Services Fund	<u>1,493,700</u>	<u>6,743,100</u>		<u>8,236,800</u>
TOTAL	\$3,118,300	\$8,739,000		\$11,857,300
VI. PURCHASING:				
FROM:				
General Fund	\$691,500			\$691,500
Administration and Accounting Services Fund	939,700	1,333,600	\$128,000	2,401,300
Federal Surplus Property Revolving Fund	<u>116,100</u>	<u>207,300</u>		<u>323,400</u>
TOTAL	\$1,747,300	\$1,540,900	\$128,000	\$3,416,200
VII. INSURANCE MANAGEMENT:				
FROM:				
Employee Group Insurance Fund	\$262,400	\$501,400		\$763,800
Retained Risk Fund	<u>396,900</u>	<u>236,900</u>		<u>633,800</u>
TOTAL	\$659,300	\$738,300		\$1,397,600
VIII. BOND PAYMENTS:				
FROM:				
General Fund		\$2,691,800	\$1,955,100	\$4,646,900
Permanent Building Fund		10,173,200	19,646,800	29,820,000
Administration and Accounting Services Fund		<u>422,200</u>	<u>233,000</u>	<u>655,200</u>
TOTAL		\$13,287,200	\$21,834,900	\$35,122,100
GRAND TOTAL	\$8,950,000	\$28,577,900	\$22,553,100	\$60,081,000

SECTION 4. In accordance with Section 67-3519, Idaho Code, the Department of Administration is authorized no more than one hundred fifty-one and seventy-five hundredths (151.75) full-time equivalent positions at any point during the period July 1, 2010, through June 30, 2011, for the programs specified in Section 3 of this act, unless specifically authorized by the Governor. The Joint Finance-Appropriations Committee will be notified promptly of any increased positions so authorized.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that the director of the Department of Administration, in accordance with Section 67-5761, Idaho Code, negotiate with sureties a contract with an insurance provider for fiscal year 2011 that, wherein such contract provides the same total health benefit, to the extent possible, for eligible state employees that is in place for fiscal year 2010 and took effect on June 14, 2009. The director shall not, under any circumstance, negotiate higher participant premiums, higher deductible amounts, higher stop-losses, higher copayments, or otherwise reduce the overall value of the plan currently in place to the participants. In the event that the director must negotiate a sub-plan or a plan separate from the total plan for a specific agency, the director has full discretion to negotiate all plan elements for the sub-plan or plan separate from the total plan. The state has generated excess reserves in the Group Insurance Fund due to prudent management of the plan by making statutory changes in eligibility for retirees; generating savings through plan design changes with the adoption of a drug formulary; and by changing the cost allocation methodology for all plan participants. The director of the Department of Administration is directed to use these reserves in fiscal year 2011, for two (2) premium holidays for agencies that paid their full allocated costs in fiscal year 2010; two (2) premium holidays for the employees; and absorb premium costs greater than those appropriated and/or allocated to the extent available within the total Health Insurance Reserve Fund. The Legislature gives further direction to the Department of Administration to implement a ninety (90) day waiting period for new employees hired on or after July 1, 2010, to be eligible to participate in the state Health Insurance Plan. The employee and eligible dependents shall be covered on the first day of the month following ninety (90) days of employment. Participating agencies shall continue to pay full allocated costs to the Office of Group Insurance through payroll deduction beginning on the first date of employment for the affected positions. The employee will not be charged a premium until they accept health insurance coverage. For the purposes of this intent language, the state of Idaho Group Health Insurance Plan means an insurance plan that provides coverage for medical, vision and dental claims. Disability insurance, retiree subsidy, flexible spending administrative costs and state administration costs are provided in the state Group Health Insurance Plan and are included in the total amount as provided by appropriation.

SECTION 6. The State Controller is hereby directed to transfer on July 1, 2010, or as soon thereafter as is practicable, \$1,382,100 from the Permanent Building Fund to the Administration and Accounting Services Fund/Facilities Services for statewide elected officials' rent.

SECTION 7. The State Controller is hereby directed to transfer on January 1, 2011, or as soon thereafter as is practicable, \$1,382,100 from the Permanent Building Fund to the Administration and Accounting Services Fund/Facilities Services for statewide elected officials' rent.

SECTION 8. The Legislature strongly supports the benefits of a statewide high-bandwidth education network. It is the intent of the Legislature that the Idaho Education Network Program and Resources Advisory Council (IPRAC) shall implement a contract monitoring procedure using the expertise of the IPRAC technical subcommittee. The Legislature also intends that IPRAC shall provide quarterly reports to the members of the Joint Finance-Appropriations Committee and the members of the Education Committees of the Senate and the House of Representatives, beginning July 1, 2010. Quarterly reports shall include the following: budgeted and actual expenditures of the Idaho Education Network (IEN); changes to the IEN business plan; a list of public schools, institutions, and/or state agencies that have been connected to the IEN; a description of the connection technology, bandwidth provided, and the carrier company providing the IEN services to such public schools, institutions, and/or state agencies; and the IEN training opportunities offered to public schools. The IPRAC quarterly reports may also include verbal or written testimony received from recipients of the IEN services.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Sections 1 and 2 of this act shall be in full force and effect on and after passage and approval.

Law without signature.

CHAPTER 359
(H.B. No. 675)

AN ACT

RELATING TO RAW MILK; AMENDING TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 11, TITLE 37, IDAHO CODE, TO PROVIDE THAT CERTAIN ACTIVITY SHALL NOT CONSTITUTE THE SALE OR RETAIL SALE OF RAW MILK OR RAW MILK PRODUCTS, TO PROVIDE CONDITIONS, TO PROVIDE FOR REGISTRATION, TO PROHIBIT CERTAIN ACTIVITIES, TO PROVIDE FOR VIOLATIONS AND PENALTIES, TO PROVIDE FOR CIVIL ACTIONS, TO PROVIDE FOR ADMINISTRATION AND ENFORCEMENT BY THE IDAHO STATE DEPARTMENT OF AGRICULTURE, TO PROVIDE FOR RULEMAKING AND TO PROVIDE FOR HOLD ORDERS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 11, Title 37, Idaho Code, and to read as follows:

CHAPTER 11
ACQUISITION OF RAW MILK

37-1101. ACQUISITION OF RAW MILK AND RAW MILK PRODUCTS BY OWNER. (1) The acquisition of raw milk or raw milk products from cows, sheep or goats by an owner of such cows, sheep or goats for use or consumption by the owner or members of the owner's household shall not constitute the sale or retail sale of raw milk or raw milk products and shall not be prohibited. The acquisition of raw milk or raw milk products from cows, sheep or goats by an owner of a cow share, sheep share or goat share for use or consumption by the owner or members of the owner's household shall not constitute the sale or retail sale of raw milk or raw milk products and shall not be prohibited provided the following conditions are met:

(a) Unless otherwise permitted by the Idaho state department of agriculture, no more than seven (7) cows, fifteen (15) sheep or fifteen (15) goats may be kept as part of a cow share, sheep share or goat share program.

(b) The owner of a cow share, sheep share or goat share shall receive raw milk or raw milk products directly from the farm or dairy where the cow, sheep, goat or dairy herd is located and the farm or dairy shall be registered pursuant to subsection (2) of this section. A person who is the owner of a cow share, sheep share or goat share in a cow, sheep, goat or dairy herd may receive raw milk or raw milk products on behalf of another owner of the same cow, sheep, goat or dairy herd. A person who is not an owner of a cow share, sheep share or goat share in the same cow, sheep, goat or dairy herd shall not receive raw milk or raw milk products on behalf of the owner of a cow share, sheep share or goat share.

(c) The raw milk or raw milk products are obtained pursuant to the ownership of a cow, sheep, goat, cow share, sheep share or goat share. A cow share, sheep share or goat share is an undivided ownership interest in a cow, sheep, goat or herd of cows, sheep or goats, created by a written contractual relationship between an owner and a farmer that includes a bill of sale, stock certificate or other written evidence satisfactory to the director of the Idaho state department of agriculture of a bona fide ownership interest in the cow, sheep, goat or dairy herd. Such written contractual relationship shall also include boarding terms under which the cow, sheep, goat or dairy herd are boarded, milked and cared for. Such written contractual relationship shall also clearly set forth that the share owner is entitled to receive a share of milk or milk products from the cow, sheep, goat or dairy herd and contain a conspicuous notification that the milk or milk products are raw and not pasteurized.

(d) Information describing the standards used by the farm or dairy with respect to herd health, and in the production of milk from the herd, is provided to the share owner by the farmer together with results of tests performed on the cows, sheep or goats that produced the milk, tests performed on the milk and an explanation of the tests and test results.

(e) A farm or dairy operating a cow share, sheep share or goat share program with more than three (3) cows, seven (7) sheep or seven (7) goats shall test such raw milk or raw milk products at a frequency of at least four (4) separate months during any consecutive six (6) month period. Each batch of raw milk shall test negative for drugs. Milk quality tests and drug tests shall be conducted utilizing testing methods approved by the Idaho state department of agriculture. In no event shall such raw milk or raw milk products contain:

- (i) More than fifteen thousand (15,000) bacteria per milliliter;
- (ii) More than twenty-five (25) coliform per milliliter;
- (iii) More than five hundred thousand (500,000) somatic cells per milliliter of raw milk from a cow or more than seven hundred fifty thousand (750,000) somatic cells per milliliter of raw milk from a sheep or goat.

(f) Whenever three (3) of the last five (5) consecutive bacteria, coliform, or somatic cell tests exceeds any of the milk quality standards listed in this section, the cow share, sheep share or goat share owners shall be notified and no milk shall be offered for human consumption until such time it meets the standard.

(g) Milk testing positive for drugs shall not be used for human consumption.

(h) All cows, sheep or goats kept as part of a cow share, sheep share or goat share program shall be tuberculosis and brucellosis free and shall be tested for tuberculosis and brucellosis annually.

(2) Registration of a farm or dairy as required by subsection (1) (b) of this section shall be accomplished by delivering to the Idaho state department of agriculture a written statement containing:

- (a) The name of the farmer, farm or dairy;
- (b) A valid, current address of the farmer, farm or dairy; and
- (c) A statement that raw milk or raw milk products are being produced at the farm or dairy.

(3) No person who obtains raw milk or raw milk products in accordance with this section shall sell such raw milk or raw milk products. Unless otherwise permitted by the Idaho state department of agriculture, it shall be unlawful for an owner of a cow, sheep, goat, cow share, sheep share or goat share to sell, offer for sale or advertise for sale to any person or distribute to any restaurant or food establishment, grocery store or farmers market any raw milk or raw milk products produced as provided herein. Any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding two hundred dollars (\$200) or imprisonment in the county jail not to exceed three (3) months, or by both such fine and imprisonment. The director of the Idaho state department of agriculture may bring civil actions to enjoin violation of the provisions of this section.

(4) No producer of raw milk or raw milk products as provided in this section shall publish any statement that implies approval or endorsement by the Idaho state department of agriculture.

(5) The Idaho state department of agriculture is charged with the responsibility of administration and enforcement of this chapter and is empowered to promulgate and enforce rules not inconsistent with this chapter.

(6) The Idaho state department of agriculture is authorized to issue a hold order to stop the distribution of raw milk or raw milk products when it is deemed necessary to protect human health.

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

Approved April 11, 2010.

HOUSE JOINT RESOLUTIONS

(H.J.R. No. 4)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 3C, ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO HOSPITALS AND HEALTH SERVICES TO AUTHORIZE PUBLIC HOSPITALS, ANCILLARY TO THEIR OPERATIONS AND IN FURTHERANCE OF HEALTH CARE NEEDS IN THEIR SERVICE AREAS, TO INCUR INDEBTEDNESS OR LIABILITY TO PURCHASE, CONTRACT, LEASE OR CONSTRUCT OR OTHERWISE ACQUIRE FACILITIES, EQUIPMENT, TECHNOLOGY AND REAL PROPERTY FOR HEALTH CARE OPERATIONS, PROVIDED THAT NO AD VALOREM TAX REVENUES SHALL BE USED FOR SUCH ACTIVITIES; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 3C, Article VIII, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 3C. HOSPITALS AND HEALTH SERVICES -- AUTHORIZED ACTIVITIES AND FINANCING. Provided that no ad valorem tax revenues shall be used for activities authorized by this section, public hospitals, ancillary to their operations and in furtherance of health care needs in their service areas, may: (i) incur indebtedness or liability to purchase, contract, lease or construct or otherwise acquire facilities, equipment, technology and real property for health care operations as provided by law; (ii) acquire, construct, install and equip facilities or projects to be financed for, or to be leased, sold or otherwise disposed of to persons, associations or corporations other than municipal corporations and may, in the manner prescribed by law, finance the costs thereof; (iii) engage in shared services and other joint or cooperative ventures; ~~(iiiiv)~~ enter into joint ventures and partnerships; ~~(iv)~~ form or be a shareholder of corporations or a member of limited liability companies; ~~(vi)~~ have members of its governing body or its officers or administrators serve as directors, managers, officers or employees of any venture, association, partnership, corporation or limited liability company as authorized by this section; ~~(vii)~~ own interests in partnerships, corporations and limited liability companies. Any obligations incurred pursuant to this section shall be payable solely from charges, rents or payments derived from the existing facilities and the facilities or projects financed thereby and shall not be secured by the full faith and credit or the taxing power of the county, hospital taxing district, the state,

or any other political subdivision; and provided further, that any county or public hospital taxing district contracting such indebtedness shall own its just proportion to the whole amount so invested. The authority granted by this section shall be exercised for the delivery of health care and related service and with the prior approval of the governing body of the county, hospital district or other governing body of a public hospital. No provisions of this Constitution including, but not limited to Sections 3 and 4 of Article VIII, and Section 4 of Article XII, shall be construed as a limitation upon the authority granted under this section.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 3C, Article VIII, of the Constitution of the State of Idaho be amended to authorize public hospitals, ancillary to their operations and in furtherance of health care needs in their service areas, to incur indebtedness or liability to purchase, contract, lease or construct or otherwise acquire facilities, equipment, technology and real property for health care operations, provided that no ad valorem tax revenues shall be used for such activities?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House February 23, 2010

Adopted by the Senate March 16, 2010

(H.J.R. No. 5)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 3E, ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO REVENUE BOND FINANCING OF POLITICAL SUBDIVISIONS OF THE STATE AND REGIONAL AIRPORT AUTHORITIES TO PROVIDE FOR THE ISSUANCE OF REVENUE AND SPECIAL FACILITY BONDS BY POLITICAL SUBDIVISIONS OF THE STATE AND REGIONAL AIRPORT AUTHORITIES AS DEFINED BY LAW, IF OPERATING AN AIRPORT TO ACQUIRE, CONSTRUCT, INSTALL, AND EQUIP LAND, FACILITIES, BUILDINGS, PROJECTS OR OTHER PROPERTY, WHICH ARE HEREBY DEEMED TO BE FOR A PUBLIC PURPOSE, TO BE FINANCED FOR, OR TO BE LEASED, SOLD OR OTHERWISE DISPOSED OF TO PERSONS, ASSOCIATIONS OR CORPORATIONS, OR TO BE HELD BY THE SUBDIVISION OR REGIONAL AIRPORT AUTHORITY, AND MAY IN THE MANNER PRESCRIBED BY LAW ISSUE REVENUE AND SPECIAL FACILITY BONDS TO FINANCE THE COSTS THEREOF, PROVIDED THAT ANY SUCH BONDS SHALL BE PAYABLE SOLELY FROM FEES, CHARGES, RENTS, PAYMENTS, GRANTS, OR ANY OTHER REVENUES DERIVED FROM THE AIRPORT OR ANY OF ITS FACILITIES, STRUCTURES, SYSTEMS, OR PROJECTS, OR FROM ANY LAND, FACILITIES, BUILDINGS, PROJECTS OR OTHER PROPERTY FINANCED BY SUCH BONDS, AND SHALL NOT BE SECURED BY THE FULL FAITH AND CREDIT OR THE TAXING POWER OF THE SUBDIVISION OR REGIONAL AIRPORT AUTHORITY; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Article VIII, of the Constitution of the State of Idaho, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 3E, Article VIII, of the Constitution of the State of Idaho and to read as follows:

SECTION 3E. AIRPORTS AND AIR NAVIGATION FACILITIES -- AIRPORT RELATED PROJECTS -- REVENUE AND SPECIAL FACILITY BOND FINANCING. Political subdivisions of the state and regional airport authorities as defined by law, if operating an airport, may acquire, construct, install, and equip land, facilities, buildings, projects or other property, which are hereby deemed to be for a public purpose, to be financed for, or to be leased, sold or otherwise disposed of to persons, associations or corporations, or to be held by the subdivision or regional airport authority, and may in the manner prescribed by law issue revenue and special facility bonds to finance the costs thereof; provided that any such bonds shall be payable solely from fees, charges, rents, payments, grants, or any other revenues derived from the airport or any of its facilities, structures, systems, or projects, or from any land, facilities, buildings, projects or other property financed by such bonds, and shall not be secured by the full faith and credit or the taxing power of the subdivision or regional airport authority. No provision of this constitution including, but not limited to, sections 3 and 4 of article VIII and section 4 of article XII, shall be construed as a limitation upon the authority granted under this section.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Article VIII, of the Constitution of the State of Idaho be amended by the addition of a New Section 3E, to provide for the issuance of revenue and special facility bonds by political subdivisions of the state and regional airport authorities as defined by law, if operating an airport to acquire, construct, install, and equip land, facilities, buildings, projects or other property, which are hereby deemed to be for a public purpose, to be financed for, or to be leased, sold or otherwise disposed of to persons, associations or corporations, or to be held by the subdivision or regional airport authority, and may in the manner prescribed by law issue revenue and special facility bonds to finance the costs thereof; provided that any such bonds shall be payable solely from fees, charges, rents, payments, grants, or any other revenues derived from the airport or any of its facilities, structures, systems, or projects, or from any land, facilities, buildings, projects or other property financed by such bonds, and shall not be secured by the full faith and credit or the taxing power of the subdivision or regional airport authority?"

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House February 24, 2010

Adopted by the Senate March 16, 2010

(H.J.R. No. 7)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE VIII, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 3D, ARTICLE VIII, RELATING TO AUTHORIZED INDEBTEDNESS FOR MUNICIPAL ELECTRIC SYSTEMS, TO PROVIDE THAT ANY CITY OWNING A MUNICIPAL ELECTRIC SYSTEM MAY ACQUIRE, CONSTRUCT, INSTALL AND EQUIP ELECTRIC GENERATING, TRANSMISSION AND DISTRIBUTION FACILITIES FOR THE PURPOSE OF SUPPLYING ELECTRICITY TO CUSTOMERS LOCATED WITHIN THE SERVICE AREA OF EACH SYSTEM ESTABLISHED BY LAW AND FOR THE PURPOSE OF PAYING THE COST THEREOF, ISSUE REVENUE BONDS WITH THE ASSENT OF A MAJORITY OF THE QUALIFIED ELECTORS VOTING AT AN ELECTION HELD AS PROVIDED BY LAW AND INCUR INDEBTEDNESS OR LIABILITY UNDER AGREEMENTS TO PURCHASE, SHARE, EXCHANGE OR TRANSMIT WHOLESALE ELECTRICITY FOR THE USE AND BENEFIT OF CUSTOMERS LOCATED WITHIN SUCH SERVICE AREA AND PROVIDED THAT ANY REVENUE BONDS, INDEBTEDNESS OR LIABILITY SHALL BE PAYABLE SOLELY FROM THE RATES, CHARGES OR REVENUES DERIVED FROM THE MUNICIPAL ELECTRIC SYSTEM AND SHALL NOT BE SECURED BY THE FULL FAITH AND CREDIT OR THE TAXING POWER OF THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Article VIII, of the Constitution of the State of Idaho, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 3D, Article VIII, of the Constitution of the State of Idaho and to read as follows:

SECTION 3D. MUNICIPAL ELECTRIC SYSTEMS -- AUTHORIZED INDEBTEDNESS. Notwithstanding the limitations and requirements of Section 3, Article VIII, of the Constitution of the State of Idaho, any city owning a municipal electric system may:

(a) acquire, construct, install and equip electric generating, transmission and distribution facilities for the purpose of supplying electricity to customers located within the service area of each system established by law and for the purpose of paying the cost thereof, may issue revenue bonds with the assent of a majority of the qualified electors voting at an election held as provided by law; and

(b) incur indebtedness or liability under agreements to purchase, share, exchange or transmit wholesale electricity for the use and benefit of customers located within such service area;

provided that any revenue bonds, indebtedness or liability shall be payable solely from the rates, charges or revenues derived from the municipal electric system and shall not be secured by the full faith and credit or the taxing power of the city, the state or any political subdivision.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Article VIII, of the Constitution of the State of Idaho be amended by the addition of a New Section 3D to provide that any city owning a municipal electric system may:

(a) acquire, construct, install and equip electric generating, transmission and distribution facilities for the purpose of supplying electricity to customers located within the service area of each system established

by law and for the purpose of paying the cost thereof, may issue revenue bonds with the assent of a majority of the qualified electors voting at an election held as provided by law; and

(b) incur indebtedness or liability under agreements to purchase, share, exchange or transmit wholesale electricity for the use and benefit of customers located within such service area;

provided that any revenue bonds, indebtedness or liability shall be payable solely from the rates, charges or revenues derived from the municipal electric system and shall not be secured by the full faith and credit or the taxing power of the city, the state or any political subdivision?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Adopted by the House February 25, 2010

Adopted by the Senate March 16, 2010

SENATE JOINT MEMORIALS

(S.J.M. No. 103)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SECRETARY OF EDUCATION OF THE UNITED STATES, TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, we have witnessed a revolution in promoting, protecting and advancing the educational rights of students with disabilities since Congress originally enacted Public Law 94-142, The Education for All Handicapped Children Act in 1975, later to be known as the Individuals with Disabilities Education Act or IDEA; and

WHEREAS, IDEA has helped millions of children with special needs receive a quality education; and

WHEREAS, when Congress enacted the predecessor legislation to IDEA in 1975, the federal government was to pay up to forty percent of each state's "excess cost" of educating children with disabilities; and

WHEREAS, appropriations for IDEA have increased over the last decade, however, federal funding for IDEA has never exceeded eighteen percent of the states' cost; and

WHEREAS, in the current economic downturn, with states facing billions of dollars in funding shortfalls, this long-term federal practice of failing to maximize federal IDEA funding is straining the budgets of school districts and states because local communities and states are forced to pay a higher proportion of special education costs; and

WHEREAS, it is time for the federal government to pay its fair share of the costs of IDEA and fulfill its commitment to students with disabilities, their families, and the states and school districts that provide the students with a free and appropriate public education.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that Congress is urged to pass and the President sign federal legislation to fully fund forty percent of the costs of IDEA, recognizing that some types of disabilities are much more expensive to address than others and that the distribution of children with severe and more expensive disabilities may cluster in some areas that have outstanding medical facilities or exemplary programs for specific disabilities.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of Education of the United States, the President of the Senate and the Speaker of the House of Repre-

sentatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 17, 2010

Adopted by the House March 2, 2010

(S.J.M. No. 104)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, since the year 2007, all horse processing facilities throughout the United States have been closed, resulting in an ever increasing issue of concern for many citizens; and

WHEREAS, federal legislation has been introduced to amend Title 18 of the U.S. Code to make it illegal to knowingly possess, ship, transport, purchase, sell, deliver or receive any horse intended for human consumption; and

WHEREAS, annual congressional appropriation provisions enacted since fiscal year 2008 have prohibited the expenditure of any federal funding for the inspection of horses prior to processing for human consumption and prohibited the United States Department of Agriculture from issuing rules that provide for a user-fee system for inspections; and

WHEREAS, the loss of secondary markets has severely impacted the livestock industry by eliminating the salvage value of horses and has dramatically reduced the market value of all horses; and

WHEREAS, prohibitions regarding the processing of horses have resulted in significant increases in abandoned and starving animals and have had significant economic impact on the entire equine industry. The Humane Society of the United States has acknowledged the extreme costs and staff time needed to shelter unwanted horses; and

WHEREAS, the American Association of Equine Practitioners has estimated the cost of a horse's basic care is approximately \$1,825 annually not including veterinary and farrier care; and

WHEREAS, the National Horse Protection Coalition, a proponent of processing bans, acknowledges that rescue organizations will not adopt all unwanted horses and some will indeed be euthanized; and

WHEREAS, the American Horse Protection Association has observed that not all sanctuaries may have the means or business skills to take in large numbers of horses, and that no nationwide standard-setting or oversight system exists for them at this time; and

WHEREAS, in 2006, the last full year in which horse processing was done in the United States, 105,000 surplus horses were processed. The United States Bureau of Land Management was housing in excess of 31,000 surplus wild horses in holding facilities as of September, 2009; and

WHEREAS, issues related to the humane handling and processing of surplus horses are best addressed by proper regulations and inspection and state agriculture and rural leaders recognize the necessity and benefit of a state's ability to direct the transport and processing of horses.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that Congress is urged to oppose federal leg-

islation that interferes with a state's ability to direct the transport and processing of horses and is encouraged to discontinue language in the yearly appropriation bills which has effectively ended processing of horses in the United States.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 22, 2010

Adopted by the House March 29, 2010

(S.J.M. No. 105)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the federal Equal Access to Justice Act (EAJA), as enacted in 1980, together with other attorney fee shifting statutes, were enacted to restrain overzealous regulators and reimburse parties subjected to unreasonable government action by providing equal access to courts. These federal statutes were designed to reimburse attorney's fees so that a party that otherwise would not be able to afford litigation against the government, could have an opportunity to recover attorney's fees if the federal government's litigation position was not substantially justified; and

WHEREAS, certain nonprofit environmental groups have abused the original intent of many of these fee shifting statutes, finding procedural flaws in agency actions, suing the government and receiving millions of federal taxpayer dollars in attorney's fees for settling or winning such cases. Receipt of fees in this manner allows groups to continue litigation against the government. Ranchers and those who are the subject of these lawsuits must pay their own attorney's fees in order to intervene and participate in litigation. The Equal Access to Justice Act is also inequitable in that it permits any nonprofit to receive reimbursement regardless of its net worth, while limiting for-profit reimbursement to only those entities with a net worth of less than \$7 million; and

WHEREAS, the Equal Access to Justice Act provides that the Chairman of the Administrative Conference of the United States shall report annually to Congress as to the amount of fees and other expenses awarded during the preceding fiscal year, along with the number, nature and amount of awards, claims involved in controversy and any other relevant information which might aid Congress in evaluating the scope and impact of awards. In 1995, however, the Conference was no longer funded. Although reauthorized in 2008, the Conference remains without a chairman and staff. The lack of reporting has acted to eliminate the transparency of the program which is vital to maintaining public trust in taxpayer expenditures as well as assuring that taxpayer funds are properly expended; and

WHEREAS, the United States economy is in severe distress with the federal government exceeding over \$1 trillion in deficit spending in the previous fiscal year. Congress needs to look closely at every expenditure of tax-

payer dollars before it is spent and scrutinize expenditures to ensure they are necessary and constitutional.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the State of Idaho hereby urges the President of the United States and the United States Congress to undertake an immediate and thorough review of federal expenditures under the Equal Access to Justice Act and other fee shifting statutes.

BE IT FURTHER RESOLVED that the Idaho Legislature strongly supports the passage of federal legislation that restores the mandatory reporting requirements under the Equal Access to Justice Act, and other federal fee shifting statutes, and makes all data associated with federal awards under the Act publicly available, including the name and location of recipients of awards, the lawsuit for which the awards were made, the amount of attorney's fees paid and the per hour rate in which they were calculated and the names of the attorneys who were compensated.

BE IT FURTHER RESOLVED that the Idaho Legislature requests the relevant committees of Congress conduct thorough oversight hearings on the use and/or abuse of Equal Access to Justice Act and other fee shifting statutes, and hear testimony about potential reforms to the Act that would make it more transparent, equitable and accountable to the taxpayers that fund it.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 25, 2010

Adopted by the House March 29, 2010

(S.J.M. No. 106)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Tenth Amendment to the United States Constitution states that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

WHEREAS, the states primarily regulate today's health insurance market and provide aggressive oversight of all aspects of this market and enforce consumer protection as well as ensure a local, responsive presence for consumers; and

WHEREAS, states like Idaho are working hard to create public-private health care partnerships and facilitate local solutions; and

WHEREAS, the Congress of the United States has passed legislation that will impose restrictions on the states' ability to regulate health plans and will require citizens to acquire health care insurance coverage; and

WHEREAS, the creation of a new federal system of regulation for health insurance would be inefficient, unnecessary, not cost-effective and an additional burden on states; and

WHEREAS, the legislation passed by the Congress will impose a legacy of untold debt on our children and grandchildren; and

WHEREAS, it is in the interest of the citizens of the State of Idaho to have an amendment to the Constitution of the United States prohibiting the Congress from making any law that would require citizens to enroll in, participate in or secure health care insurance and that would penalize any citizen who declines to purchase or participate in any health care insurance program.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho Legislature urges Congress to take action forthwith to amend the United States Constitution by adding a Twenty-eighth Amendment as follows:

The Congress shall make no law requiring citizens of the United States to enroll in, participate in or secure health care insurance or to penalize any citizen who declines to purchase or participate in any health care insurance program.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the State of Idaho in the Congress of the United States and the presiding officers of both houses of the Legislature of each of our sister states in the Union.

Adopted by the Senate March 29, 2010

Adopted by the House March 29, 2010

HOUSE JOINT MEMORIALS

(H.J.M. No. 9)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, on April 2, 2009, federal legislation was introduced as Senate Bill 787 in the United States Senate by Senator Russell Feingold. The legislation is known as the Clean Water Restoration Act, and is proposed to clarify which waters are subject to the jurisdiction of the United States under the Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq.; and

WHEREAS, the federal legislation purports to seek to clarify jurisdiction by striking the term "navigable waters" and replacing it with "waters of the United States" defined as "all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing..."; and

WHEREAS, striking the term "navigable waters" would expand the federal government's reach beyond that which was intended by the Clean Water Act and thereby blur jurisdictional authority to manage and regulate water resources within state and local government jurisdictions; and

WHEREAS, given the ambiguity of the legislation's jurisdictional reach, the implementation of the proposal would lead to increased litigation and uncertainty among public and private stakeholders, including homeowners, farmers, water districts and state and federal agencies, among others.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature adamantly opposes the proposed Clean Water Restoration Act, introduced as Senate Bill 787 in the United States Senate, and urges congress not to enact this or any similar legislation.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 18, 2010

Adopted by the Senate March 1, 2010

(H.J.M. No. 10)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES AND TO THE SECRETARY OF THE AIR FORCE.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the state of Idaho is proud of its military installations and the dedicated men and women who offer their service to keep our country safe. The Idaho National Guard, composed of the Air National Guard and the Army National Guard, is the fourth largest employer in the state; and

WHEREAS, the United States Air Force has had a presence in Idaho for more than 56 years, with numerous facilities, including Mountain Home Air Force Base and Boise's Gowen Field. Mountain Home Air Force Base is one of the premier training ranges in the nation and Boise's Gowen Field is the only National Guard facility focused on providing Total Joint Force training in the region; and

WHEREAS, following approval of Joint Strike Fighter basing criteria for both training and operational bases for the new F-35 missions by the Secretary of the Air Force, Mountain Home Air Force Base was selected as a finalist as an operational base and Boise's Gowen Field was selected as a finalist as a training base; and

WHEREAS, southern Idaho's climate is well suited to the F-35 missions, with more than 321 flyable days per year. Idaho's facilities provide ample and unhindered training airspace close to installations, enabling more training time with less fuel consumption and Idaho's facilities are unencumbered by the encroachment of civilian land use, lowering the environmental impact on surrounding communities; and

WHEREAS, Idaho facilities each have the capacity to support at least three squadrons, including runway space, ramp space, personnel housing and maintenance and hangar bays necessary to accommodate the missions; and

WHEREAS, Idaho communities are patriotic, support their military installations and would welcome the new F-35 missions.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the United States Air Force to select Idaho for its F-35 missions.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, the congressional delegation representing the State of Idaho in the Congress of the United States and the Secretary of the United States Air Force.

Adopted by the House February 9, 2010

Adopted by the Senate February 19, 2010

(H.J.M. No. 11)

A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Cap-and-Trade will dramatically affect American farmers as it is estimated that this legislation will cause farm income to drop 94 percent, or over \$50 billion by 2035; and

WHEREAS, the cost for hard-working American families will be staggering, totaling \$890 per family per year according to the Congressional Budget Office, and at least \$1,218 per average annual household burden, or approximately two percent of the average household income; and

WHEREAS, these huge costs per family will fail to accomplish environmental goals because climate models and environmental groups show that reductions would have little or no detectable impact on global average temperatures; and

WHEREAS, under the Waxman-Markey Cap-and-Trade system, once carbon emissions allowances are distributed, entities will be free to buy and sell allowances, creating a billion dollar commodity and derivatives market subjecting energy prices to Wall Street speculation and market volatility; and

WHEREAS, Cap-and-Trade could increase greenhouse gas emissions, as the cost of complying with the legislation could force companies to move their industrial operations to countries with inferior pollution control technology resulting in five-times greater emissions of greenhouse gases and causes lost jobs at a time when we cannot afford it; and

WHEREAS, the Waxman-Markey bill expands the realm of the federal government over energy utilities and manufacturers, establishes new federal agencies, and allocates taxpayer funds to be handed out at the discretion of the EPA Administrator and the U.S. Secretary of Energy.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize that Cap-and-Trade is a tax on energy that falls on hard-working Idaho families and that the cost of this tax greatly exceeds any benefit, especially in this time of economic crises and that we urge our members of Congress to vote "NO" on Cap-and-Trade and Congress as a whole to reject all efforts to use global warming as a pretext to increase federal revenues.

BE IT FURTHER RESOLVED that we support the use of all energy sources that will reduce carbon emissions, especially nuclear, clean-coal and renewable energy technologies including wind, solar, geothermal and hydropower.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 23, 2010
Adopted by the Senate March 12, 2010

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 113)

A CONCURRENT RESOLUTION

COMMENDING THE IDAHO CHILDREN AND NATURE NETWORK FOR ITS SUCCESS IN RAISING AWARENESS ABOUT THE IMPORTANCE OF CHILDREN ESTABLISHING A MEANINGFUL AND LASTING BOND WITH THE GREAT OUTDOORS.

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

WHEREAS, children today are far less likely than past generations to spend time outdoors; and

WHEREAS, a growing body of research indicates that children pay a high physical, mental and emotional price for inactivity resulting in increased childhood obesity, depression, inattentiveness, diminished creativity and, what author Richard Louv has dubbed, "nature deficit disorder"; and

WHEREAS, outdoor activities contribute to the physical well-being and happiness of the people of the state; and

WHEREAS, resource stewardship is not possible without a strong sense of connection to the natural world that promotes a sense of place; and

WHEREAS, Idaho recognizes the troubling trend of disconnection called "natural deficit," where children spend on average seven and one-half hours each day engaged in electronic media such as video games and television, and are spending half as much time outdoors as they did just 20 years ago; and

WHEREAS, Idaho is committed to finding solutions to reverse the "natural deficit" trend in Idaho by reconnecting children to the great outdoors through outdoor youth programming, opportunities for recreation on public lands and environmental and natural resource education; and

WHEREAS, the "Be Outside - Idaho Children in Nature" initiative is a cooperative effort of state, federal and private partnerships throughout Idaho whose network mission is to: "Connect children with nature in Idaho, from backyards to mountaintops"; and

WHEREAS, www.beoutsideidaho.org is a comprehensive resource Idahoans can utilize to post and access outdoor activities and events to encourage outdoor activity for Idaho's youth.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we recognize the efforts of the Idaho Children and Nature Network for its success in generating awareness about the importance of encouraging Idaho children to find a sense of place, reconnect with nature and be outside with the initiative "Be Outside - Idaho Children in Nature" and we invite citizens to take advantage of the many opportunities our state offers for family outdoor recreational activities.

Adopted by the Senate February 9, 2010

Adopted by the House March 23, 2010

(S.C.R. No. 115)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND EXPRESSING GRATITUDE AND RECOGNIZING ALL PERSONS AND ENTITIES THAT WORKED ON AND WERE ASSOCIATED WITH THE RENOVATION OF THE CAPITOL BUILDING OF THE STATE OF IDAHO.

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

WHEREAS, the Idaho State Capitol Building in Boise has been the historic center of lawmaking since it was originally constructed, beginning in 1905, and completed in 1920, employing over 2,000 people at a cost of \$2,098,455.05; and

WHEREAS, the Legislature of the State of Idaho in 1998 authorized the Idaho State Capitol Commission to create master plans ten years in the making that would ensure the Capitol Building's preeminence for future generations through a historic restoration and expansion of the people's house, accommodating more participants of the legislative process and ensuring its survival for years to come; and

WHEREAS, the project was authorized in 1998, with master plans developed in 2000 and 2005, fundraising taking place therein, and building commencing in 2007, with the entire renovation reaching completion in 2009; and

WHEREAS, the goal of this restoration and expansion project was to preserve historic features and value of the building, to restore everything to its original appearance after the completion of the project, to rehabilitate by making good use of the building while still preserving its historic and architectural integrity, and to expand underground with the addition of atrium wings to make for a larger, more spacious public viewing of the legislative hearing rooms; and

WHEREAS, much of the restoration included safety, fire, electrical, heating, ventilating and air conditioning improvements, as well as refurbishing the marble flooring, wooden flooring and doors, light fixtures and windows; and

WHEREAS, thousands of people worked on the restoration project as thousands did during its original construction making this \$120 million project possible.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we honor, express gratitude and recognize the vision, creativity and hard work of all those responsible for the notable success of the Capitol Renovation Project including the Capitol Commission members past and present, the Division of Public Works project team, the architects, designers and construction entities, and last but not least, the hundreds of workers, artisans and craftsmen responsible for the superb quality of the Capitol Renovation, who have left a direct personal legacy for generations of Idahoans to enjoy when they visit our beautiful Capitol.

Adopted by the Senate February 17, 2010

Adopted by the House March 23, 2010

(S.C.R. No. 118)

A CONCURRENT RESOLUTION

STATING THE FINDINGS OF THE LEGISLATURE AND STRONGLY ENCOURAGING AND URGING THE IDAHO DEPARTMENT OF FISH AND GAME AND THE GOVERNOR'S OFFICE OF SPECIES CONSERVATION TO TAKE THE LEAD IN ARRANGING MEETINGS WITH SIMILAR AGENCIES IN OTHER STATES TO ESTABLISH, THROUGH DIALOGUE, COOPERATIVE AND COLLABORATIVE EFFORTS IN ADDRESSING ISSUES RELATING TO WOLF MANAGEMENT AND CONTROL.

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

WHEREAS, since the delisting of wolves in May of 2009, Idaho's Department of Fish and Game has been tasked with the management of wolves in the state of Idaho; and

WHEREAS, the mission of the Governor's Office of Species Conservation is to coordinate policies and programs related to the conservation of threatened, endangered and candidate species in Idaho; and

WHEREAS, there are roughly a dozen states in the country where gray wolves exist in the wild and many of those states are also involved in addressing issues relating to wolf population and management, particularly in the upper Great Lakes region and the Northern Rocky Mountain region; and

WHEREAS, past and present litigation involving gray wolves has cost the state of Idaho a significant amount of public money and resources. Other states have also been faced with lengthy litigation efforts involving gray wolves; and

WHEREAS, in numerous areas of the country, wolves are addressed regionally by the U.S. Fish and Wildlife Service. The actions of one state can thereby impact other states considered to be part of its region; and

WHEREAS, cooperative and collaborative efforts between state agencies is often of significant value and benefit in addressing and resolving issues of common concern, including natural resource related issues that overlap state borders.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we strongly encourage and urge the Idaho Department of Fish and Game and the Governor's Office of Species Conservation to take the lead in arranging meetings with similar agencies in other states to establish, through dialogue, cooperative and collaborative efforts in addressing issues relating to wolf management and control.

Adopted by the Senate February 24, 2010

Adopted by the House March 29, 2010

(S.C.R. No. 119)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DIVISION OF BUILDING SAFETY RELATING TO RULES OF BUILDING SAFETY.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Division of Building Safety relating to Rules of Building Safety is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 07.03.01, Rules of Building Safety, Rules of the Division of Building Safety, adopted as a pending rule under Docket Number 07-0301-0902, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 22, 2010

Adopted by the House March 23, 2010

(S.C.R. No. 120)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DIVISION OF BUILDING SAFETY RELATING TO RULES GOVERNING PLUMBING SAFETY LICENSING.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Division of Building Safety relating to Rules Governing Plumbing Safety Licensing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 07.02.05, Rules Governing Plumbing Safety Licensing, Rules of the Division of Building Safety, adopted as a pending rule under Docket Number 07-0205-0901, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 24, 2010

Adopted by the House March 23, 2010

(S.C.R. No. 121)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE TRANSPORTATION DEPARTMENT RELATING TO RULES GOVERNING LICENSE PLATE PROVISIONS.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Transportation Department relating to Rules Governing License Plate Provisions is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 39.02.60, Rules Governing License Plate Provisions, Section 204, relating to Permanent Commercial Trailer - Business Logo Plates Provisions, only, Rules of the Transportation Department, adopted as a pending rule under Docket Number 39-0260-0901, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 25, 2010

Adopted by the House March 2, 2010

(S.C.R. No. 122)

A CONCURRENT RESOLUTION
 STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DEPARTMENT OF FISH AND GAME RELATING TO RULES GOVERNING FISH.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Department of Fish and Game relating to Rules Governing Fish is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.11, Rules Governing Fish, Section 201, Fishing Methods and Gear, Subsection 11, Use of Hands, only, relating to Rules of the Department of Fish and Game, adopted as a pending rule under Docket Number 13-0111-0901, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the Senate February 25, 2010

Adopted by the House March 2, 2010

(S.C.R. No. 125)

A CONCURRENT RESOLUTION
 STATING LEGISLATIVE FINDINGS AND APPROVING ADMINISTRATIVE RULES THAT IMPOSE A FEE OR CHARGE, WITH STATED EXCEPTIONS AND REJECTING CERTAIN AGENCY RULES THAT ARE NOT APPROVED.

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

WHEREAS, the Legislature pursuant to Section 67-5224, Idaho Code, must approve certain administrative rules that impose a fee or charge by adoption of a concurrent resolution before the rules become effective; and

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Department of Health and Welfare, Rules Governing Standards for Child Care Licensing is not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Lands governing Regulation of Beds, Waters and Airspace Over Navigable Lakes are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Lands governing the Leases on State-Owned Submerged and Formerly Submerged Lands are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule docket of the Endowment Fund Investment Board, Rules Governing the Credit Enhancement Program for School Districts is not consistent with legislative intent; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all pending administrative rules or portions of pending administrative rules adopted by state agencies pursuant to the Administrative Procedure Act during the prior calendar year, and submitted through the Office of Rules Coordinator to the Legislature for review during the 2010 legislative session, which impose a fee or charge, be, and the same are approved, with the exception of the following enumerated pending fee rules:

IDAPA 16.06.02, Rules of the Department of Health and Welfare, Rules Governing Standards for Child Care Licensing, adopted as a pending fee rule under Docket Number 16-0602-0901, the entire rule-making docket.

IDAPA 20.03.04, Rules of the Department of Lands, Regulation of Beds, Waters and Airspace Over Navigable Lakes, Section 020, Applications, Subsection 07.e, Forms, Filing, Section 035, Temporary Permits, Subsection 04, Fee, and Section 065, Assignments, Subsection 02, Assignment Fee, only, adopted as pending fee rules under Docket Number 20-0304-0901;

IDAPA 20.03.17, Rules of the Department of Lands, Leases on State-Owned Submerged and Formerly Submerged Lands, Section 030, Lease Application, Fee, and Procedure, Subsection 01, Fee, and Section 055, Assignments, Assignment Fee, Subsection 02, Assignment Fee, only, adopted as pending fee rules under Docket Number 20-0317-0901; and

IDAPA 32.01.01, Rules of the Endowment Fund Investment Board, Rules Governing the Credit Enhancement Program for School Districts, adopted as pending fee rules under Docket Number 32-0101-0901 (New Chapter), the entire rulemaking docket.

BE IT FURTHER RESOLVED that IDAPA 16.06.02, Rules of the Department of Health and Welfare, Rules Governing Standards for Child Care Licensing, adopted as a pending fee rule under Docket Number 16-0602-0901, the entire rulemaking docket; IDAPA 20.03.04, Rules of the Department of Lands, Regulation of Beds, Waters and Airspace Over Navigable Lakes, Section 020, Applications, Subsection 07.e, Forms, Filing, Section 035, Temporary Permits, Subsection 04, Fee, and Section 065, Assignments, Subsection 02, Assignment Fee, only, adopted as pending fee rules under Docket Number 20-0304-0901; IDAPA 20.03.17, Rules of the Department of Lands, Leases on State-Owned Submerged and Formerly Submerged Lands, Section 030, Lease Application, Fee, and Procedure, Subsection 01, Fee, and Section 055, Assignments, Assignment Fee, Subsection 02, Assignment Fee, only, adopted as pending fee rules under Docket Number 20-0317-0901; and IDAPA 32.01.01, Rules of the Endowment Fund Investment Board, Rules Governing the Credit Enhancement Program for School Districts, adopted as pending fee rules under Docket Number 32-0101-0901 (New Chapter), the entire rulemaking docket, are hereby rejected and not approved, and thereby pursuant to Section 67-5291 and Section 67-5224, Idaho Code, are declared null, void and of no force and effect.

BE IT FURTHER RESOLVED that rule provisions imposing fees or charges that were not submitted through the Office of Rules Coordinator for legislative review or that otherwise are not included and approved in this concurrent resolution shall be null, void and of no force and effect unless approved by adoption of a separate concurrent resolution by both houses of the Legislature as provided in Section 67-5224, Idaho Code.

Adopted by the Senate March 25, 2010

Adopted by the House March 29, 2010

(S.C.R. No. 126)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND APPROVING AND EXTENDING TEMPORARY RULES REVIEWED BY THE LEGISLATURE.

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

WHEREAS, the Legislature by statute must approve temporary rules by adoption of a concurrent resolution approving the rule if the temporary rule is to remain in effect beyond the end of the current legislative session; and

WHEREAS, the expiration of temporary rules would occasion additional expense to state agencies in readopting and republishing temporary rules needed to conduct state business; and

WHEREAS, the Legislature finds that it is in the public interest to adopt this resolution.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that all temporary rules adopted by state agencies pursuant to the Administrative Procedure Act and submitted to the Legislature at the Legislature's request through the Office of Rules Coordinator for review during the 2010 legislative session, and all temporary rules previously approved and extended by concurrent resolution adopted in a prior regular session of the Idaho Legislature, be, and the same are approved.

BE IT FURTHER RESOLVED that a temporary rule or partial temporary rule approved by this concurrent resolution shall remain in effect until it expires by its own terms or by operation of law or until it is replaced by a final rule, but in no event shall a temporary rule remain in effect beyond the conclusion of the First Regular Session of the Sixty-first Idaho Legislature unless it is further extended by adoption of a concurrent resolution by both houses of the Legislature. Temporary rules or sections of temporary rules which were not submitted to the Legislature for review during the 2010 legislative session shall expire by operation of statute upon adjournment of the Second Regular Session of the Sixtieth Idaho Legislature, unless approved by adoption of a separate concurrent resolution by both houses of the Legislature.

Adopted by the Senate March 25, 2010

Adopted by the House March 29, 2010

(S.C.R. No. 127)

A CONCURRENT RESOLUTION

STATING THE FINDINGS OF THE LEGISLATURE AND RESOLVING THAT THE CITIZENRY AND THE STATE OF IDAHO HAVE AMPLE OPPORTUNITY TO PROVIDE SUBSTANTIVE REVIEW AND COMMENT ON ANY RECORD OF DECISION OR AMENDMENT PROPOSED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR THE BUNKER HILL SUPERFUND SITE.

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

WHEREAS, the United States Environmental Protection Agency issued Records of Decision in 1991 and 1992 related to the 21 square mile Bunker Hill Superfund Site Box and issued an Interim Record of Decision in 2002 for the site which was expanded to the Coeur d'Alene Basin; and

WHEREAS, the State of Idaho has certain financial obligations related to the cost of the cleanup under the Records of Decision; and

WHEREAS, the Idaho State Legislature is responsible for appropriating funds to provide for the State of Idaho's contribution to the cleanup effort; and

WHEREAS, the Idaho State Legislature recognizes and acknowledges that citizens, businesses and local governmental entities of the Coeur d'Alene Basin are directly impacted by cleanup activities in the region under the Records of Decision; and

WHEREAS, the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) mandates a substantial role of the state, and those members of the public impacted by CERCLA activities, and the State of Idaho is committed to the continuance of these efforts using best management practices for positive long-term outcomes; and

WHEREAS, documented progress continues to be made with respect to improving environmental quality and public health in the region under the existing remedies; and

WHEREAS, the Environmental Protection Agency is proposing to amend the existing Records of Decision; and

WHEREAS, any amendments to the existing Records of Decision will have direct and significant impact on the citizens, businesses and local communities in the area and the Environmental Protection Agency may seek additional financial commitments from the State of Idaho; and

WHEREAS, the Idaho State Legislature desires to ensure cleanup efforts in the Coeur d'Alene Basin under any proposed amendments to prior Records of Decision proceed only after the State of Idaho has an adequate opportunity to review and analyze the impacts of the proposed amendments on the State of Idaho, its businesses, its local communities and its citizens.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that citizens, business owners and local governmental entities within the Coeur d'Alene Basin and the State of Idaho should have ample opportunity to review and provide substantive comments on any proposed amendments to the existing Records of Decision.

BE IT FURTHER RESOLVED by the Second Regular Session of the Sixtieth Idaho Legislature that the Idaho Legislature have an opportunity to consider any amendments to the existing Records of Decision prior to the State of Idaho entering into any commitments for additional funding over and above historic appropriation levels for the Bunker Hill Superfund Site.

Adopted by the Senate March 29, 2010

Adopted by the House March 29, 2010

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 35)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE SIXTIETH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the Second Regular Session of the Sixtieth Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 11, 2010.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Monday, January 11, 2010, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 11, 2010

Adopted by the Senate January 11, 2010

(H.C.R. No. 36)

A CONCURRENT RESOLUTION

RECOGNIZING AND COMMENDING THE BOISE STATE UNIVERSITY FOOTBALL TEAM, THE 2010 FIESTA BOWL CHAMPION.

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

WHEREAS, Boise State University, located in Boise, Idaho, is an emerging metropolitan research university of distinction, achieving its vision through academic excellence, public engagement, a vibrant culture and exceptional research; and

WHEREAS, Boise State University reflects the character of Idaho's capital city -- a center of business, government, technology, health care and the arts; and

WHEREAS, Boise State University is the largest university in Idaho with 18,936 students -- an all-time state fall enrollment record; and

WHEREAS, the Boise State University football team has won the Western Athletic Conference championship for seven of the past eight years; and

WHEREAS, the Boise State University Broncos completed their most recent football season with a record of 14-0, being one of two undefeated NCAA Di-

vision I FBS teams in the country and a win in the Bowl Championship Series Fiesta Bowl over then undefeated and fourth ranked Texas Christian University; and

WHEREAS, the Boise State University Broncos finished ranked fourth in both the Coaches/BCS poll and the Associated Press poll; and

WHEREAS, Coach Petersen has such an amazing winning percentage as a head coach that a rival Western Athletic Conference coach said when you look at his head coaching record, it has to be a typographical error; and

WHEREAS, Coach Petersen is the only coach in the country to win the Paul "Bear" Bryant College Coach of the Year award twice.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commend Boise State University for a fine football season and commend Coach Chris Petersen and the players and staff for a job well done. We commend the Broncos on their exciting style of play, gritty determination, dedication to the task at hand and their competitive spirit which led to not only the biggest victory in school history but also to the highest ranking a Boise State football team has ever attained. We congratulate Coach Chris Petersen, for being one of two teams with a fourteen win, zero loss record in NCAA Division I for the 2009 college football season, his coaching staff, players and the President of the university, Dr. Robert Kustra.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to President Robert Kustra and to Coach Chris Petersen of Boise State University.

Adopted by the House February 12, 2010

Adopted by the Senate March 23, 2010

(H.C.R. No. 37)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND COMMENDING THE FOOTBALL TEAM AND COACHES OF THE UNIVERSITY OF IDAHO.

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

WHEREAS, the University of Idaho is the state of Idaho's flagship and oldest public university and is the state's land-grant and primary research university; and

WHEREAS, on January 30, 1889, Governor Edward Stevenson of the Idaho Territory signed the territorial legislature's Council Bill No. 20, which officially established the University of Idaho as the upcoming state's land-grant institution and nearly four years later, the university opened for classes on October 3, 1892; and

WHEREAS, soon after being named head coach in 2007, Coach Robb Akey was forced to dismiss several players from the University of Idaho team for violations of law or violations of team rules; and

WHEREAS, the 2007 and 2008 Idaho teams were both listed on ESPN's Bottom Ten List, a ranking of the ten worst Division I college football programs in the nation and they were also on the 2009 preseason list, but were removed after opening with a win; and

WHEREAS, the University of Idaho enjoyed a stellar and outstanding football season in 2009, defeating two Mountain West Conference teams in the process, winning the Humanitarian Bowl in thrilling fashion and capping a season few outside Vandal Nation expected as they were picked last in most preseason Western Athletic Conference polls, Idaho's bowl title comes with an 8-5 record in a most outstanding season; and

WHEREAS, the team the University of Idaho beat in the Humanitarian Bowl, Bowling Green State University, had a player, Freddie Barnes, who set a single season NCAA record with 155 pass receptions; and

WHEREAS, Head Coach Robb Akey said, "It's due to the hard work of these guys right here... I couldn't be more proud of the group of kids. To take us from where we were -- three wins in two years to get us to this point right now. To be a bowl champion."; and

WHEREAS, with the win, the University of Idaho moves to 2-0 all-time in bowl games, takes its second Humanitarian Bowl title and caps off an 8-5 season that started with predictions of last-place finishes and skepticism about Coach Akey's bold predictions of success.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commend the University of Idaho for an outstanding football season and commend Coach Robb Akey for a job well done.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to President Duane Nellis and Coach Robb Akey of the University of Idaho.

Adopted by the House February 12, 2010

Adopted by the Senate March 23, 2010

(H.C.R. No. 38)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND PROCLAIMING JUNE, 2010, AS BOYS STATE AND GIRLS STATE MONTH.

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

WHEREAS, the American Legion and the American Legion Auxiliary have sponsored Boys State and Girls State since 1935 and 1937 respectively and now have programs in every state except Hawaii; and

WHEREAS, the goal of Boys State and Girls State is to develop leadership and pride in American government and to arouse a determination to maintain our form of government; and

WHEREAS, the American Legion Boys State and the American Legion Auxiliary Girls State provide a venue for Idaho's young citizens to explore what it means to be engaged in the civic life for our state and country, as well as to develop a full understanding of American democratic traditions and a belief in the United States of America as both an ideal and a functioning social contract; and

WHEREAS, Boys State and Girls State inculcate a sense of individual obligation to the community, state and nation; and

WHEREAS, the American Legion Boys State and the American Legion Auxiliary Girls State safeguard and transmit to posterity the principles of justice, freedom and democracy.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the month of June, 2010, be proclaimed as "Boys State and Girls State Month" and that we honor the efforts of the American Legion and the American Legion Auxiliary and the young people who participate and have participated in Idaho Boys State and Idaho Girls State.

BE IT FURTHER RESOLVED a copy of this resolution be transmitted to the State Commander of the American Legion, the Department President of the American Legion Auxiliary and the respective Governors of Idaho Boys State and Idaho Girls State.

Adopted by the House February 11, 2010

Adopted by the Senate February 19, 2010

(H.C.R. No. 39)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ENCOURAGING THE HEALTH QUALITY PLANNING COMMISSION WITHIN THE DEPARTMENT OF HEALTH AND WELFARE TO STUDY STROKE SYSTEMS OF CARE IN IDAHO AND DEVELOP A PLAN TO ADDRESS STROKE IDENTIFICATION AND MANAGEMENT.

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

WHEREAS, every year about 700,000 Americans suffer stroke, and 150,000 die. Many of the survivors have severe neurologic damage; and

WHEREAS, the economic cost of stroke in the United States is estimated at \$63 billion for 2007. The cost to Idaho and its citizens is estimated at hundreds of millions of dollars; and

WHEREAS, almost one-quarter of the current Medicaid Budget is spent on chronic costs of disabled seniors, much of that for the assistance required for stroke victims; and

WHEREAS, areas that have organized systems of stroke care, including prevention, aware and informed citizens, well-trained and coordinated emergency medical services for rapid prehospital care, protocols of care with smooth transition between rural hospitals and medical centers have better survival and less morbidity from stroke.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Health Quality Planning Commission within the Department of Health and Welfare is encouraged to study stroke systems of care in Idaho and develop a plan to address stroke identification and management.

Adopted by the House February 25, 2010

Adopted by the Senate March 4, 2010

(H.C.R. No. 41)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE; RECOGNIZING AND ENCOURAGING THE WORK OF GRASSROOTS ORGANIZATIONS SUCH AS HISTORICAL PRESERVATION COMMISSIONS AND HISTORICAL SOCIETIES, AS WELL AS THE WORK OF THE STATE HISTORICAL SOCIETY AND THE IDAHO HERITAGE TRUST, TO PRESERVE IDAHO'S AGRICULTURAL HISTORY; APPRECIATING THE EFFORTS AND INVESTMENT IN HISTORIC PRESERVATION AT THE LOCAL LEVEL AS VITAL TO IDAHO'S STATEWIDE PRESERVATION EFFORT; AND STATING THERE IS NO STATE FINANCIAL COMMITMENT TO ACHIEVING THE RESOLUTION'S GOALS.

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

WHEREAS, Idaho historic agricultural buildings are witnesses to the role of agriculture in our state's history and economy and serve as scenic landmarks for residents and visitors alike; and

WHEREAS, historic agricultural structures across Idaho symbolize important Idaho values of heritage, hard work, productivity and an attachment to the land and the people who built them; and

WHEREAS, historic agricultural buildings uphold the historic rural qualities of Idaho's landscape, along with providing a picturesque atmosphere for the state's citizens and visitors to enjoy; and

WHEREAS, these structures provide insight into our distinctive agricultural history and heritage, as well as a visual description of rural life, both past and present, in Idaho; and

WHEREAS, the Idaho State Historical Society, the Idaho Heritage Trust, local historic preservation commissions and local historical societies across Idaho have made efforts to preserve these significant structures and make residents aware of their importance including, but not limited to, the following:

The Bear River Heritage Area's publication of "Historic Barns of Southeastern Idaho: A Self-Guided Driving Tour";

The Dry Creek Historical Society's preservation of the Schick-Ostolasa Farmstead in Ada County, which won the American Association for State and Local History Corey Award in 2009, the highest national award given in the field of state and local history to all-volunteer organizations;

The Adams County Historical Society's publication of "Meadows Valley Barns";

The Idaho Heritage Trust's assistance in preserving the 1922 log barn at the Landmark Forest Service Ranger Station in Valley County;

The Latah County Historic Preservation Commission's identification of the "Historic Agricultural Properties of Latah County, 1855-1955"; and

The White Spring Ranch Museum's preservation of the White Spring Ranch in Latah County as an example of early ranching in northern Idaho;

The Idaho State Historic Preservation Office's technical assistance in listing on the National Register of Historic Places seven barns in the Buhl area built by farmers attracted from Tillamook, along with related agricultural properties including Salmon Falls Dam, Milner Dam and the Twin Falls Main Canal; and

WHEREAS, as a result of various threats, Idaho's built agricultural environment is rapidly disappearing and with it an invaluable part of Idaho's history is also disappearing, as are opportunities for rural economic development.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the work of grassroots organizations such as historical preservation commissions and historical societies, as well as the work of the Idaho State Historical Society and the Idaho Heritage Trust to preserve Idaho's agricultural history is hereby recognized and encouraged.

BE IT FURTHER RESOLVED that the state of Idaho appreciates that efforts and investment in historic preservation at the local level are vital to Idaho's statewide preservation effort.

BE IT FURTHER RESOLVED that there is no state financial commitment to achieving the goals set forth in this resolution.

Adopted by the House February 25, 2010

Adopted by the Senate March 12, 2010

(H.C.R. No. 44)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE THAT THE SCOPE OF POWER DEFINED BY THE TENTH AMENDMENT PROVIDES THAT THE FEDERAL GOVERNMENT WAS CREATED BY THE STATES SPECIFICALLY TO BE AN AGENT OF THE STATES, THAT CONGRESS IS URGED TO PASS LEGISLATION IMPLEMENTING THE FINDINGS PROVIDED FOR IN THIS CONCURRENT RESOLUTION, INCLUDING BALANCING THE FEDERAL BUDGET,

EXTINGUISHING THE PUBLIC DEBT, PROVIDING FOR GOVERNMENT TRANSPARENCY, MAINTAINING AN ENGLISH-SPEAKING NATION, PREVENTING FOREIGN ENTITIES FROM HAVING AUTHORITY OVER ACTIVITIES WITHIN THE UNITED STATES, RESTRAINING THE GROWTH OF THE FEDERAL GOVERNMENT, PREVENTING UNFUNDED MANDATES, PROHIBITING GOVERNMENT FROM TAKING OWNERSHIP OF PRIVATE SECTOR ENTERPRISE AND PROVIDING FOR THE PRESENCE OF "GOD" IN THE PUBLIC DOMAIN, AND URGING THE SEVERAL STATES TO ADOPT SIMILAR RESOLUTIONS.

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

WHEREAS, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

WHEREAS, it is the desire of the Legislature of the state of Idaho, that Congress adopt laws consistent with the findings hereinafter described; and

WHEREAS, in regard to a Balanced Federal Budget and the incurrence of debt, the annual expenditures of the Congress should not exceed the annual revenue for any year, save for the use of monetary reserves, and that Congress should not borrow from any source, including its own funds and trusts, for any expense, except for the extraordinary costs of a declared war or armed conflict; and

WHEREAS, in regard to Paying of the Public Debt, that all Public Debt of the United States should be extinguished within 55 years of the approval of this resolution; and

WHEREAS, in regard to Government Transparency and Congressional Procedures, all bills, orders and resolutions passed by the Congress should be limited to a single topic; and

-- After all floor amendments, no bill should be voted upon by either body of Congress unless and until it has been published for general public review for at least five days, save a Declaration of War; and

WHEREAS, in regard to maintaining the United States as an English-Speaking Nation, the English language should be the exclusive language for the affairs of government and the formal language for business; and

-- No business, individual, or government should suffer any penalty for requiring the usage of the English language exclusively in its affairs, nor should be liable for not speaking another language; and

WHEREAS, Congress should prevent foreign entities, including the United Nations, from having authority over activities within the United States; and

-- For any domestic issue, no court should consider or use as precedent any foreign or international law, regulation, or court decision; and

WHEREAS, in regard to restraining the growth of the federal government, preventing unfunded mandates and prohibiting government from taking ownership of private sector enterprise, judicial interpretation of the division and the limits of power contained in the Tenth Amendment should lean to the side of the states or the people with the powers granted to the United States in Section 8 of Article I being limited and narrowly interpreted. The behavior of courts that do not honor this provision should be brought to question by Congress; and

-- The United States should not nationalize any industry save during the time of declared war, after which control should revert to the private sector. Should the United States gain controlling interest in a private sector enterprise through default or by other means, the United States should divest itself of such interest in an orderly manner; and

WHEREAS, in regard to providing for the presence of "God" in the public domain, no religious organization should be discriminated against by any government. As a tribute to that which has endowed us with our rights and provided a moral compass for us to follow, the phrase "In God We Trust" should appear on all coin and currency and references to God should be welcome in all

public places and public verse, including the display of historic symbols, which provided the foundation for the modern-day law in the United States.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature submits this Concurrent Resolution to the several states of the United States and that the several states are urged to approve, on or before March 1, 2010, a like or similar resolution as herein approved by the Legislature of the State of Idaho.

BE IT FURTHER RESOLVED that Congress is urged to pass legislation implementing the findings provided for in this Concurrent Resolution, including those findings relating to a Balanced Federal Budget, extinguishing the Public Debt, Government Transparency, maintaining an English-Speaking Nation, preventing foreign entities from having authority over activities within the United States, restraining the growth of the federal government, preventing unfunded mandates, and prohibiting government from taking ownership of private sector enterprise, and providing for the presence of "God" in the public domain.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and is hereby directed to forward copies of this resolution to the Secretary of State and presiding officers of both Houses of the Legislatures of each of the other States in the Union, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the congress of the United States representing the state of Idaho.

Adopted by the House March 4, 2010

Adopted by the Senate March 25, 2010

(H.C.R. No. 45)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE TAX COMMISSION RELATING TO IDAHO SALES AND USE TAX ADMINISTRATIVE RULES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Tax Commission relating to Idaho Sales and Use Tax Administrative Rules is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 35.01.02, Rules Governing Idaho Sales and Use Tax Administrative Rules, Section 136, only, relating to Rebates Paid to Certain Real Estate Developers, Rules of the Tax Commission, adopted as a pending rule under Docket Number 35-0102-0901, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House February 24, 2010

Adopted by the Senate March 4, 2010

(H.C.R. No. 46)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND REAFFIRMING THE STATE OF IDAHO'S COMMITMENT TO THE STRONG AND DEEPENING RELATIONSHIP BETWEEN THE STATE OF IDAHO AND TAIWAN.

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

WHEREAS, the state of Idaho has a strong and vibrant economic relationship with the Republic of China (Taiwan); and

WHEREAS, the state of Idaho and Taiwan have enjoyed a long and mutually beneficial relationship with the prospect of further growth, and that Taiwan was Idaho's 4th largest export destination in 2008; and

WHEREAS, the trade volume from the state of Idaho to Taiwan totaled \$346.6 million, with major products including semiconductors, computers and capital equipment, food and agriculture and wood and building materials; and

WHEREAS, direct and unobstructed participation in the United States specialized agencies, programs and convention is crucial for all parts of the world, especially with today's greater potential for the cross-border cooperation; and

WHEREAS, Taiwan is one of the leading economies in the world; and

WHEREAS, Taipei Flight Information Region (FIR) is pivotal in the Asia Pacific region and controls 1.35 million flights with 35 million passengers using Taiwan's airports every year, as well as aviation security from terrorist boardings, safety and convenience are in line with the common interests of people from across the Taiwan Strait as well as the entire world; and

WHEREAS, the inclusion of Taiwan into the global community will help Taiwan contribute more significantly to the international community, but also benefit the state of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we reaffirm our commitment to the strong and deepening relationship between the State of Idaho and Taiwan.

BE IT FURTHER RESOLVED that the Legislature of the State of Idaho supports Taiwan's meaningful participation in the international aviation organizations promoting safe and secure travel.

Adopted by the House March 2, 2010

Adopted by the Senate March 17, 2010

(H.C.R. No. 47)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND CONGRATULATING LEWISTON, IDAHO, AND THE LEWIS-CLARK VALLEY FOR BEING CHOSEN AS ONE OF THE MOST SECURE PLACES TO LIVE IN THE UNITED STATES.

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

WHEREAS, in this time of economic uncertainty, a safe and secure environment in which to live, work and raise a family has become an even greater priority; and

WHEREAS, the Farmers Insurance Group of Companies annually ranks communities as the most secure places to live; and

WHEREAS, the rankings took into consideration crime statistics, extreme weather, risk of natural disasters, housing depreciation, fore-

closures, air quality, terrorist threats, environmental hazards, life expectancy and job loss numbers in 379 municipalities; and

WHEREAS, in 2009 the Lewiston, Idaho, and the Lewis-Clark Valley area ranks as the most secure small town with a population of less than 150,000 in 2009; and

WHEREAS, the Lewiston and Lewis-Clark Valley area's access to the Pacific Ocean through a network of river, rail and highway transportation facilities provides an excellent business climate for what is regarded as the most inland seaport in the western United States and it scored high in the study due to excellent job growth, low crime and minimal housing depreciation.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we congratulate the city of Lewiston, Idaho, and the Lewis-Clark Valley for being chosen as one of the most secure places to live in the United States.

Adopted by the House February 26, 2010

Adopted by the Senate March 23, 2010

(H.C.R. No. 48)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE STATE BOARD OF EDUCATION RELATING TO RULES GOVERNING UNIFORMITY.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the State Board of Education relating to Rules Governing Uniformity is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 08.02.02, Rules Governing Uniformity, Rules of the State Board of Education, adopted as a pending rule under Docket Number 08-0202-0905, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House March 4, 2010

Adopted by the Senate March 29, 2010

(H.C.R. No. 49)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE OFFICE OF THE GOVERNOR, MILITARY DIVISION - BUREAU OF HOMELAND SECURITY RELATING TO HAZARDOUS SUBSTANCE RESPONSE RULES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the

event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Office of the Governor, Military Division - Bureau of Homeland Security relating to Hazardous Substance Response Rules is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 15.13.02, Rules Governing Hazardous Substance Response Rules, Section 100, Regional Response Teams, Designation, Location, Jurisdiction, Activation, Liability, Subsection 05, Liability for Response Costs, only, Rules of the Office of the Governor, Military Division - Bureau of Homeland Security, adopted as a pending rule under Docket Number 15-1302-0901, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House March 4, 2010

Adopted by the Senate March 23, 2010

(H.C.R. No. 54)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF LANDS RELATING TO GRAZING LEASES AND CROPLAND LEASES.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Lands relating to Grazing Leases and Cropland Leases are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 20.03.14, Rules Governing Grazing Leases and Cropland Leases, Section 010, Definitions, deleted Subsection 12, Herd Stock; Section 020, Applications and Processing, Subsection 01, Eligible Applicant; deleted Section 021, Rights Reserved to the Department; Section 040, Rental, Subsections 01, Rental Rates, and 02, Special Uses; Section 050, Lease Cancellation, renumbered Subsection 01, Non-Compliance with Lease Provisions; deleted Section 054, Cropland Lease Hardship Claims; deleted Section 080, Grazing Management Plans; deleted Section 090, Trespass; Section 100, Construction and Maintenance of Improvements, Subsection 02, Maintenance; Section 102, Valuation of Improvements, Subsections 01, Existing Improvements, and 02, New Improvements; and Section 111, Noxious Weed Control, Subsection 02, Responsibility, only, Rules of the Department of Lands, adopted as a pending rule under Docket Number 20-0314-0901, be, and the same are hereby rejected and declared null, void and of no force and effect.

Adopted by the House March 4, 2010

Adopted by the Senate March 12, 2010

(H.C.R. No. 55)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REQUESTING THE DEPARTMENT OF HEALTH AND WELFARE TO UNDERTAKE A STUDY OF THE COST OF IMPLEMENTING A RANDOM DRUG TESTING PROGRAM OF ADULTS RECEIVING PUBLIC ASSISTANCE AND REQUESTING THE DEPARTMENT TO REPORT ITS FINDINGS TO THE LEGISLATURE.

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

WHEREAS, substance abuse in and of itself impairs personal responsibility and self-sufficiency and stands in the way of the very intent of public assistance programs to care for the health and welfare of certain otherwise qualified recipients and in so doing results in welfare costs that burden the state's taxpayers; and

WHEREAS, in balancing the interests of taxpayers, participants in public assistance programs who are not substance abusers and potential employers against the interests of those adults participating in public assistance programs who are substance abusers, screening, testing and treatment of adult substance abusers who receive public assistance and, if necessary, terminating adult substance abusers who continue to abuse controlled substances from the public assistance programs serves the greater interests of all concerned; and

WHEREAS, those adults who continue to test positive for a controlled substance after ninety days should not be allowed to continue participating in public assistance programs paid for by the taxpayers; and

WHEREAS, a significant number of employers use preemployment drug testing.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Department of Health and Welfare is requested to undertake a study of the cost of implementing a random drug testing program of adults receiving public assistance in Idaho and whether such a random drug testing program could become self-funded through savings to the state General Fund through terminating adults who continue to test positive for controlled substances after ninety days from public assistance programs.

BE IT FURTHER RESOLVED that the Department of Health and Welfare is requested to report the findings of its study to the Legislature prior to the commencement of the First Regular Session of the Sixty-first Idaho Legislature.

Adopted by the House March 8, 2010

Adopted by the Senate March 23, 2010

(H.C.R. No. 57)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND COMMENDING AND CONGRATULATING IDAHO STATE UNIVERSITY FOR ITS OUTSTANDING PROGRAMS IN THE HEALTH PROFESSIONS.

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

WHEREAS, per the direction of the Idaho State Board of Education, Idaho State University is a doctoral university serving a diverse population through research, state and regional public service, undergraduate and graduate programs and the university also has specific responsibilities in delivering programs in the health professions; and

WHEREAS, Idaho State University offers educational programs in more than thirty health professional disciplines, included are associate, bachelor's, master's and doctoral degrees, as well as certificate programs, internships and residencies; and

WHEREAS, Idaho State University operates fifteen professional-educational clinics throughout the state of Idaho with twelve in Pocatello and three in Boise and these professional-educational clinics operate in the areas of audiology, balance, counseling, dental hygiene, dentistry, family medicine, occupational therapy, physical therapy, psychology, senior health, speech and language, and wellness; and

WHEREAS, overseen by its Office of Research, ISU participates in areas of basic biomedical research, national clinical trials, clinical research and imaging with emphasis in the areas of translational research and bench-to-bedside; and

WHEREAS, Idaho State University provides clinical education for its students and outstanding health care for the Idaho community through the clinics it has developed; and

WHEREAS, Idaho State University offers resources for practicing health care professionals through its Division of Continuing Education, Pharmacy Continuing Education, the Idaho Drug Utilization Review, the Idaho Drug Information Service, Rocky Mountain Learning, the Idaho Conference on Health Care, the Idaho Health Sciences Library, Human Patient Simulation Laboratories, Mental Health and Counseling Professional Development Workshops and the Nursing Office of Professional Development.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commend and congratulate Idaho State University for its outstanding programs in the health professions and how they have enhanced the quality of life for Idaho citizens.

Adopted by the House March 4, 2010

Adopted by the Senate March 12, 2010

(H.C.R. No. 58)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REQUESTING THE CONSTITUTIONAL DEFENSE COUNCIL TO INVESTIGATE THE FEASIBILITY OF PURSUING LEGAL AND OTHER ACTIONS TO ALLOW THE STATE OF IDAHO TO ASSERT CONTROL OF AND PROVIDE MAINTENANCE OPERATIONS ON BUREAU OF LAND MANAGEMENT AND UNITED STATES FOREST SERVICE LANDS.

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

WHEREAS, a vast majority of the land in Idaho is held by the United States government, the bulk of them being Bureau of Land Management lands and U.S. Forest Service lands; and

WHEREAS, these lands may not be assessed property taxes under our state Constitution; and

WHEREAS, the "Payment in Lieu of Taxes" provisions in the Craig-Wyden bill provided moneys that are not adequate or sufficient to fund schools and local units of government in our state; and

WHEREAS, the biomass industry, along with other green energy applications in Idaho, are hamstrung by the restrictive practices and regulations of the U.S. Forest Service and Bureau of Land Management; and

WHEREAS, Idahoans have the knowledge and expertise to manage these lands as well as the federal government while still providing environmental protection and encouraging responsible economic development on these lands.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we request the Constitutional Defense Council to investigate the feasibility of pursuing legal and other actions to allow the State of Idaho to assert control of and provide maintenance operations on Bureau of Land Management and U. S. Forest Service lands.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives shall send a copy of this resolution to the members of the Constitutional Defense Council.

Adopted by the House March 16, 2010

Adopted by the Senate March 23, 2010

(H.C.R. No. 59)

A CONCURRENT RESOLUTION

STATING THE FINDINGS OF THE LEGISLATURE, ENCOURAGING HEALTHY, IDAHO GROWN FOOD PRODUCTION, DISTRIBUTION AND CONSUMPTION IN THE STATE OF IDAHO, SUPPORT OF IDAHO FARMING AND THE CONSUMPTION OF IDAHO GROWN FOODS AND FURTHER ENCOURAGING IDAHOANS AND IDAHO BUSINESSES TO CELEBRATE AND GET TO KNOW THEIR GROWERS AND TO PURCHASE AND CONSUME MORE FOOD PRODUCED IN OR NEAR IDAHO.

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

WHEREAS, the State of Idaho recognizes the industriousness of Idaho farmers and ranchers throughout Idaho's history who have been and continue to be of major importance to the state's economy; and

WHEREAS, with Idaho's climate, soil and water, farmers and ranchers have created an agriculture that is famous around the world and Idaho-raised vegetables, fruits, grains, meats, dairy and eggs have an outstanding reputation for quality and flavor; and

WHEREAS, in the years preceding 1960, Idaho farmers grew a large percentage of the food eaten in the state. There has, however, been a gradual shift away from eating locally grown foods. Today a majority of the food eaten by Idahoans is not from Idaho. It is prudent to seek a better balance, recognizing the importance of the agricultural products that are exported outside of the state, which help the farming community and support jobs. However, it is also important to recognize that part of the balance is the increasing trend of Idaho farms to produce food for Idaho consumption; and

WHEREAS, populations whose diets are high in fruits and vegetables experience better health, with lower rates of obesity and related chronic conditions. The ability to grow, sell and easily obtain a consistent, adequate supply of fresh food can increase food security and empower families and communities to be more healthy and self-sufficient; and

WHEREAS, small business is the backbone of Idaho's economy and Idaho food production can help promote entrepreneurism and self-sufficiency in Idaho's small towns, revitalizing regional small farms, creating jobs, business opportunities and the recirculation of capital within Idaho. Idaho has already undertaken beginning steps to increase the amount of Idaho grown food available to Idaho consumers through the Idaho Department of Agriculture's Idaho Preferred™ program and the University of Idaho Extension Service has undertaken steps to encourage family food production through such programs as Master Gardeners, Master Food Preservers, Master Composters and Victory Garden.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that in order to promote the economic

vitality and public health and safety of Idaho communities, provide incentives for job creation, attract economic investment, increase state per capita income, support the future of agriculture and promote the health and economic security of Idaho citizens and communities, it encourages healthy, Idaho grown food production, distribution and consumption in the State of Idaho.

BE IT FURTHER RESOLVED that it encourages the promotion of greater food self-sufficiency within the state and the recognition that it is beneficial to Idaho families, Idaho businesses, Idaho jobs and our state's economy to increase this self-sufficiency. It also encourages all Idahoans and Idaho businesses to celebrate and get to know their growers and to purchase and consume more food that is produced in or near Idaho and their own kitchen pantries and dinner tables.

Adopted by the House March 15, 2010

Adopted by the Senate March 24, 2010

(H.C.R. No. 61)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DEPARTMENT OF INSURANCE RELATING TO CONTINUING EDUCATION.

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

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Department of Insurance relating to Continuing Education is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that IDAPA 18.01.53, Rules Governing Continuing Education, Section 024, Credit for Individual Study Programs, Subsection 01, Requirements for Credit of Independent Study Programs, only, Rules of the Department of Insurance, adopted as a pending rule under Docket Number 18-0153-0901, be, and the same is hereby rejected and declared null, void and of no force and effect.

Adopted by the House March 15, 2010

Adopted by the Senate March 19, 2010

(H.C.R. No. 63)

A CONCURRENT RESOLUTION

COMMENDING KRISTIN ARMSTRONG FOR HER SUPERIOR ATTITUDE AND CONDUCT AND FOR HER ACCOMPLISHMENTS AT THE 2008 SUMMER OLYMPICS IN BEIJING, CHINA.

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

WHEREAS, Kristin Armstrong has been a longtime inhabitant of Idaho and currently resides in Boise; and

WHEREAS, Kristin Armstrong holds a Bachelor of Science degree in sports physiology from the University of Idaho College of Education; and

WHEREAS, Kristin Armstrong is a community-minded volunteer who promotes physical fitness and health and serves as an ambassador to the YMCA of Boise; and

WHEREAS, Kristin Armstrong has devoted her life to becoming a world-class athlete; and

WHEREAS, Kristin Armstrong has achieved her goals with rapid and inspiring success; and

WHEREAS, Kristin Armstrong has quickly climbed to the top of her profession, becoming one of the most accomplished American cyclists of all time in the face of great adversity, winning all of her cycling victories after being diagnosed with osteoarthritis in 2001; and

WHEREAS, Kristin Armstrong is a two-time USA Cycling National Road Race Champion, three-time USA Cycling National Time Trial Champion, 2006 and 2009 World Time Trial Champion and the Individual Time Trial Gold Medalist of the 2008 Summer Olympics, making her the second American female cyclist ever to claim an Olympic gold medal and the first Boise resident to win an Olympic gold medal; and

WHEREAS, Kristin Armstrong is respected throughout the world as a fierce cycling competitor but also as a friendly compatriot when the race is over; and

WHEREAS, Kristin Armstrong's performance in the 2008 Summer Olympics has inspired an interest in cycling which promotes a healthy life style and enhances the image of the state of Idaho as a vibrant cycling community; and

WHEREAS, Kristin Armstrong is a positive and inspirational role model for all of us.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize and honor Kristin Armstrong for her superior attitude and conduct, her medal winning performance at the 2008 Summer Olympics in Beijing, China, and for the pride and inspiration she brings to Idaho and America.

Adopted by the House March 15, 2010

Adopted by the Senate March 23, 2010

(H.C.R. No. 64)

A CONCURRENT RESOLUTION

STATING FINDINGS AND URGING CONGRESS TO INITIATE THE ARTICLE V AMENDMENT PROCESS TO AMEND THE TENTH AMENDMENT AND INTERSTATE COMMERCE CLAUSE OF THE UNITED STATES CONSTITUTION.

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

WHEREAS, the Tenth Amendment to the Constitution of the United States reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

WHEREAS, the Tenth Amendment to the Constitution defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

WHEREAS, the scope of the power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

WHEREAS, today, in 2010, the states are demonstrably treated as agents of the federal government; and

WHEREAS, many powers assumed by the federal government and federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States; and

WHEREAS, the Interstate Commerce Clause to the Constitution of the United States provides that Congress shall have the power: "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes"; and

WHEREAS, the Interstate Commerce Clause is limited to the federal government regulating trade between the states, and between the states and other nations, and to help prevent conflicts between states over commercial activities, and to prevent the erection of barriers to commerce between the states; and

WHEREAS, the Interstate Commerce Clause should not be used to provide Congress with authority to regulate matters that are primarily intrastate with only an insignificant or collateral effect upon interstate commerce; and

WHEREAS, many federal laws are beyond the original scope and intent of the Interstate Commerce Clause and the Tenth Amendment to the Constitution of the United States; and

WHEREAS, the Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the union of states, now have, and have always had, rights the federal government may not usurp; and

WHEREAS, Section 4, Article IV, of the Constitution says, "The United States shall guarantee to every State in this Union a Republican Form of Government" and the Ninth Amendment states that "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."; and

WHEREAS, the United States Supreme Court has ruled in *New York v. United States*, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Legislature Idaho Legislature, the House of Representatives and the Senate concurring therein, that:

The Idaho Legislature urges Congress to take action forthwith to initiate the Article V amendment process to amend the Tenth Amendment and Interstate Commerce Clause (Section 8, Article I) of the United States Constitution; and

The Idaho Legislature urges Congress to amend the Tenth Amendment of the United States Constitution as follows:

(Changes in bold): "The powers not expressly delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. Any power claimed by the Congress shall be construed narrowly by all courts so as not to infringe upon or limit the powers reserved to the States and the people by this amendment."; and

That the Idaho Legislature urges Congress to amend the Interstate Commerce Clause (Article I, Section 8) as follows:

(Changes in bold): "To directly regulate Commerce with the foreign nations, and among the several States, and with the Indian Tribes, with no authority in Congress to regulate matters that are primarily intrastate with only an insignificant or collateral effect upon interstate commerce".

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Resolution to the Speaker of the House of Representatives and the President of the Senate of the Congress of the United States, the presiding officers of both Houses of the Legislature of each of our sister states in the Union, and the members of the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 19, 2010

Adopted by the Senate March 29, 2010

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 2009-11ESTABLISHING A GUBERNATORIAL TASK FORCE ON MODERNIZING
TRANSPORTATION FUNDING IN IDAHO

WHEREAS, the Idaho Transportation Department (ITD) has responsibility for approximately 12,000 lane miles of highway and over 1,760 bridges in Idaho; and

WHEREAS, a reliable, resilient and effective transportation system is essential for public safety and Idahos long-term economic prosperity; and

WHEREAS, the current transportation revenue structure will not meet our pressing or long-term transportation funding needs; and

WHEREAS, a recent legislative audit found that current funding for transportation cannot keep pace with the growth in costs to meet Idahos basic transportation needs of preserving and restoring Idahos highways and bridges? and

WHEREAS, the same legislative audit determined that a significant revenue enhancement is merited; and

WHEREAS, solutions to Idahos transportation funding challenge should be user based? and

WHEREAS, a review of such issues should be done in a comprehensive, measured and deliberative manner, providing a wide array of policy options to move transportation funding forward for Idaho; and

WHEREAS, the Idaho Legislature passed HCR 34 during the 2009 Legislative Session supporting the creation of a task force to evaluate transportation issues;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Idaho Constitution and the laws of the State of Idaho, do hereby order the following:

1. The creation of a Gubernatorial Task Force on Modernizing Transportation Funding in Idaho (Task Force);
2. The Task Force shall consist of fifteen members and two non-voting, ex officio members. The membership shall include:
 - a. The Lieutenant Governor;
 - b. The Chair of the Senate Transportation Committee;
 - c. The Chair of the House Transportation and Defense Committee;
 - d. Four members of the Idaho House of Representatives, including a member from the minority party;
 - e. Four members of the Idaho Senate, including a member from the minority party;
 - f. Four members of the public, knowledgeable in the states transportation system and funding mechanisms; and
 - g. The Chair of the ITD board and another ITD board member as non-voting, ex officio members.
3. All appointments shall be made by the Governor. The chair and vice chair of the Task Force shall be selected by the Governor from the members of the Task Force;
4. The Task Force shall consider both traditional and non-traditional sources of revenue for maintenance and preservation of highways and bridges, including but not limited to possible revisions to the rates, methods and manner of calculating any and all taxes, fees and registrations relating to fuels, motor vehicles and motor carriers;
5. The Task Force shall provide findings and recommendations consistent with section 4 of this executive order to the Governor by December 1, 2010;
6. The Task Force shall draft and present legislation for consideration by the Idaho Legislature during the 2011 legislative session;
7. ITD shall staff the Task Force and cover all associated costs; and

8. The Task Force shall cease to exist on and after July 1, 2011.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 23rd day of June in the year of our Lord 2009, and of the Independence of the United States of America the two hundred thirty-third and of the Statehood of Idaho the one hundred nineteenth.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2009-12

CONTINUING THE IDAHO CRIMINAL JUSTICE GRANT REVIEW BOARD FOR AWARDING
FEDERAL GRANT FUNDS

REPEALING AND REPLACING EXECUTIVE ORDER NO. 2006-03

WHEREAS, combating and protecting citizens from crime is of vital concern to government; and

WHEREAS, it is in the best interests of the citizens of the State of Idaho that government promote efficiency and effectiveness of the criminal justice system and, where possible, create partnerships among criminal justice professionals to achieve this effectiveness and efficiency; and

WHEREAS, under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 and the Crime Control Act of 2005, each state is encouraged to develop and implement a competitive mechanism for award of certain federal grant funds.

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, do hereby establish the Idaho Criminal Justice Grant Review Board and charge this body with the responsibility to disburse such grant funding as may come within its purview with the overall mission of reducing crime in Idaho.

The Idaho Criminal Justice Grant Review Board shall consist of nineteen (19) members comprised of the following representatives (or their designees) who shall serve two-year terms at the pleasure of the Governor:

- The Attorney General of the State of Idaho;
- The Chief Justice of the Idaho Supreme Court;
- The Director of the Idaho Department of Correction;
- The Director of the Idaho State Police;
- The Director of the Department of Health and Welfare;
- The Director of the Office of Drug Policy;
- The Director of the Idaho Department of Juvenile Corrections;
- Two (2) Chiefs of Police;
- Two (2) Sheriffs;
- The State Appellate Public Defender;
- Two (2) Prosecuting Attorneys;
- One (1) representative of the Idaho Council on Domestic Violence;
- One (1) representative of the private security organizations;
- One (1) representative of the juvenile justice system;
- Two (2) citizens at large.

The Governor shall appoint the Chair of the Criminal Justice Grant Review Board.

This Executive Order shall cease to be effective four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 23rd day of June in the year of our Lord 2009, and of the Independence of the United States of America the two hundred thirty-third and of the Statehood of Idaho the one hundred nineteenth.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER
GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2009-13

DEFERRED COMPENSATION PROGRAM FOR EMPLOYEES OF THE STATE OF IDAHO,
REPEALING AND REPLACING EXECUTIVE ORDER NO. 2005-07

WHEREAS, the Idaho Legislature, by and through the implementation of section 59-513, Idaho Code, has provided for the establishment of a Deferred Compensation Program; and

WHEREAS, a Deferred Compensation Program has been presented to and approved by the Board of Examiners of the State of Idaho by the Deferred Compensation Committee; and

WHEREAS, administrative entities on the state level are necessary for proper implementation and maintenance of the plan;

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho, do hereby order the following:

1. The Deferred Compensation Committee comprised of a representative appointed by the Governor, a representative from the Office of the Attorney General, a representative from the Office of the State Controller, and a representative from the Office of the Secretary of State is hereby named as the policymaking board for a Deferred Compensation Program subject to the authority vested in the Board of Examiners of the State of Idaho by law.
2. The Deferred Compensation Committee shall make the following decisions concerning the implementation and maintenance of a Deferred Compensation Program subject to the approval of the Board of Examiners.
 - a. Selection of a third-party administrator
 - b. Selection of product companies that sell or offer securities or other assets to the State of Idaho in accordance with a Deferred Compensation Program.
 - c. Approval and monitoring of the marketing program to introduce and explain the Deferred Compensation Program to state employees.
 - d. Review all summary reports produced by the office of the State Controller and the third-party administrator to ensure proper accounting for all funds.
 - e. Review on a yearly basis the viability of all product companies associated with the Deferred Compensation Program and to determine if re-bidding is necessary.

- f. Review all financial hardship cases and other unusual circumstances developing with employees enrolled in the Deferred Compensation Program.
 - g. Review and remove all plan documents, contracts bylaws, and rules and regulations.
 - h. Review the performance of the third-party administrator.
 - i. Review all audits of the Deferred Compensation Program.
3. The Deferred Compensation Committee through the third-party administrator shall:
- a. Ensure that remittance to the product companies of deferred moneys are made from the periodic payroll.
 - b. Review and sign all enrollments, change and claim requests.
 - c. Keep or arrange to keep any necessary files concerning the Deferred Compensation Program.
 - d. Communicate with state employees concerning routine matters.

This Executive Order shall cease to be in effect four years after its entry into force.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 23rd day of June in the year of our Lord 2009, and of the Independence of the United States of America the two hundred thirty-third and of the Statehood of Idaho the one hundred nineteenth.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2009-14

CONCERNING THE BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND BLIND

WHEREAS, by virtue of the Sixtieth Legislatures enactment of Senate Bill 1074, as amended, which was signed by the Governor on April 23, 2009, the Bureau of Educational Services for the Deaf and the Blind is created, effective July 1, 2009, as a governmental entity within the State of Idaho; and

WHEREAS, as of July 1, 2009, the Idaho School for the Deaf and Blind will no longer exist as an agency of the State of Idaho; and

WHEREAS, the services currently provided by the Idaho School for the Deaf and Blind (ISDB) will be provided by the Bureau of Educational Services for the Deaf and the Blind (Bureau); and

WHEREAS, Senate Bill 1233 clarified that, effective July 1, 2009 all references to the ISDB contained in any appropriation language would mean the Bureau, and located the Bureaus budget in the Educational Support Program/Division of Childrens Programs, which is part of the Public Schools Budget; and

WHEREAS, as a part of its funding for continued operation of the physical plant, Senate Bill 1210 provided ISDB funding for 93.74 full time equivalent positions for FY 2010; and

WHEREAS, ISDB currently employs classified state employees who have been notified of the elimination of their classified status effective June 30, 2009;

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of this state do hereby order and proclaim:

1. The Bureau, as successor interest to the ISDB, will honor all written agreements, of whatever nature, which have been lawfully entered into by ISDB, for the coming year, subject to all terms and conditions set forth in those contracts; and
2. The Bureau will retain all previously classified employees of ISDB for a period until January 1, 2010, or upon the determination of the administrator of the Bureau, whichever comes first. Pursuant to Idaho Code 33-3406 (3) these employees shall be exempt from, among other things, chapter 53, title 67, Idaho Code and are subject to any terms or conditions of employment established by the Bureau. Such terms and conditions may include, but are not limited to, performance standards, available funding, position and job title availability, and any and all personnel policies and procedures adopted by the Bureau.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 6th day of July in the year of our Lord 2009, and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA

SECRETARY OF STATE

EXECUTIVE ORDER NO. 2009-15

CONTINUING A SYSTEM FOR ALLOCATING VOLUME CAP FOR RECOVERY
ZONE BONDS IN THE STATE CONSISTENT WITH THE PROVISIONS OF
THE U.S. INTERNAL REVENUE CODE OF 1986

WHEREAS, Sections 1400U-1 through U-3 of the U.S. Internal Revenue Code of 1986 (the "Code") provide that until January 1, 2011 certain bonds can be issued for Projects in Recovery Zones, and subjects such recovery zone bonds to volume limitations or "volume cap" (the "Volume Cap"); and

WHEREAS, the Code, as amended, provides a formula for allocations of such Volume Cap, and in order to provide for the implementation and administration of the formula for allocation of the Volume Cap among the state and its issuing authorities, it is necessary and desirable to issue this Executive Order;

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the power vested in me under the Constitution and the laws of the State of Idaho, do hereby order and proclaim:

Section 1: As used in this Executive Order:

- (1) "Allocation Dollars" means the dollar amount of the Volume Cap expressed in terms of dollars. Each allotment dollar equals one dollar of Volume Cap that may be allocated under this Executive Order.
- (2) "Bonds" means the Recovery Zone Bonds for which an allocation of the Volume Cap is required by the Code.

- (3) "Code" means the Internal Revenue Code of 1984, as amended by the American Recovery and Reinvestment Act of 2009, and any related regulations including without limitation the Notice, all as may be amended or supplemented.
- (4) "Department" means the Department of Commerce of the State.
- (5) "Director" means the director of the Department or such other official or officials of the Department as the director shall designate to carry out the duties of the director set forth in this Executive Order.
- (6) "Form 8038" means Department of the Treasury tax form 8038 (OMB NO. 1545-0720) or any other federal tax form or other method of reporting required by the Department of the Treasury under Section 149(e) of the Code.
- (7) "Initial Allocation" means one of the initial allocations established under Section 4(1) hereof.
- (8) "Issuing Authority" means:
 - (a) any county, city or port district;
 - (b) any public corporation created pursuant to Section 50-2703 of the Idaho Code, or other entity acting on behalf of one or more counties, cities, or both;
 - (c) the Idaho Housing and Finance Association;
 - (d) the State; or
 - (e) any other entity authorized to issue Bonds in the State.
- (9) "Notice" means IRS Notice 2009-50, as amended, revised or supplemented.
- (10) "Program" means the program to be financed in whole or in part with the proceeds of the sale of Bonds.
- (11) "Project" means the facility to be financed in whole or in part with the proceeds of sale of Bonds.
- (12) "Recovery Zone" means an area of the State as determined in accordance with the Code and Notice.
- (13) "Recovery Zone Bonds" means Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds as provided in the Code and Notice.
- (14) "Recovery Zone Economic Development Bonds" means bonds issued in accordance with the Code and the Notice for qualified economic development purposes for state or local government facilities as further provided in the Code and the Notice.
- (15) "Recovery Zone Facility Bonds" means bonds issued in accordance with Code and the Notice for Recovery Zone property as further provided in the Code and Notice.
- (16) "State" means the state of Idaho, any of its agencies, instrumentalities, institutions and divisions authorized to issue Bonds under State law.
- (17) "Subsequent State Allocation" means an allocation of Volume Cap by the Department acting for the State of all or a portion of Initial Allocations returned to the State by waiver under the Code and Notice.
- (18) "Ultimate Beneficiary" means the ultimate beneficiary of the Volume Cap as provided in the Code and Notice.
- (19) "Volume Cap" means the volume cap for Recovery Zone Bonds for the State as computed under Sections 1400U-1 through U-3 of the Code, the Notice and related regulations.

Section 2. The Volume Cap is allocated in accordance with the procedures set forth in this Executive Order. An Initial Allocation of the Volume Cap which has been waived or deemed waived and thereby returned to the State in accordance with the Code and/or Notice may be obtained by submitting an application to the Director in accordance with Section 3, as appropriate. The Di-

rector shall evidence a grant of an allocation of the Volume Cap by issuing a certificate of such allocation in accordance with Section 4, as appropriate. The Department may seek and obtain waivers of Initial Allocations from applicable counties or municipalities that choose not to make their own allocations under the Code and Notice and allow the Department to make Subsequent State Allocations hereunder. Such waivers may include conditions regarding the Subsequent State Allocations.

Section 3.

- (1) In the event an Initial Allocation is waived or returned in accordance with the Code and/or Notice, any Issuing Authority or Ultimate Beneficiary shall, prior to the issuance of such Bonds, submit an application to the Director which contains the following information and attachments:
 - (a) the name of the Issuing Authority or Ultimate Beneficiary;
 - (b) the mailing address of the Issuing Authority or Ultimate Beneficiary;
 - (c) the tax identification number of the Issuing Authority or Ultimate Beneficiary;
 - (d) the name, title and office telephone number of the official of the Issuing Authority or Ultimate Beneficiary to whom notices should be sent and from whom information can be obtained;
 - (e) the principal amount of Bonds proposed to be issued for which an application for an allocation of the Volume Cap is requested;
 - (f) the nature, the purpose and the specific location of the Project or the type of Program;
 - (g) the initial owner or user of the Project, if other than the Issuing Authority or Ultimate Beneficiary;
 - (h) a copy of a valid and fully executed resolution or similar official action of the Issuing Authority evidencing its intention to issue Bonds for the Project;
 - (i) with respect to Bonds, the anticipated date on which the Bonds are expected to be sold and the anticipated date on which the closing or final transaction with respect to the issuance and sale of the Bonds is expected to occur;
 - (j) the name, address, and telephone number of all parties to the transaction;
 - (k) that the Bonds are expected to be issued under the Code and Notice; and
 - (l) that the Project or Program is located in a Recovery Zone and that the Project will be accomplished in accordance with the Code and Notice;
 - (m) such information as the applicant may wish to submit in order to demonstrate the need for, and economic impact of, its Program or Project in the State, together with any information which demonstrates how its Program or Project will effectively utilize and efficiently distribute resources throughout the State;
 - (n) any other information or attachments reasonably required by the Director.
- (2) The Director shall:
 - (a) establish the form of application for requests for allocations of the Volume Cap, which form shall contain the information required by Section 3(1); and
 - (b) make such forms available to the public upon request.
- (3) The Director shall be under no obligation to process any application that is incomplete. Any application submitted by an Issuing Authority or Ultimate Beneficiary that the Director does not process shall be returned by the Director on or before the fif-

teenth day after receipt thereof with a brief explanation as to why the application was not processed.

Section 4.

- (1) Allocations of Volume Cap shall initially be made to eligible counties and large municipalities in the amounts as set forth section 12 below which are the amounts determined by the Internal Revenue Service under the Notice (collectively, the "Initial Allocations") to be further allocated by said entities as provided in the Code and Notice. Such Initial Allocation shall be permanent unless such Initial Allocation is returned to the State because it is waived or deemed waived or otherwise as provided in the Code and Notice:
 - (a) In accordance with the Code and Notice, the States national allocation of Volume Cap Allocation Dollars is hereby allocated to Recovery Zones throughout the State, as Initial Allocations as provided in Exhibit A hereto;
 - (b) The above Initial Allocations shall be in effect until the same are waived or deemed waived or otherwise returned to the State Department of Commerce in accordance with the Code and Notice. Thereafter, Subsequent State Allocations shall be made based first on need, economic impact and efficient distribution of resources as determined by the Department and within that determination, and then in the chronological order in which they are received as provided in Section 3, subject to any conditions which may be set forth in a waiver by the applicable county or municipality of an Initial Allocation.
- (2) Except as otherwise provided in this Executive Order, on or before the fifteenth day after receipt by the Director of an application for an allocation of the Volume Cap under Section 3 above, the Director shall, if the application is in satisfactory order, the Director will make the requested allocation in the amount so requested, and certify to the Issuing Authority applying for the allocation that an allocation has been made, the amount of such allocation. Certificates of allocation evidencing the granting of an allocation by the Director in accordance with the preceding sentence, shall be issued by the Director, first based on a determination of need, economic impact and efficient use of resources as determined by the Department, and then in the chronological order in which completed applications are received subject to any conditions which may be set forth in the waiver of Initial Allocation executed by the applicable county or municipality.
- (3) Every allocation of the Volume Cap by application under Section 3 shall remain effective until, and including, the earlier of:
 - (a) a date to be determined by the Director but not to exceed 180 days after the date on which such allocation was made;
 - (b) 12:00 o'clock midnight on December 31, 2010; or
 - (c) the date upon which the Director receives a written notification from any such Issuing Authority pursuant to Section 6(2). Any allocation for which Bonds are issued on or prior to the applicable date specified in this subsection shall be irrevocably allocated to such Bonds.
- (4) No application submitted by an Issuing Authority or Ultimate Beneficiary to the Director pursuant to this section shall be processed if the amount of allocation of the Volume Cap requested in such application is in excess of the amount of Volume Cap remaining available for allocation. Any application not processed for the reason stated in this subsection may be resubmitted to the Di-

rector, with or without a change in the amount of allocation requested. Any application resubmitted to the Director pursuant to this subsection shall be treated as a new application. Should an allocation not be granted for the reasons stated in this subsection, the Director shall continue to process other applications in the first based on need, economic impact and efficient use of resources as determined by the Department and then in chronological order in which received, granting allocations pursuant to the provisions of this Executive Order.

- (5) The expiration date of an allocation of Volume Cap under this Executive Order may be extended upon prior written approval of the Director.
- (6) In the event that the Director is uncertain whether an application meets the requirements set forth in this Executive Order or the Code and/or Notice above, he may defer action on such application until he has received another application(s) and then determine which application best meets such criteria.

Section 5. No application submitted to the Director may be amended without the consent of the Director; provided, however, that no such consent shall be required for an Issuing Authority or Ultimate Beneficiary to submit a new application in order to replace a previously submitted application if such new application is submitted before an allocation is made on the basis of the original application; provided further, that the consent of the Director shall not be required for an Issuing Authority or Ultimate Beneficiary to withdraw a previously submitted application. For purposes of receiving an allocation of the Volume Cap, any application that has been amended shall be treated as though such application was submitted on the date that the amendment was made, rather than on the date of the original submission of such application.

Section 6.

(1) After the effective date of this Executive Order, any Issuing Authority issuing Bonds under a Subsequent State Allocation without a certificate or allocation of the Director required to be applied for pursuant to Section 3, or any Issuing Authority issuing Bonds under a Subsequent State Allocation after the expiration of an allocation under Section 4, as appropriate, is not entitled to any Subsequent State Allocation of the Volume Cap for such Bonds, and any Issuing Authority issuing Bonds in excess of the Subsequent State Allocation set forth in the certificate of allocation is not entitled to any Subsequent State Allocation of the Volume Cap for such excess.

(2) Each Issuing Authority shall:

- (a) advise the Director on or before the earlier of the fifteenth day after the issuance of any Bonds or or the fifteenth day after December 31, 2010, of the principal amount of Bonds issued under the Subsequent State Allocation set forth in each certificate of allocation issued by the Director evidencing the granting of an allocation for such Bonds by delivering to the Director a copy of the Form 8038 which was delivered to the Internal Revenue Service in connection with such Bonds, or, if no such form was required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the Director with respect to such Bonds, or
- (b) if all or a stated portion of such Bonds will not be issued, shall advise the Director in writing, on or before the earlier of:
 - (i) the fifteenth day after the earlier of
 - (A) the final decision not to issue all or a stated portion of such Bonds or
 - (B) the expiration of the Subsequent State Allocation; or

(ii) December 31, 2010.

- (3) Each Issuing Authority and Ultimate Beneficiary shall cooperate with the Director in furnishing any information the Director reasonably requires. If an Issuing Authority or Ultimate Beneficiary obtains a Subsequent State Allocation of a portion of the Volume Cap for a particular Project or Program from the Director under Section 3, but does not issue its Bonds within the prescribed time limit, or issues a lesser amount of Bonds within the prescribed time limit, such Issuing Authority or Ultimate Beneficiary may again submit an application with respect to the proposed Bonds or portion of such Bonds not issued for such Project or Program as provided in Section 3, as appropriate. Such application shall be treated as a new application.

Section 7. In addition to the duties otherwise specifically set forth in this Executive Order, the Director shall:

- (1) maintain a record of all applications filed by Issuing Authorities or Ultimate Beneficiaries under Section 3 and all certificates of allocation issued;
- (2) maintain a record of all Bonds issued by Issuing Authorities;
- (3) maintain a record of all information filed by Issuing Authorities or Ultimate Beneficiaries under this Executive Order;
- (4) make available upon reasonable request a certified copy of all or any part of the records maintained by the Department under this Executive Order or a summary thereof including information regarding the Volume Cap allocated and any amounts available or at any time remaining available, for allocation under this Executive Order;
- (5) the Director shall serve as the State official designated under State law to make any allocation including without limitation Subsequent State Allocations or certifications required to be made under the Code; and
- (6) promulgate reasonable rules not inconsistent with this Executive Order deemed necessary or expedient to allocate the Volume Cap hereunder.

Section 8. If any provision of this Executive Order shall be held to be, or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this Executive Order or render it invalid, inoperative, or unenforceable. To the extent this Executive Order shall be held or shall, in fact, be invalid inoperative, or unconstitutional, all allocations of the Volume Cap previously made under this Executive Order shall be treated as allocations made by the Governor of the State in accordance with this Executive Order.

Section 9. The State pledges and agrees with the owners of any Bonds to which an allocation of the Volume Cap has been granted under this Executive Order that the State will not retroactively alter the allocation of the Volume Cap to such Bonds.

Section 10. No action taken pursuant to this Executive Order shall be deemed to create an obligation, debt or liability of the State or be deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 11. The purpose of this Executive Order is to maximize the benefits of financing and development through the use of Bonds providing a system for the implementation and administration of the formula provided under the Code for allocating the Volume Cap.

Section 12. Volume Cap Amounts:

Area	Residual	Recovery Zone Economic Development Bond	Recovery Zone Facility Bond
Ada County, ID	Residual	19,381,000	29,071,000
Adams County, ID		933,000	1,400,000
Bannock County, ID		3,902,000	5,854,000
Benewah County, ID		455,000	682,000
Blaine County, ID		52,000	77,000
Boise City city, ID		24,902,000	37,352,000
Boise County, ID		797,000	1,196,000
Bonner County, ID		230,000	345,000
Bonneville County, ID		2,894,000	4,341,000
Boundary County, ID		145,000	218,000
Butte County, ID		131,000	197,000
Camas County, ID		5,000	7,000
Canyon County, ID		18,542,000	27,811,000
Caribou County, ID		145,000	218,000
Cassia County, ID		441,000	661,000
Clark County, ID		47,000	70,000
Clearwater County, ID		38,000	56,000
Elmore County, ID		1,210,000	1,815,000
Franklin County, ID		553,000	830,000
Gem County, ID		1,581,000	2,371,000
Idaho County, ID		891,000	1,337,000
Jefferson County, ID		638,000	957,000
Kootenai County, ID		4,965,000	7,043,000
Lemhi County, ID		1,130,000	1,696,000
Lewis County, ID		220,000	331,000
Lincoln County, ID		469,000	704,000
Minidoka County, ID		408,000	612,000
Nez Perce County, ID		1,656,000	2,484,000
Oneida County, ID		80,000	120,000
Owyhee County, ID		1,018,000	1,527,000
Payette County, ID		750,000	1,126,000
Power County, ID		352,000	528,000

Area	Residual	Recovery	Recovery Zone
		Zone Economic Development Bond	Facility Bond
Valley County, ID		910,000	1,365,000
Washington County, ID		399,000	598,000



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 30th day of July in the year of our Lord 2009, and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2009-16

TEMPORARY REDUCTION OF GENERAL FUND SPENDING AUTHORITY

WHEREAS, article 7, section 11, of the Idaho Constitution provides that except in extraordinary or emergency circumstances, expenditures of the state government shall not exceed state government revenue; and

WHEREAS, I have determined that expenditures from the General Fund authorized by the Legislature for the current fiscal year will exceed anticipated state revenue to meet those authorized expenditures for the current fiscal year; and

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Idaho Constitution and the laws of this state, and pursuant to Section 67-3512A do hereby order:

1. That the General Fund spending authority on file in the Office of the State Controller be reduced for the Idaho Tax Commission by five tenths of a percent (.5%) of its Fiscal Year 2010 General Fund Appropriation;
2. That the General Fund spending authority on file in the Office of the State Controller be reduced for the Division of Professional-Technical Education by nine tenths of a percent (.9%) of its Fiscal Year 2010 General Fund Appropriation;
3. That the General Fund spending authority on file in the Office of the State Controller be reduced for the following departments, offices and institutions of the state by two and a half percent (2.5%) of their Fiscal Year 2010 General Fund Appropriation:
 - a. Department of Correction; and
 - b. Idaho State Police;
4. That the General Fund spending authority on file in the Office of the State Controller be reduced for the Department of Health and Welfare by three and three tenths percent (3.3%) of its Fiscal Year 2010 General Fund Appropriation;
5. That the General Fund spending authority on file in the Office of the State Controller be reduced for the Military Division, Education Special Programs and Public Schools by four percent (4%) of their Fiscal Year 2010 General Fund Appropriation;
6. That the General Fund spending authority on file in the Office of the State Controller be reduced for the following departments,

offices and institutions of the state by six percent (6%) of their Fiscal Year 2010 General Fund Appropriation:

- a. Agriculture Research and Extension;
 - b. State Appellate Public Defenders Office;
 - c. Colleges and Universities;
 - d. Community Colleges;
 - e. Division of Financial Management;
 - f. Department of Juvenile Corrections;
 - g. Public Health Districts;
7. That the General Fund spending authority on file in the Office of the State Controller be reduced for the following departments, offices and institutions of the state by seven and a half percent (7.5%) of their Fiscal Year 2010 General Fund Appropriation:
- a. Department of Administration;
 - b. Commission on Aging;
 - c. Department of Agriculture;
 - d. Idaho Commission of the Arts;
 - e. Commission for the Blind and Visually Impaired;
 - f. State Board of Education (Office);
 - g. Department of Environmental Quality;
 - h. Commission on Hispanic Affairs;
 - i. State Historical Society;
 - j. Human Rights Commission;
 - k. Independent Living Council;
 - l. Department of Lands;
 - m. Commission for Libraries;
 - n. Office of Species Conservation;
 - o. Department of Parks and Recreation;
 - p. Public Television;
 - q. Soil Conservation Commission;
 - r. Board of Tax Appeals;
 - s. Veterans Services;
 - t. Vocational Rehabilitation; and
 - u. Department of Water Resources;
8. That the General Fund spending authority on file in the Office of the State Controller be reduced for the Department of Commerce by eleven and four tenths percent (11.4%) of its Fiscal Year 2010 General Fund Appropriation;
9. That the General Fund spending authority on file in the Office of the State Controller be reduced for the Department of Labor by thirty-nine and one tenth percent (39.1%) of its Fiscal Year 2010 General Fund Appropriation;
10. That elected State Constitutional officials are requested to reduce General Fund expenditures for the Fiscal Year 2010 to reflect the realities of the projected revenue shortfall without impairing the discharge of their constitutional duties; and
11. That officers and offices of the legislative and judicial branches are requested to assess and evaluate a reduction in the General Fund expenditures for the Fiscal Year 2010 to reflect similar revenue shortfalls in the executive branch of state government.

This Order shall take effect immediately and shall continue in effect until January 31, 2010, unless revoked or modified by the Governor, or until the Legislature or the Board of examiners takes further action.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 25th day of September in the year of our Lord 2009, and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2009-17

ESTABLISHING THE GOVERNORS HEALTH POLICY IMPLEMENTATION COMMITTEE

WHEREAS, the Idaho Health Care Summit (Summit) was convened in August 2007 to identify and address the States most pressing health care issues; and

WHEREAS, the Summit identified many health care issues facing Idahoans today and recommendations for addressing these issues; and

WHEREAS, one of the issues identified by the Summit was the need to build Idahos health care workforce, especially as the need for physicians, nurses and other skilled professionals increases across the State; and

WHEREAS, the Summit also identified prevention and early intervention as important aspects of the continuum of care that cannot be overlooked; and

WHEREAS, the Summit confirmed the need for affordable, comprehensive insurance coverage in Idaho; and

WHEREAS, the Summit recognized the important role that personal responsibility plays in health care today, including, but not limited to, individuals making healthy choices; and

WHEREAS, the Governor established the Select Committee on Health Care under Executive Order 2007-13 to review and evaluate the recommendations of the Summit; and

WHEREAS, the Select Committee has four priorities to improve access, quality and efficiency of care and consequently reduce the costs of health care in Idaho; and

WHEREAS, the State has a vested interest in implementing workable, realistic solutions to health care issues, including the four priorities identified by the Select Committee;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by the authority vested in me under the Constitution and the laws of the State of Idaho, do hereby:

1. Create the Governors Health Policy Implementation Committee (Committee);
2. The Committee shall not exceed seven (7) members including the chair;
3. Members of the Committee shall be appointed by and serve at the pleasure of the Governor;
4. The chair of the Committee shall be appointed by and serve at the pleasure of the Governor;

5. The Committee shall provide leadership and accountability in the implementation of these policy initiatives:
 - a. Improving voluntary enrollment of children eligible for Medicaid or CHIP;
 - b. Expanding medical residency opportunities in Idaho;
 - c. Developing a patient-centered medical home model that can be replicated across the state; and
 - d. Improving health quality through the development of health information technology and exchange.
 6. The Committee shall report its progress to the Governor quarterly; and
 7. Committee members will serve without compensation.
- This Executive Order shall cease to be effective December 31, 2011.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 11th day of December in the year of our Lord 2009, and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2010-01

ESTABLISHING THE BEHAVIORAL HEALTH TRANSFORMATION WORKGROUP
REPEALING AND REPLACING EXECUTIVE ORDER 2009-04

WHEREAS, Idaho citizens and their families should have appropriate access to quality services provided through the public mental health and substance abuse systems that are coordinated, efficient and accountable; and

WHEREAS, Idahos mental health and substance use disorder system is fragmented; and

WHEREAS, recent findings through the Western Interstate Commission for Higher Education (WICHE) identified weaknesses facing Idahos coordination of the co-occurring mental health and substance abuse services; and

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this State, do hereby create the Governors Behavioral Health Transformation Workgroup (Workgroup).

1. Members of the Workgroup shall be appointed by and serve at the pleasure of the Governor.
2. The chair of the Workgroup shall be appointed by and serve at the pleasure of the Governor.
3. The members of the Workgroup shall include but are not limited to:
 - Director, Department of Health and Welfare;
 - Director, Department of Correction;
 - Director, Department of Juvenile Corrections;
 - Superintendent of the State Department of Education;
 - Representatives of law enforcement;
 - Administrator, Office of Drug Policy;
 - Chair of the Statewide Drug and Mental Health Court Coordinating Committee;

Chair of Idaho State Planning Council on Mental Health;
 One representative from the Association of Idaho counties;
 One citizen with experience in mental health service delivery issues;
 One citizen to represent consumers served by the system.

4. The Workgroup shall:
 - a. Develop a plan for a coordinated, efficient state behavioral health infrastructure with clear responsibilities, leadership authority and action; and
 - b. Provide for stakeholder participation in the development and evaluation of the plan.
5. The plan shall be presented to the Governor by October 1, 2010.
6. The Workgroup shall also present its plan to both the Senate and House Health and Welfare Committees and the Legislative Health-care Taskforce during the 2011 legislative session.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 25th day of February in the year of our Lord 2010, and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

/s/ C.L. "BUTCH" OTTER

BY THE GOVERNOR:

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
 SECRETARY OF STATE

EXECUTIVE ORDER NO. 2010-02

ESTABLISHING THE WORKFORCE DEVELOPMENT COUNCIL FOR PLANNING
 AND OVERSIGHT OF THE STATES WORKFORCE DEVELOPMENT SYSTEM

WHEREAS, the economic future of Idaho and the prosperity of its residents depends upon the ability of businesses in Idaho to compete in the world economy; and

WHEREAS, a well-educated and highly skilled workforce provides businesses in Idaho with a competitive edge critical for their success; and

WHEREAS, Idaho is committed to preparing its current and future workforce with the skills necessary for the 21st century; and

WHEREAS, empowering business, labor and community leaders to take a more active and strategic role in crafting the states economic and workforce development policy will enhance the quality and responsiveness of these programs; and

WHEREAS, a comprehensive workforce development strategy for Idaho will improve planning and oversight functions; improve the effectiveness, quality and coordination of services designed to maintain a highly skilled workforce; and help provide for the most efficient use of federal, state and local workforce development resources;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order that:

1. The Idaho Workforce Development Council (the "Council") is established in accordance with section 111(e) of the Workforce Investment Act (WIA) of 1998, as amended.

2. The Council shall consist of not more than 33 members appointed by the Governor, consistent with federal nomination and composition requirements set forth in section 702 of the Job Training Partnership Act as amended. The Council's membership, shall be as follows:
 - a. Representatives of business and industry shall comprise at least 40% of the members;
 - b. At least 15% of the members shall be representatives of local public education, postsecondary institutions, and secondary or postsecondary vocational educational institutions;
 - c. At least 15% of the members shall be representatives of organized labor based on nominations from recognized state labor federations;
 - d. Representatives from the Department of Commerce, Department of Labor, the Department of Health and Welfare, the State Board of Education, the Commission on Aging, the Office of Energy Resources, the Idaho Education Network, and the Superintendent of Public Instruction; and
 - e. A representative of a community-based organization.
3. The Council will be responsible for advising the Governor and the State Board of Education, as appropriate and at regular intervals, on the following:
 - a. Development of a statewide strategy for workforce development programs which encompasses all workforce programs;
 - b. Development of the WIA State plan;
 - c. Development and continuous improvement of services offered under the statewide workforce investment system;
 - d. Development of comments at least once annually on the Carl D. Perkins Vocational and applied Technology Education Act;
 - e. Development and continuous improvement of comprehensive State performance measures;
 - f. Preparation of the annual report to the United States Secretary of Labor as required under section 136 of the WIA;
 - g. Development of a statewide employment statistic program;
 - h. Development of a plan for comprehensive labor market information; and
 - i. Development of applications for an incentive grant under section 503 of the WIA.
4. The Council shall also be responsible for:
 - a. Approval and oversight of the expenditures from the Employment Security Reserve Fund as set forth in Section 72-1347A, Idaho Code;
 - b. Development and oversight of procedures, criteria and performance measures for the Workforce Development Training fund established under Section 72-1347B, Idaho Code; and
 - c. Such other duties as assigned by the Governor.
5. The Council may empanel subcommittees, appointed by the chair. Subcommittee members may include individuals from the general public who have special knowledge and qualifications to be of assistance to the Council.
6. The Governor shall name the chair and vice-chair from among the private sector members of the Council.
7. The Council shall be jointly staffed by a management team of directors or administrators of state agencies that administer workforce development programs, as designated by the Governor. Funding for the council shall be provided by the agencies staffing the council, which shall agree upon appropriate ratios for the allocation of administrative funding. The Idaho Department of Labor shall have responsibility for providing secretarial and logistical support to the Council.

8. The Councils members shall serve at the pleasure of the Governor, and appointments shall be for three-year terms.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 17th day of March in the year of our Lord 2010, and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

EXECUTIVE ORDER NO. 2010-03

(REPLACED WITH EXECUTIVE ORDER NO. 2010-04)

EXECUTIVE ORDER NO. 2010-04

ESTABLISHING THE COUNCIL FOR PURCHASES FROM NON-PROFIT BUSINESS THAT
SERVE PEOPLE WITH DISABILITIES

REPEALING AND REPLACING EXECUTIVE ORDER 2010-03

WHEREAS, it is in the public interest to promote employment opportunities for people with disabilities; and

WHEREAS, the Idaho code provides for the purchase by the agencies of the State of Idaho of goods and services that are produced by people with disabilities participating in private and non-private community rehabilitation programs in Idaho;

NOW, THEREFORE, I, C.L. "Butch" Otter, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state do hereby order:

1. The creation of the Council for Purchases from Non-Profit Businesses that Serve People With Disabilities.
2. The Councils responsibilities shall be:
 - * To promote the purchase by state agencies of goods and services produced by people with disabilities in private, non-profit community rehabilitation programs under the auspices of Section 67-2319, Idaho Code;
 - * To monitor and study the implementation of a purchasing program authorized by section 67-2319;
 - * To designate a central, non-profit organization to coordinate the participation of private and non-private community rehabilitation programs in the state purchasing program and develop procedures for such participation;
 - * To advise the Division of Purchasing on the operation of this purchasing program;
 - * To provide an annual report of the activities, products, services, employment opportunities and other benefits derived from this program to the Governor, Legislature and public by February 1, 2011; and
 - * To encourage transparency, the annual report must include all audit and fiscal information to the Governor, Legislature and pub-

lic by posting said information on the Idaho Vocational Rehabilitation website.

3. The Governor shall appoint members of the Council comprised of a representative from a private, non-profit community rehabilitation program, the Division of Purchasing, the private sector, a labor organization, the Division of Vocational Rehabilitation, a disability advocacy organization, and at least one other State Agency. Each member of the Council shall serve a term of 1 year. Members shall select a chair from among the Council.
4. The Council shall be supported administratively by the Division of Vocational Rehabilitation.
5. This executive order shall cease to be effective one year from the date it is signed.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 25th day of March in the year of our Lord 2010, and of the Independence of the United States of America the two hundred thirty-fourth and of the Statehood of Idaho the one hundred twentieth.

BY THE GOVERNOR:

/s/ C.L. "BUTCH" OTTER

GOVERNOR OF THE STATE OF IDAHO

/s/ BEN YSURSA
SECRETARY OF STATE

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Bd = Board	Com = Commission
Comm = Committee	Dept = Department
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Dist = District	F&G = Fish and Game
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59-1302	Referred to	Ch.224 -	500
59-1311	Referred to	Ch.188 -	401
59-1352	Referred to	Ch.101 -	197
59-1354	Referred to	Ch.101 -	197
59-1354A	New Section Added	Ch.101 -	197
59-1363	Referred to	Ch.173 -	356
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60-105	Referred to	Ch. 45 -	83
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61-113	Amended	Ch.167 -	343
61-126	Repealed	Ch.167 -	344
61-127	Repealed	Ch.167 -	344
61-128	Repealed	Ch.167 -	344
61-129	Amended	Ch.167 -	344
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63-201	Referred to	Ch.133 -	284
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63-301A	Amended	Ch.254 -	644
63-301A	Amended	Ch.283 -	760
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63-602	Amended	Ch.133 -	283
63-602	Referred to	Ch.133 -	285
63-602E	Amended	Ch.254 -	645
63-602NN	Amended	Ch.133 -	284
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63-701	Amended	Ch.235 -	591
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63-802	Amended	Ch.283 -	761
63-802	Amended	Ch.283 -	763
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63-1013	Amended	Ch.115 -	241
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63-2401	Amended	Ch. 14 -	14
63-2412	Amended	Ch. 14 -	16
63-2412	Referred to	Ch.328 -	872
63-2418	Amended	Ch. 14 -	17
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63-2506	Referred to	Ch.234 -	534
63-2520	Referred to	Ch.226 -	517
63-2520	Referred to	Ch.234 -	532
63-2552A	Referred to	Ch.234 -	534
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63-3006A	Referred to	Ch. 37 -	67
63-3006C	New Section Added	Ch. 37 -	67
63-3006C	Referred to	Ch. 37 -	67
63-3013	Referred to	Ch. 37 -	68
63-3021	Amended	Ch. 11 -	12
63-3022	Amended	Ch. 44 -	78
63-3022H	Amended	Ch. 5 -	6
63-3022H	Referred to	Ch. 5 -	7
63-3022L	Amended	Ch. 37 -	67
63-3022L	Referred to	Ch. 37 -	68
63-3024	Referred to	Ch. 37 -	68
63-3024	Referred to	Ch.354 -	931
63-3025	Referred to	Ch.354 -	931
63-3025A	Referred to	Ch.354 -	931
63-3026A	Amended	Ch.108 -	219
63-3029A	Amended	Ch.274 -	711
63-3029A	Amended	Ch.354 -	930
63-3029A	New Section Added	Ch.354 -	931
63-3029A	Repealed	Ch.354 -	931
63-3029E	Amended	Ch. 5 -	6
63-3029G	Amended	Ch. 44 -	80
63-3030	Referred to	Ch. 37 -	67
63-3035	Referred to	Ch. 37 -	68
63-3036B	New Section Added	Ch. 37 -	68
63-3036B	Referred to	Ch. 37 -	68
63-3037	Amended	Ch. 10 -	11
63-3044	Referred to	Ch. 37 -	68
63-3067D	New Section Added	Ch.281 -	758
63-3077E	New Section Added	Ch.202 -	440
63-3088	Referred to	Ch. 3 -	4
63-3088	Repealed	Ch. 3 -	4
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63-3201 thru			
63-3204	Referred to	Ch.298 -	809
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63-3622FF	Amended	Ch. 81 -	161
63-3638	Referred to	Ch.234 -	534
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63-4403	Amended	Ch. 44 -	82
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66-329	Amended	Ch.235 -	594

66-356	New Section Added	Ch.267 -	674
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66-401	Amended	Ch.235 -	597
66-402	Amended	Ch.235 -	598
66-408	Amended	Ch.235 -	599
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67-450D	New Section Added	Ch.178 -	366
67-451	Referred to	Ch.226 -	517
67-453	Referred to	HJR 4 -	948
67-453	Referred to	HJR 5 -	949
67-453	Referred to	HJR 7 -	951
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67-818	Amended	Ch.279 -	755
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67-1205	Referred to	Ch.295 -	797
67-1212	Amended	Ch.192 -	410
67-1222	Repealed	Ch. 58 -	108
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67-1401	Amended	Ch. 46 -	85
67-1401	Referred to	Ch. 46 -	85
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67-2008	Referred to	Ch.224 -	500
67-2008	Referred to	Ch.357 -	939
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67-2310	Amended	Ch.218 -	491
67-2319	Amended	Ch.235 -	599
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67-2601	Amended	Ch. 79 -	156
67-2601A	Amended	Ch.165 -	338
67-2608	Amended	Ch.159 -	333
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67-2803	Amended	Ch.123 -	269
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67-3003	Amended	Ch.267 -	675
67-3004	Amended	Ch. 33 -	63
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67-3502	Referred to	Ch.298 -	808
67-3511	Referred to	Ch. 79 -	137
67-3511	Referred to	Ch.190 -	405
67-3511	Referred to	Ch.194 -	417
67-3511	Referred to	Ch.195 -	418
67-3511	Referred to	Ch.200 -	428
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67-3511	Referred to	Ch.203 -	441
67-3511	Referred to	Ch.204 -	445
67-3511	Referred to	Ch.265 -	670
67-3511	Referred to	Ch.268 -	679
67-3511	Referred to	Ch.269 -	685
67-3511	Referred to	Ch.271 -	689
67-3511	Referred to	Ch.290 -	774
67-3511	Referred to	Ch.297 -	807
67-3511	Referred to	Ch.301 -	812
67-3511	Referred to	Ch.302 -	815
67-3511	Referred to	Ch.303 -	817
67-3511	Referred to	Ch.305 -	822

67-3511	Referred to	Ch.315 -	844
67-3511	Referred to	Ch.316 -	847
67-3511	Referred to	Ch.317 -	849
67-3516	Referred to	Ch.211 -	456
67-3516	Referred to	Ch.268 -	679
67-3516	Referred to	Ch.298 -	808
67-3516	Referred to	Ch.356 -	934
67-3520	Referred to	Ch.333 -	884
67-3531	Referred to	Ch.190 -	403
67-3531	Referred to	Ch.206 -	447
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67-4728	Amended	Ch.119 -	265
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Ch.52	Referred to	Ch.175 -	362
Ch.52	Referred to	Ch.198 -	421
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67-5201	Amended	Ch. 20 -	33
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67-5202	Referred to	Ch.235 -	608
67-5203	Amended	Ch. 21 -	37
67-5204	Amended	Ch. 20 -	35
67-5205	Amended	Ch. 20 -	35
67-5221	Amended	Ch. 45 -	82
67-5223	Amended	Ch.280 -	756
67-5224	Referred to	SCR125 -	964
67-5226	Amended	Ch. 20 -	36
67-5226	Referred to	Ch.268 -	680
67-5229	Amended	Ch.280 -	757
67-5243	Amended	Ch.255 -	646
67-5245	Amended	Ch.255 -	647
67-5246	Amended	Ch.255 -	647
67-5248	Amended	Ch.255 -	648
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67-5291	Referred to	HCR 54 -	977
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67-5309	Amended	Ch. 80 -	157
67-5334	Amended	Ch. 72 -	120
67-5342	Referred to	Ch.173 -	356
67-5342A	New Section Added	Ch.173 -	356

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67-5711	Referred to	Ch.298 -	808
67-5711C	Amended	Ch.345 -	902
67-5716	Amended	Ch.286 -	766
67-5726	Referred to	Ch.286 -	768
67-5728	New Section Added	Ch.286 -	768
67-5728	Referred to	Ch.286 -	767
67-5745D	Amended	Ch.357 -	936
67-5745E	New Section Added	Ch.357 -	937
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67-5904	Amended	Ch.248 -	636
67-5905	Amended	Ch.248 -	637
67-5905	Referred to	Ch.248 -	638
67-5907	Amended	Ch.248 -	637
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67-6509	Amended	Ch.253 -	643
67-6509	Referred to	Ch.219 -	492
67-6511	Referred to	Ch.175 -	361
67-6511A	Referred to	Ch.175 -	361
67-6519	Amended	Ch.175 -	359
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67-6521	Amended	Ch.175 -	361
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67-6530	Amended	Ch.235 -	600
67-6531	Amended	Ch.235 -	600
67-6532	Amended	Ch.235 -	600
67-6535	Amended	Ch.175 -	362
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67-6607	Amended	Ch. 22 -	38
67-6619	Amended	Ch. 22 -	39
67-6623	Amended	Ch. 22 -	40
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67-6901	Amended	Ch.235 -	601
67-6902	Amended	Ch.235 -	601
67-6903	Amended	Ch.235 -	602
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67-7008A	Amended	Ch.120 -	267
67-7027	Amended	Ch. 71 -	119
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67-7439	Referred to	Ch.234 -	534
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71-241	Amended	Ch.235 -	603
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72-208	Amended	Ch.118 -	264
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72-430	Amended	Ch.235 -	604
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72-528	Amended	Ch.139 -	294
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72-722	Referred to	Ch.174 -	358
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72-1026	New Section Added	Ch.136 -	290
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72-1312	Amended	Ch.183 -	377
72-1312	Referred to	Ch.114 -	237
72-1316A	Amended	Ch.235 -	605
72-1318A	New Section Added	Ch.114 -	233
72-1318B	New Section Added	Ch.114 -	233
72-1333	Amended	Ch.248 -	638
72-1336A	New Section Added	Ch.276 -	716
72-1346	Amended	Ch.114 -	234
72-1346	Referred to	Ch.322 -	859
72-1349	Amended	Ch.114 -	235
72-1349A	Referred to	Ch.114 -	233
72-1349A	Referred to	Ch.234 -	533
72-1351	Amended	Ch.183 -	377
72-1366	Referred to	Ch.114 -	240
72-1366	Referred to	Ch.183 -	379
72-1367	Referred to	Ch.114 -	237
72-1368	Amended	Ch.114 -	236
72-1368	Referred to	Ch.114 -	233
72-1369	Amended	Ch.114 -	239
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72-1504	Amended	Ch.224 -	500
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73-114	Amended	Ch.235 -	607
73-114A	New Section Added	Ch.235 -	608

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Ch.204, Sec.1	Referred to	Ch.234 -	536
Ch.205, Sec.1	Referred to	Ch.358 -	940
Ch.205, Sec.6	New Section	Ch. 4 -	5
Ch.205, Sec.7	New Section	Ch. 4 -	5
Ch.205, Sec.8	New Section	Ch. 4 -	5
Ch.206, Sec.1	Referred to	Ch.314 -	841
Ch.207, Sec.1	Referred to	Ch.327 -	869
Ch.207, Sec.1	Referred to	Ch.338 -	893
Ch.209, Sec.1	Referred to	Ch.227 -	518
Ch.210, Sec.1	Referred to	Ch.324 -	861
Ch.210, Sec.3	Referred to	Ch.303 -	816
Ch.211, Sec.1	Referred to	Ch.318 -	851
Ch.211, Sec.2(a)	Referred to	Ch.318 -	850
Ch.212, Sec.1	Referred to	Ch.341 -	897
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Ch.229, Sec.1	Referred to	Ch.206 -	447
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Ch.231, Sec.3	Amended	Ch.190 -	403
Ch.231, Sec.3	Referred to	Ch.190 -	403
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Ch.231, Sec.4	Referred to	Ch.190 -	403
Ch.232, Sec.2	Referred to	Ch.204 -	442
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Ch.235, Sec.1	Referred to	Ch.194 -	415
Ch.243, Sec.1	Referred to	Ch.269 -	683
Ch.245, Sec.1	Referred to	Ch.340 -	896
Ch.247, Sec.1	Referred to	Ch.313 -	840
Ch.248, Sec.1	Referred to	Ch.339 -	894
Ch.248, Sec.5	Repealed	Ch.339 -	893
Ch.253, Sec.1	Referred to	Ch.320 -	854
Ch.255, Sec.1	Referred to	Ch.199 -	422
Ch.256, Sec.1	Referred to	Ch.315 -	843
Ch.257, Sec.1	Referred to	Ch.317 -	848
Ch.258, Sec.1	Referred to	Ch.297 -	806
Ch.259, Sec.1	Referred to	Ch.301 -	811
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Ch.262, Sec.1	Referred to	Ch.316 -	845
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Ch.268, Sec.1	Referred to	Ch.230 -	522
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Ch.272, Sec.2	Referred to	Ch.234 -	531
Ch.272, Sec.3	Referred to	Ch.234 -	531
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Ch.275, Sec.2	Referred to	Ch.226 -	517
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Ch.328, Sec.1	Referred to	Ch. 12 -	13
Ch.328, Sec.1	Referred to	Ch.289 -	771
Ch.333, Sec.7	Amended	Ch.129 -	276
Ch.333, Sec.7	Referred to	Ch.129 -	276
Ch.337, Sec.1	Referred to	Ch.200 -	424
Ch.338, Sec.1	Referred to	Ch.201 -	428
Ch.339, Sec.1	Referred to	Ch.231 -	527
Ch.341, Sec.4	Referred to	Ch.279 -	733
Ch.341, Sec.5	Referred to	Ch.279 -	737
Ch.341, Sec.47	Referred to	Ch.326 -	865
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40 CFR 239	Referred to	Ch.146 -	309
40 CFR 258	Referred to	Ch.146 -	309
40 CFR 258.28	Referred to	Ch.146 -	313
40 CFR 258.4	Referred to	Ch.146 -	309
40 CFR 258.60	Referred to	Ch.146 -	310
40 CFR part 60	Referred to	Ch.146 -	310

42 CFR 413	Referred to	Ch.186 -	393
42 CFR 418.110	Referred to	Ch. 84 -	164
42 CFR 447.272	Referred to	Ch.186 -	396
42 CFR 447.321	Referred to	Ch.186 -	396
49 CFR 383.5	Referred to	Ch. 49 -	93
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APPENDIX

IDAHO STATE OFFICIAL DIRECTORY

ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS

Senator James E. Risch (R)
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Boise, Idaho 83702

Senator Mike Crapo (R)
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Boise, Idaho 83702

REPRESENTATIVES IN CONGRESS

Walt Minnick (D), First District
33 Broadway, Ste. 251
Meridian, Idaho 83642

Mike Simpson (R), Second District
802 W. Bannock, Ste. 600
Boise, Idaho 83702

STATE ELECTED OFFICIALS

GOVERNOR C. L. "Butch" Otter (R)

LIEUTENANT GOVERNOR Brad Little (R)

SECRETARY OF STATE Ben T. Ysursa (R)

STATE CONTROLLER Donna Jones (R)

STATE TREASURER Ron G. Crane (R)

ATTORNEY GENERAL Lawrence Wasden (R)

SUPERINTENDENT OF PUBLIC INSTRUCTION Tom Luna (R)

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Boise, Idaho 83720-0054

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1 - BONNER & BOUNDARY COUNTIES

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Public Relations
VICE CHAIR-Finance/JFAC
Transportation
* (2010 session substitute: Darrell Kerby)

Spouse - Mike

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VICE CHAIR-State Affairs
Environment, Energy, & Technology; Legislative Council

Spouse - Nicky

George E. Eskridge (R) House Seat B 5th Term
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Real Estate
Appropriations/JFAC; Environment, Energy, & Technology; Resources & Conservation

Spouse - Jenise

2 - BENEWAH, BONNER, KOOTENAI & SHOSHONE COUNTIES

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Finance/JFAC; Transportation

Spouse - John

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Spouse - Carole

3 - KOOTENAI COUNTY

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4 - KOOTENAI COUNTY

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Commerce & Human Resources

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Spouse - Kathleen

LEGISLATORS BY DISTRICT (Continued)

5 - KOOTENAI COUNTY

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 CHAIR-Education
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 Executive (Retired)
 VICE CHAIR-Business
 Appropriations/JFAC; Local Government

6 - LATAH COUNTY

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 Commerce & Human Resources; Education

Shirley G. Ringo (D) House Seat B 4th Term
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7 - NEZ PERCE COUNTY

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8 - CLEARWATER, IDAHO, LEWIS & VALLEY COUNTIES

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 Partner/Manager, Shepherd Sawmill & Spouse - Dawn
 Log Homes Inc.
 VICE CHAIR-Resources & Conservation
 Education; Health & Welfare

LEGISLATORS BY DISTRICT (Continued)

9 - ADAMS, CANYON, PAYETTE & WASHINGTON COUNTIES

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 Rancher
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 Farmer
 CO-CHAIR-Legislative Council

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10 - CANYON COUNTY

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 Agricultural Affairs; Health & Welfare; Joint Legislative Oversight/JLOC;
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11 - CANYON & GEM COUNTIES

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12 - CANYON COUNTY

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 Insurance Broker
 VICE CHAIR-Revenue & Taxation
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LEGISLATORS BY DISTRICT (Continued)

13 - CANYON COUNTY

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14 - ADA COUNTY

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15 - ADA COUNTY

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16 - ADA COUNTY

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LEGISLATORS BY DISTRICT (Continued)

17 - ADA COUNTY

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 Agricultural Affairs; Judiciary, Rules, & Administration; Revenue & Taxation; Ways & Means

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18 - ADA COUNTY

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19 - ADA COUNTY

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20 - ADA COUNTY

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LEGISLATORS BY DISTRICT (Continued)

21 - ADA COUNTY

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 CO-CHAIR-Joint Legislative Oversight/JLOC
 Appropriations/JFAC; Business; Local Government

22 - BOISE & ELMORE COUNTIES

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 Trucking Company Spouse - LaVonnie
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 Local Government & Taxation; Transportation

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 Business Owner, Opera Theatre/ Spouse - Connie
 Communications Consulting Business
 CHAIR-Ways & Means
 Education; Judiciary, Rules, & Administration; Transportation & Defense

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 Life & Health Insurance Agent Spouse - Connie
 VICE CHAIR-Health & Welfare
 Education; Judiciary, Rules, & Administration

23 - OWYHEE & TWIN FALLS COUNTIES

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 Finance/JFAC; Resources & Environment

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 Farmer Spouse - Afton
 Agricultural Affairs; Appropriations/JFAC; Business;

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 Business Consultant/Economic Spouse - Linda
 Development
 Commerce & Human Resources; Education; Environment, Energy, &
 Technology

24 - TWIN FALLS COUNTY

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 VICE CHAIR-Commerce & Human Resources
 Health & Welfare; Resources & Environment

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 CHAIR-Health & Welfare
 Education

LEGISLATORS BY DISTRICT (Continued)

25 - BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

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 Agricultural Affairs; Education; Legislative Council; Resources &
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26 - JEROME & MINIDOKA COUNTIES

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 Owner, Insurance & Investment Agency Spouse - Linda
 CHAIR-Finance
 CO-CHAIR-JFAC
 Commerce & Human Resources; Resources & Environment

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 Agricultural Affairs; State Affairs

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 Email: mbell@house.idaho.gov
 Retired Farmer/Retired School Librarian Spouse - H. Jack
 CHAIR-Appropriations
 CO-CHAIR-JFAC
 Joint Legislative Oversight/JLOC; Resources & Conservation

27 - BINGHAM, CASSIA, ONEIDA & POWER COUNTIES

Denton Darrington (R) Senate 14th Term
 302 S. Hwy. 77, Declo 83323
 Home 654-2712
 Email: ddarrington@senate.idaho.gov
 Farmer/Teacher Spouse - Virgene
 CHAIR-Judiciary & Rules
 Health & Welfare; State Affairs

Scott Bedke (R) House Seat A 5th Term
 ASSISTANT MAJORITY LEADER
 P.O. Box 89, Oakley 83346
 Home 862-3619 FAX 862-3688
 Email: sbedke@house.idaho.gov
 Rancher Spouse - Sarah
 Resources & Conservation; Revenue & Taxation; Transportation & Defense;
 Ways & Means

Fred Wood (R) House Seat B 2nd Term
 P.O. Box 1207, Burley 83318-0828
 Home 312-1056 FAX 677-3136
 Email: fwood@house.idaho.gov
 Physician/Medical Director, Cassia Spouse - Amy
 Regional Medical Center
 Appropriations/JFAC; Health & Welfare; Resources & Conservation

28 - BINGHAM COUNTY

Steve Bair (R) Senate 2nd Term
 947 W. 200 S., Blackfoot 83221
 Home 684-5209 FAX 684-5209
 Email: sbair@senate.idaho.gov
 Farmer/Investor Spouse - Lori Kae
 VICE CHAIR-Resources & Environment
 Finance/JFAC;

Dennis M. Lake (R) House Seat A 7th Term
 830 Taber Rd., Blackfoot 83221
 Home 684-4967
 Email: dlake@house.idaho.gov
 Agribusiness Spouse - Luann
 CHAIR-Revenue & Taxation
 Agricultural Affairs; Commerce & Human Resources

Jim Marriott (R) House Seat B 2nd Term
 799 W. 200 S., Blackfoot 83221
 Home 684-4863
 Email: jmarriott@house.idaho.gov
 Retired Medical Business Administrator/Spouse - Colleen (deceased)
 Small Cattle Operation
 VICE CHAIR-Commerce & Human Resources
 Education; Health & Welfare

LEGISLATORS BY DISTRICT (Continued)

29 - BANNOCK COUNTY

Diane Bilyeu (D) Senate 2nd Term
 (Served 1 term, Senate 1969-1970)
 11076 N. Philbin, Pocatello 83202
 Home 237-3158
 Email: dbilyeu@senate.idaho.gov
 Retired Spouse - Chick (deceased)
 Finance/JFAC; Local Government & Taxation; Transportation

Ken Andrus (R) House Seat A 3rd Term
 6948 E. Old Oregon Trail Rd., Lava Hot Springs 83246
 Home 776-5380 Bus 244-2057
 Email: kandrus@house.idaho.gov
 Cattle & Sheep Rancher Spouse - Colleen
 VICE CHAIR-Agricultural Affairs
 Resources & Conservation; State Affairs

James D. Ruchti (D) House Seat B 2nd Term
 ASSISTANT MINORITY LEADER
 5100 Pinyon Rd., Pocatello 83204
 Home 251-4104 Bus 251-4104
 Email: jruchti@house.idaho.gov
 Attorney Spouse - Wendy
 Revenue & Taxation; Transportation & Defense; Ways & Means

30 - BANNOCK COUNTY

Edgar J. Malepeai (D) Senate 4th Term
 MINORITY CAUCUS CHAIR
 585 S. 19th, Pocatello 83201
 Home 232-2038 Bus 237-1300 FAX 237-1350
 Email: emalepeai@senate.idaho.gov
 Teacher Spouse - Brenda K. (deceased)
 Agricultural Affairs; Commerce & Human Resources; Education; Joint
 Legislative Oversight/JLOC

Donna H. Boe (D) House Seat A 7th Term
 226 S. 16th, Pocatello 83201
 Home 233-5651 FAX 234-4223
 Email: dboe@house.idaho.gov
 Retired Spouse - Roger
 Education; Joint Legislative Oversight/JLOC; Judiciary, Rules, &
 Administration; Local Government

Elaine Smith (D) House Seat B 5th Term
 3759 Heron Ave., Pocatello 83201
 Home 237-1462 Bus 235-3231 FAX 235-3280
 Email: esmith@house.idaho.gov
 Volunteer Services Coordinator, School Spouse - Rich
 District #25
 Business; Environment, Energy, & Technology; State Affairs

31 - BEAR LAKE, BONNEVILLE, CARIBOU, FRANKLIN & TETON COUNTIES

Robert L. Geddes (R) Senate 8th Term
 PRESIDENT PRO TEMPORE
 240 E. 3rd N., Soda Springs 83276
 Home 547-2423
 Statehouse: Ph 332-1300 FAX 334-2320
 Email: rlgeddes@senate.idaho.gov
 Environmental Engineer Spouse - Tammy
 CO-CHAIR-Legislative Council
 State Affairs

Marc Gibbs (R) House Seat A 1st Term
 632 Highway 34, Grace 83241
 Home 425-3385 FAX 425-3329
 Email: mgibbs@house.idaho.gov
 Farmer Spouse - Bonne
 Business; Education; Health & Welfare

Thomas F. Loertscher (R) House Seat B 3rd Term
 (Served 8 terms, House 1987-2002)
 1357 Bone Rd., Iona 83427
 Home 522-3072 FAX 522-1141
 Email: tloertscher@house.idaho.gov
 Farmer/Rancher Spouse - Linda
 CHAIR-State Affairs
 Health & Welfare

32 - BONNEVILLE COUNTY

Dean M. Mortimer (R) Senate 1st Term
 (Served 1 term, House 2007-2008)
 7403 S. 1st E., Idaho Falls 83404
 Home 528-6377 Bus 524-9000 FAX 524-9999
 Email: dmortimer@senate.idaho.gov
 Builder/Developer Spouse - Judy
 VICE CHAIR-Education
 Finance/JFAC; Judiciary & Rules

Janice K. McGeachin (R) House Seat A 4th Term
 6121 N. 5th W., Idaho Falls 83401
 Bus 523-1718 FAX 529-9936
 Email: jmcgeachin@house.idaho.gov
 Business Owner Spouse - James J.
 Appropriations/JFAC; Health & Welfare; Judiciary, Rules, & Administration

Erik Simpson (R) House Seat B 1st Term
 6117 N. 5th W., Idaho Falls 83401
 Home 542-5447 FAX 542-5447
 Email: esimpson@house.idaho.gov
 Communications/Public Involvement Spouse - Fawn
 Specialist
 Commerce & Human Resources; Environment, Energy, & Technology; State
 Affairs

LEGISLATORS BY DISTRICT (Continued)

33 - BONNEVILLE COUNTY

Bart M. Davis (R) Senate 6th Term
 MAJORITY LEADER
 2638 Bellin Circle, Idaho Falls 83402
 Home 529-4993 Bus 522-8100 FAX 522-1334
 Email: bmdavis@senate.idaho.gov
 Attorney Spouse - Marion
 Judiciary & Rules; Legislative Council; State Affairs

35 - BUTTE, CLARK, CUSTER, FREMONT, JEFFERSON & LEMHI
 COUNTIES
Jeff C. Siddoway (R) Senate 2nd Term
 1764 E. 1200 N., Terreton 83450
 Home 663-4585 FAX 663-4428
 Email: jsiddoway@senate.idaho.gov
 Rancher Spouse - Cindy
 Finance/JFAC; Resources & Environment

Jeff Thompson (R) House Seat A 1st Term
 1739 Peggy's Lane, Idaho Falls 83402
 Home 524-7367 Bus 681-4310 FAX 524-7367
 Email: jthompson@house.idaho.gov
 Businessman/Educator Spouse - Chanin
 Business; Education; Health & Welfare

JoAn E. Wood (R) House Seat A 14th Term
 3778 E. 500 N., Rigby 83442
 Home 745-7846 FAX 745-8420
 Email: jawood@house.idaho.gov
 Partner, Ranch/Farm Spouse - Tom (deceased)
 CHAIR-Transportation & Defense
 Resources & Conservation; Revenue & Taxation

Russ Mathews (R) House Seat B 3rd Term
 2583 Genevieve Way, Idaho Falls 83402
 Home 528-7893
 Email: rmathews@house.idaho.gov
 Business Consultant Spouse - Virginia
 Business; State Affairs; Transportation & Defense

Lenore Hardy Barrett (R) House Seat B 9th Term
 P.O. Box 347, Challis 83226
 Home 879-2797 FAX 879-4257
 Email: lbarrett@house.idaho.gov
 Mining/Investments Spouse - Robert
 CHAIR-Local Government
 Resources & Conservation; Revenue & Taxation

34 - FREMONT & MADISON COUNTIES

Brent Hill (R) Senate 5th Term
 1010 S. 2nd E., Rexburg 83440
 Home 356-7495 Bus 356-3677 FAX 356-3689
 Email: bhill@senate.idaho.gov
 Certified Public Accountant Spouse - Julie
 CHAIR-Local Government & Taxation
 Agricultural Affairs; Judiciary & Rules

Mack G. Shirley (R) House Seat A 4th Term
 443 W. Moran View, Rexburg 83440-5177
 Home 356-3831
 Email: mshirley@house.idaho.gov
 Retired College Administrator Spouse - Shanna
 VICE CHAIR-Education
 Agricultural Affairs; Judiciary, Rules, & Administration

Dell Raybould (R) House Seat B 5th Term
 3215 N. 2000 W., Rexburg 83440
 Home 356-6837 Bus 356-6837
 Email: draybould@house.idaho.gov
 Farmer/Businessman Spouse - Vera
 CHAIR-Environment, Energy, & Technology
 Resources & Conservation; Revenue & Taxation

