

## 2015 Ida. HB 91

Enacted, March 26, 2015

### Reporter

2015 Ida. ALS 141; 2015 Idaho Sess. Laws 141; 2015 Ida. Ch. 141; 2015 Ida. HB 91

IDAHO ADVANCE LEGISLATIVE SERVICE > IDAHO 63RD LEGISLATURE - FIRST REGULAR SESSION >  
CHAPTER NO. 141 > HOUSE BILL NO. 91

## Notice

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## Synopsis

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AN ACT RELATING TO THE PUBLIC RECORDS ACT; AMENDING SECTIONS 1-2103, 6-1001, 6-1008, 6-1010, 6-2301, 6-2303, 7-1408, 7-1416, 9-806, 9-808, 15-5-602, 16-1513, 16-1629, 18-609A, 18-1359, 18-3302, 18-3302H, 18-3302K, 19-1112, 19-5514, 19-5801, 19-5803, 20-226, 20-511, 20-516, 20-525, 20-804, 22-606, 22-609, 22-1215, 22-2206, 22-2209, 22-2718, 22-3309, 22-4909A, 22-5119, 23-515, 25-207B, 25-2714, 25-3806, 25-3807, 26-1111, 26-1112, 26-2610, 26-2916, 26-31-103, 26-31-315, 28-46-106, 28-46-304, 28-46-409, 28-51-104, 30-14-607, 31-874, 31-1415, 31-3418, 31-3551, 31-4814, 31-4904, 31-5104, 33-357, 33-510, 33-514, 33-515, 33-1211, 33-1273A, 33-2505A, 33-2606, 33-2719, 33-3407 AND 33-5204, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 33-5204, IDAHO CODE, AS ENACTED BY SECTION 9, CHAPTER 252, LAWS OF 2014, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTIONS 33-5204A, 33-5504A, 34-416, 36-105, 36-402, 36-2114, 37-401, 37-606, 37-2743, 38-712, 39-111, 39-270, 39-606, 39-610, 39-1210, 39-1310, 39-1393, 39-2812, 39-3556, 39-3913, 39-4411, 39-4412, 39-5211, 39-5307, 39-5403, 39-5818, 39-7408B, 39-7908, 39-7914, 39-8206, 40-1306C, 40-1309, 40-2004, 41-227, 41-249, 41-296, 41-335, 41-1019, 41-1440, 41-2710, 41-3311, 41-4011, 41-4111, 41-5103, 41-5408, 41-5817, 42-4010, 44-1606, 47-319, 47-1314, 47-1506, 47-1515, 48-612, 48-801, 48-1509, 49-321, 49-1234, 49-1311, 49-1313, 49-1314, 50-2006, 54-204, 54-918, 54-934, 54-1210, 54-1406A, 54-1413, 54-1715, 54-1806, 54-1806A, 54-1820, 54-1837, 54-2080, 54-2118, 54-2221, 54-2601, 54-3204, 54-3404, 54-3913, 54-4603, 56-209J, 56-221, 56-231, 57-133B, 57-911, 58-126, 59-1316, 63-602G, 63-3029B, 63-3045B, 63-3077, 65-301, 66-348, 67-455A, 67-461, 67-1903, 67-2726, 67-2743E, 67-2915, 67-3008, 67-4126, 67-4708, 67-5009, 67-5220, 67-5241, 67-5252, 67-5711C, 67-5711D, 67-5725, 67-5768, 67-5781, 67-7410, 67-7421, 67-7436, 67-7437, 67-7441, 67-7445, 67-8906, 69-250, 69-515, 72-603, 72-926, 72-1007, 72-1342, 72-1372 AND 72-1374, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND PROVIDING AN EFFECTIVE DATE.

## Text

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

**SECTION 1.** That Section 1-2103, Idaho Code, be, and the same is hereby amended to read as follows:

**1-2103.**

Removal, disciplining, or retirement of judges or justices -- Procedure. A justice of the Supreme Court or judge of any district court, in accordance with the procedure prescribed in this section, may be disciplined or removed for wilful misconduct in office or wilful and persistent failure to perform his duties or habitual

intemperance or conduct prejudicial to the administration of justice that brings judicial office into disrepute, or he may be retired for disability seriously interfering with the performance of his duties, which is, or is likely to become of a permanent character. The judicial council may, after such investigation as the council deems necessary, order a hearing to be held before it concerning the removal, discipline or retirement of a justice or a judge, or the council may in its discretion request the Supreme Court to appoint three (3) special masters, who shall be justices or judges, to hear and take evidence in any such matters, and to report their findings to the council. If, after hearing, or after considering the record and the findings and report of the masters, the council finds good cause therefor, it shall recommend to the Supreme Court the removal, discipline or retirement, as the case may be, of the justice or judge.

The Supreme Court shall review the record of the proceedings on the law and facts and in its discretion may permit the introduction of additional evidence and shall order removal, discipline or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the justice or judge shall thereby be retired with the same rights and privileges as if he retired pursuant to other provisions of law. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order.

All papers filed with and the proceedings before the judicial council or masters appointed by the Supreme Court, pursuant to this section, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, provided, however, that if allegations against a judge are made public by the complainant, judge or third persons, the judicial council may, in its discretion, comment on the existence, nature, and status of any investigation. The filing of papers with and the giving of testimony before the council or the masters shall be privileged; but no other publication of such papers or proceedings shall be privileged in any action for defamation except that (a) the record filed by the council in the Supreme Court continues privileged and upon such filing loses its confidential character and (b) a writing which was privileged prior to its filing with the council or the masters does not lose such privilege by such filing. The judicial council shall by rule provide for procedures under this section, including the exercise of requisite process and subpoena powers. A justice or judge who is a member of the council or Supreme Court shall not participate in any proceedings involving his own removal, discipline or retirement.

This section is alternative to, and cumulative with, the removal of justices and judges by impeachment, and the original supervisory control of members of the judicial system by the Supreme Court.

**SECTION 2.** That Section 6-1001, Idaho Code, be, and the same is hereby amended to read as follows:

**6-1001.**

Hearing panel for prelitigation consideration of medical malpractice claims -- Procedure. The Idaho state board of medicine, in alleged malpractice cases involving claims for damages against physicians and surgeons practicing in the state of Idaho or against licensed acute care general hospitals operating in the state of Idaho, is directed to cooperate in providing a hearing panel in the nature of a special civil grand jury and procedure for prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide hospital or medical care in the state of Idaho, which proceedings shall be informal and nonbinding, but nonetheless compulsory as a condition precedent to litigation. Proceedings conducted or maintained under the authority of this act shall at all times be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Formal rules of evidence shall not apply and all such proceedings shall be expeditious and informal.

**SECTION 3.** That Section 6-1008, Idaho Code, be, and the same is hereby amended to read as follows:

**6-1008.**

Confidentiality of proceedings. Neither party shall be entitled, except upon special order of the panel, to attend and participate in the proceedings which shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and closed to public observation at all times, except during the giving of his or her own testimony or presentation of argument of his or her position, whether by counsel or personally; nor shall there be cross-examination, rebuttal or other customary formalities of civil trials and

court proceedings. The panel itself may, however, initiate requests for special or supplemental participation, in particular respects and of some or all parties; and communications between the panel and the parties, excepting only the parties' own testimony on the merits of the dispute, shall be fully disclosed to all other parties.

**SECTION 4.** That Section 6-1010, Idaho Code, be, and the same is hereby amended to read as follows:

**6-1010.**

Fees for panel members. The Idaho state board of medicine shall provide, by uniform policy of the board, for the payment of fees and expenses of members of panels, such payment to be made from the state board of medicine fund created in section 54-1809, Idaho Code. Panel members shall serve upon the sworn commitment that all related matters shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and privileged.

**SECTION 5.** That Section 6-2301, Idaho Code, be, and the same is hereby amended to read as follows:

**6-2301.**

Prelitigation hearing panel -- Licensed nursing facilities. In the event of an alleged negligence or wrongful death case involving a claim for damages against a licensed nursing facility operating in the state of Idaho, the Idaho state board of examiners of nursing home administrators is directed to cooperate in providing a prelitigation hearing panel. The panel shall operate in the nature of a special civil grand jury and procedure for prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide medical, nursing, or health care services in the state of Idaho. The proceedings shall be informal and nonbinding, but shall be compulsory as a condition precedent to litigation. Proceedings conducted or maintained under the authority of this chapter shall at all times be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. Formal rules of evidence shall not apply and all proceedings shall be expeditious and informal.

**SECTION 6.** That Section 6-2303, Idaho Code, be, and the same is hereby amended to read as follows:

**6-2303.**

Fees -- Confidentiality. The Idaho state board of examiners of nursing home administrators shall provide, by uniform policy of the board, for the payment of fees and expenses of members of panels, such payment to be made from the occupational licenses fund. Panel members shall serve upon the sworn commitment that all related matters shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and privileged.

**SECTION 7.** That Section 7-1408, Idaho Code, be, and the same is hereby amended to read as follows:

**7-1408.**

Confirmation of nonlicensure. The petitioner or department shall notify the appropriate licensing authority of the commencement of a judicial or administrative proceeding to suspend a license. Notwithstanding any provision of the Idaho public records act, ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, or other statute or ordinance, the licensing authority shall then notify the petitioner or the department if the individual named in the petition is not a licensee.

**SECTION 8.** That Section 7-1416, Idaho Code, be, and the same is hereby amended to read as follows:

**7-1416. Cooperation between licensing authorities and the department of health and welfare.**

(1) Notwithstanding any provision of the Idaho public records act, ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, or other statute or ordinance, upon request of the department a licensing authority shall provide the name, address, social security number, license renewal date and other identifying

information for licensees. The information shall be provided in a manner agreed to by the licensing authority and the department.

- (2) The department may enter into a cooperative agreement with a licensing authority to administer this chapter in a cost-effective manner.

**SECTION 9.** That Section 9-806, Idaho Code, be, and the same is hereby amended to read as follows:

**9-806. Exceptions to privilege.**

- (1) There is no privilege under section 9-804, Idaho Code, for a mediation communication that is:
  - (a) In an agreement evidenced by a record signed by all parties to the agreement;
  - (b) Available to the public under ~~sections 9-337 through 9-347~~ chapter 1, title 74, Idaho Code, or made during a session of a mediation which is open, or is required by law to be open, to the public;
  - (c) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;
  - (d) Intentionally used to plan a crime, attempt to commit or commit a crime or to conceal an ongoing crime or ongoing criminal activity;
  - (e) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;
  - (f) Except as otherwise provided in subsection (3) of this section, sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant or representative of a party based on conduct occurring during a mediation; or
  - (g) Sought or offered to prove or disprove abuse, neglect, abandonment or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the public agency participates in the mediation.
- (2) There is no privilege under section 9-804, Idaho Code, if a court, administrative agency or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in:
  - (a) A court proceeding involving a felony or misdemeanor; or
  - (b) Except as otherwise provided in subsection (3) of this section, a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.
- (3) A mediator may not be compelled to provide evidence of a mediation communication referred to in subsection (1)(f) or (2)(b) of this section.
- (4) If a mediation communication is not privileged under subsection (1) or (2) of this section, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection (1) or (2) of this section does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

**SECTION 10.** That Section 9-808, Idaho Code, be, and the same is hereby amended to read as follows:

**9-808.**

Confidentiality. Unless subject to ~~sections 9-337 through 9-347~~ chapter 1 or ~~67-2340 through 67-2347~~ 2, title 74, Idaho Code, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state.

**SECTION 11.** That Section 15-5-602, Idaho Code, be, and the same is hereby amended to read as follows:

**15-5-602. Board structure -- Powers and duties.**

- (a) Any board of community guardian which is created within a county or counties in a judicial district shall operate under the laws of the state of Idaho, including the Idaho guardianship, conservatorship and trust laws.
- (b) A board of community guardian shall consist of not fewer than seven (7) or more than eleven (11) members who are representatives of community interests involving persons needing guardians or conservators as defined by chapter 5, title 15, Idaho Code. Members shall be appointed by the board of county commissioners that created the board of community guardian under section 15-5-601, Idaho Code.
  - (1) The terms of the members of the board shall be for four (4) years and shall be staggered. A number of members equaling or most closely exceeding one-half (1/2) shall initially be appointed for three (3) years. Any vacancy created by resignation or expiration of term shall be filled in the same manner as the original appointment;
  - (2) A member will continue to serve on the board until that person's successor is appointed;
  - (3) The board shall meet not less than once each quarter;
  - (4) No person shall be a member of a board who is also an employee of the district court or the clerk of the district court;
  - (5) A board member having previously provided or currently providing services to a ward shall disclose such to the board and abstain from any decision or action taken concerning that particular ward;
  - (6) Board members and officers shall serve without pay;
  - (7) Each board shall elect its own chairman and other officers.
- (c) A board, in those instances when a guardian and/or conservator is required and no qualified family member or other qualified person has volunteered to serve, may:
  - (1) Locate a qualified person to serve as guardian and/or conservator; or
  - (2) Petition the court to be appointed guardian and/or conservator.
- (d) The board shall have all the powers and duties where applicable by court order, as provided under section 15-5-312, Idaho Code, and/or sections 15-5-408 and 15-5-424, Idaho Code, and in addition thereto shall:
  - (1) Locate and recommend to the court, where necessary, that a visitor be appointed as provided in section 15-5-503, Idaho Code;
  - (2) Have access to all confidential records, including abuse registry reports that may be maintained by state or private agencies or institutions, which records concern a person for whom the board acts as guardian and/or conservator. The name of the person reporting the alleged abuse shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;
  - (3) Review and monitor the services provided by public and private agencies to any incapacitated person for whom the board acts as guardian and/or conservator and determine the continued need for those services;
  - (4) Assess a fee for services developed pursuant to this part;
  - (5) Have the power, subject to the approval of the board of county commissioners, to adopt such rules as are necessary to carry out the duties and responsibilities of the board.
- (e) When a board serves as guardian or conservator, it shall be compensated as other guardians or conservators pursuant to Idaho law. If, at the time the board is appointed as guardian and/or conservator, the incapacitated person for whom the board is to act has no funds, the court may waive the payment of fees.

- (f) When a board serves as guardian and/or conservator there is created, at the time of filing of the order of appointment, a lien in favor of the board against any real property owned by the ward or protected person, enforceable only upon the termination of the guardianship and/or conservatorship, for all fees which were incurred throughout the duration of the services and which were not paid prior to termination. All fees incurred throughout the duration of the services and which were not paid prior to the termination of services shall relate back to the effective date of the lien. The board must record a notice of said lien within thirty (30) days of filing of the order of appointment. Such liens shall be recorded in every county where property subject to the lien is located. The notice shall contain at least the following information: full court heading of the action in which the appointment was made; the effective date of the lien; the name and address of the board; and any limitations or terms regarding the fees covered by the lien contained in the order of appointment. The court may postpone or arrange for gradual repayment of the fees if the court finds that the immediate repayment would create a hardship on the person.
- (g) No member of a board of community guardian, any employees, or any visitor appointed at the request of such board pursuant to section 15-5-303, Idaho Code, shall be liable for civil damages by reason of authorizing medical treatment or surgery for the person for whom the board is appointed, if the board member, employee or visitor, after medical consultation with the person's physician, acts in good faith, is not negligent, and acts within the limits established for the guardian and/or conservator by the court. No such person shall be liable, by reason of his authorization, for injury to the person for whom the guardian and/or conservator has been appointed which injury results from the negligence or other acts of a third person, if the court has authorized the giving of medical consent by the board or the individual members of the board. No such person shall be liable in the performance of acts done in good faith within the scope of his authority as long as the act is not of a wanton or grossly negligent nature. The board of community guardian shall be deemed to be a governmental entity for the purposes of application of the Idaho tort claims act.

**SECTION 12.** That Section 16-1513, Idaho Code, be, and the same is hereby amended to read as follows:

**16-1513. Registration of notice and filing of paternity proceedings.**

- (1) A person who is the father or claims to be the father of a child born out of wedlock may claim rights pertaining to his paternity of the child by commencing proceedings to establish paternity under section 7-1111, Idaho Code, and by filing with the vital statistics unit of the department of health and welfare notice of his filing of proceedings to establish his paternity of the child born out of wedlock. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of filing the notice of filing of paternity proceedings, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. The forms shall include a written notification that filing pursuant to this section shall not satisfy the requirements of chapter 82, title 39, Idaho Code, and the notification shall also include the following statements:
  - (a) A parent may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, as provided by section 39-8206, Idaho Code, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare on a form as prescribed and provided by the vital statistics unit of the department of health and welfare;
  - (b) The vital statistics unit of the department of health and welfare shall maintain a separate registry for claims to abandoned children, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code;
  - (c) The department shall provide forms for the purpose of filing a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state;



(d) To be valid, a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child;

(e) Registration of notice of filing of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of chapter 82, title 39, Idaho Code. To register a parental claim to an abandoned child, abandoned pursuant to the provisions of chapter 82, title 39, Idaho Code, an individual must file an abandoned child registry claim with the vital statistics unit of the department of health and welfare and comply with all other provisions of chapter 82, title 39, Idaho Code, in the time and manner prescribed, in order to preserve parental rights to the child.

When filing a notice of the filing of paternity proceedings, a person who claims to be the father of a child born out of wedlock shall file with the vital statistics unit of the department of health and welfare the completed form prescribed by the vital statistics unit of the department of health and welfare. Said form will be filled out completely, signed by the person claiming paternity, and witnessed before a notary public.

- (2) The notice of the filing of paternity proceedings may be filed prior to the birth of the child, but must be filed prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother. The notice of the filing of paternity proceedings shall be signed by the person filing the notice and shall include his name and address, the name and last address of the mother, and either the birth date of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a central registry for this purpose that shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. The department shall record the date and time the notice of the filing of proceedings is filed with the department. The notice shall be deemed to be duly filed with the department as of the date and time recorded on the notice by the department.
- (3) If the unmarried biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in venue.
- (4) Except as provided in section 16-1504(5), Idaho Code, any father of a child born out of wedlock who fails to file and register his notice of the commencement of paternity proceedings pursuant to section 7-1111, Idaho Code, prior to the date of the filing of any proceeding to terminate the parental rights of the birth mother; the filing of any proceeding to adopt the child; or the execution of a consent to terminate the birth mother's parental rights under the provisions of section 16-2005(4), Idaho Code, whichever occurs first, is deemed to have waived and surrendered any right in relation to the child and of any notice to proceedings for adoption of the child or for termination of parental rights of the birth mother. His consent to the adoption of the child shall not be required and he shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Failure of such filing or registration shall constitute an abandonment of said child and shall constitute an irrevocable implied consent in any adoption or termination proceeding.
- (5) The filing and registration of an unrevoked notice of the commencement of paternity proceedings by a putative father shall constitute prima facie evidence of the fact of his paternity in any contested proceeding under chapter 11, title 7, Idaho Code. The filing of a notice of the commencement of paternity proceedings shall not be a bar to an action for termination of his parental rights under chapter 20, title 16, Idaho Code.
- (6) An unmarried biological father of a child born out of wedlock who has filed and registered a notice of the filing of paternity proceedings may at any time revoke notice of intent to claim paternity previously filed. Upon receipt of written revocation, the effect shall be as if no notice of the filing of paternity proceedings had been filed or registered.

- (7) In any adoption proceeding pertaining to a child born out of wedlock, if there is no showing that the putative father has consented to the adoption, a certificate shall be obtained from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of notices from putative fathers, and that no filing has been found pertaining to the father of the child in question, or if a filing is found, stating the name of the putative father and the time and date of filing. That certificate shall be filed with the court prior to entry of a final decree of adoption.
- (8) Identities of putative fathers can only be released pursuant to procedures contained in ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (9) To cover the cost of implementing and maintaining said central registry, the vital statistics unit of the department of health and welfare shall charge a filing fee of ten dollars (\$ 10.00) at the time the putative father files his notice of his commencement of proceedings. The department shall also charge a reasonable fee to cover all costs incurred in a search of the Idaho putative father registry and for furnishing a certificate in accordance with the provisions of this section and section 16-1504, Idaho Code. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section and section 16-1504, Idaho Code. The department shall annually review the fees and expenses incurred pursuant to administering the provisions of this section and section 16-1504, Idaho Code.
- (10) Consistent with its authority denoted in the vital statistics act, section 39-242(c), Idaho Code, the board of health and welfare shall adopt, amend and repeal rules for the purpose of carrying out the provisions of this section.
- (11) The department shall produce and distribute, within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, a pamphlet or publication informing the public about the Idaho putative father registry, printed in English and Spanish. The pamphlet shall indicate the procedures to be followed in order to receive notice of any proceeding for adoption of a child an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry. Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, such pamphlets or publications shall be made available for distribution to the public at all offices of the department of health and welfare. Upon request the department shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools, colleges, universities, providers of child-related services and children's agencies licensed in the state of Idaho or advertising services in the state of Idaho.
- (12) Within the limits of continuing annual appropriations duly made available to the department by the legislature for such purposes, each county clerk, branch office of the department of motor vehicles, all offices of the department of health and welfare, hospitals and local health districts shall post in a conspicuous place a notice that informs the public about the purpose and operation of the Idaho putative father registry. The notice must include information regarding the following:
  - (a) Where to obtain a registration form;
  - (b) Where to register;
  - (c) The procedures to follow in order to file proceedings to establish paternity of a child born out of wedlock;
  - (d) The consequences of a voluntary acknowledgment of paternity; and
  - (e) The consequences of failure to acknowledge paternity.
- (13) The department shall host on the department's web page a public service announcement (PSA) informing the public about the Idaho putative father registry, printed in English and Spanish. The PSA shall indicate the procedures to be followed in order to receive notice of any proceeding for adoption of



a child an unmarried biological father claims to have fathered and of any proceeding for termination of his parental rights, voluntary acknowledgment of paternity, the consequences of acknowledgment of paternity, the consequences of failure to acknowledge paternity and the address of the Idaho putative father registry.

- (14) Failure to post a proper notice under the provisions of this section does not relieve a putative father of the obligation to file notice of the filing of proceedings to establish his paternity pursuant to this section or to commence proceedings to establish paternity pursuant to section 7-1111, Idaho Code, prior to the filing of any proceeding to terminate parental rights of the birth mother.
- (15) A person who knowingly or intentionally falsely files or registers as a putative father is guilty of a misdemeanor.

**SECTION 13.** That Section 16-1629, Idaho Code, be, and the same is hereby amended to read as follows:

**16-1629.**

Powers and duties of the department. The department, working in conjunction with the court and other public and private agencies and persons, shall have the primary responsibility to implement the purpose of this chapter. To this end, the department is empowered and shall have the duty to do all things reasonably necessary to carry out the purpose of this chapter, including, but not limited to, the following:

- (1) The department shall administer treatment programs for the protection and care of neglected, abused and abandoned children, and in so doing may place in foster care, shelter care, or other diagnostic, treatment, or care centers or facilities, children of whom it has been given custody. The department is to be governed by the standards found in chapter 12, title 39, Idaho Code.
- (2) On December 1, the department shall make an annual statistical report to the governor covering the preceding fiscal year showing the number and status of persons in its custody and including such other data as will provide sufficient facts for sound planning in the conservation of children and youth. All officials and employees of the state and of every county and city shall furnish the department, upon request, such information within their knowledge and control as the department deems necessary. Local agencies shall report in such uniform format as may be required by the department.
- (3) The department shall be required to maintain a central registry for the reporting of child neglect, abuse and abandonment information. Provided however, that the department shall not retain any information for this purpose relating to a child, or parent of a child, abandoned pursuant to chapter 82, title 39, Idaho Code.
- (4) The department shall make periodic evaluation of all persons in its custody or under its protective supervision for the purpose of determining whether existing orders and dispositions in individual cases shall be modified or continued in force. Evaluations may be made as frequently as the department considers desirable and shall be made with respect to every person at intervals not exceeding six (6) months. Reports of evaluation made pursuant to this section shall be filed with the court that has jurisdiction. Reports of evaluation shall be provided to persons having full or partial legal or physical custody of a child. Failure of the department to evaluate a person or to reevaluate him within six (6) months of a previous examination shall not of itself entitle the person to a change in disposition but shall entitle him, his parent, guardian or custodian or his counsel to petition the court pursuant to section 16-1622, Idaho Code.
- (5) In a consultative capacity, the department shall assist communities in the development of constructive programs for the protection, prevention and care of children and youth.
- (6) The department shall keep written records of investigations, evaluations, prognoses and all orders concerning disposition or treatment of every person over whom it has legal custody or under its protective supervision. Department records shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless otherwise ordered by the court, the person consents to the disclosure, or disclosure is necessary for the delivery of services to the person. Notwithstanding the

provisions restricting disclosure or the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, all records pertaining to investigations, the rehabilitation of youth, the protection of children, evaluation, treatment and/or disposition records pertaining to the statutory responsibilities of the department shall be disclosed to any duly elected state official carrying out his official functions.

- (7) The department shall establish appropriate administrative procedures for the processing of complaints of child neglect, abuse and abandonment received and for the implementation of the protection, treatment and care of children formally or informally placed in the custody of the department or under its protective supervision under this chapter including, but not limited to:
  - (a) Department employees whose job duties are related to the child protective services system under this chapter shall first be trained as to their obligations under this chapter regarding the protection of children whose health and safety may be endangered. The curriculum shall include information regarding their legal duties, how to conduct their work in conformity with the requirements of this chapter, information regarding applicable federal and state laws with regard to the rights of the child, parent and others who may be under investigation under the child protective services system, and the applicable legal and constitutional parameters within which they are to conduct their work.
  - (b) Department employees whose job duties are related to the child protective services system shall advise the individual of the complaints or allegations made against the individual at the time of the initial contact, consistent with protecting the identity of the referent.
- (8) The department having been granted legal custody of a child, subject to the judicial review provisions of this subsection, shall have the right to determine where and with whom the child shall live, provided that the child shall not be placed outside the state without the court's consent. Provided however, that the court shall retain jurisdiction over the child, which jurisdiction shall be entered on any order or petition granting legal custody to the department, and the court shall have jurisdiction over all matters relating to the child. The department shall not place the child in the home from which the court ordered the child removed without first obtaining the approval of the court.
- (9) The department shall give to the court any information concerning the child that the court may at any time require, but in any event shall report the progress of the child under its custody or under its protective supervision at intervals of not to exceed six (6) months. The department shall file with the court at least five (5) days prior to the permanency hearing either under section 16-1622, Idaho Code, or, in the case of a finding of aggravated circumstances, section 16-1620, Idaho Code, the permanency plan and recommendations of the department.
- (10) The department shall establish appropriate administrative procedures for the conduct of administrative reviews and hearings as required by federal statute for all children committed to the department and placed in out of the home care.
- (11) At any time the department is considering a placement pursuant to this chapter, the department shall make a reasonable effort to place the child in the least restrictive environment to the child and in so doing shall consider, consistent with the best interest and special needs of the child, placement priority of the child in the following order:
  - (a) A fit and willing relative.
  - (b) A fit and willing nonrelative with a significant relationship with the child.
  - (c) Foster parents and other persons licensed in accordance with chapter 12, title 39, Idaho Code.

**SECTION 14.** 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~~ **74-110**, 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 15.** That Section 18-1359, Idaho Code, be, and the same is hereby amended to read as follows:

**18-1359. Using public position for personal gain.**

- (1) No public servant shall:
  - (a) Without the specific authorization of the governmental entity for which he serves, use public funds or property to obtain a pecuniary benefit for himself.
  - (b) Solicit, accept or receive a pecuniary benefit as payment for services, advice, assistance or conduct customarily exercised in the course of his official duties. This prohibition shall not include trivial

benefits not to exceed a value of fifty dollars (\$ 50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality.

- (c) Use or disclose confidential information gained in the course of or by reason of his official position or activities in any manner with the intent to obtain a pecuniary benefit for himself or any other person or entity in whose welfare he is interested or with the intent to harm the governmental entity for which he serves.
  - (d) Be interested in any contract made by him in his official capacity, or by any body or board of which he is a member, except as provided in section 18-1361, Idaho Code.
  - (e) Appoint or vote for the appointment of any person related to him by blood or marriage within the second degree, to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation of such appointee is to be paid out of public funds or fees of office, or appoint or furnish employment to any person whose salary, wages, pay or compensation is to be paid out of public funds or fees of office, and who is related by either blood or marriage within the second degree to any other public servant when such appointment is made on the agreement or promise of such other public servant or any other public servant to appoint or furnish employment to anyone so related to the public servant making or voting for such appointment. Any public servant who pays out of any public funds under his control or who draws or authorizes the drawing of any warrant or authority for the payment out of any public fund of the salary, wages, pay, or compensation of any such ineligible person, knowing him to be ineligible, is guilty of a misdemeanor and shall be punished as provided in this chapter.
  - (f) Unless specifically authorized by another provision of law, commit any act prohibited of members of the legislature or any officer or employee of any branch of the state government by section 67-5726, Idaho Code, violations of which are subject to penalties as provided in section 67-5734, Idaho Code, which prohibition and penalties shall be deemed to extend to all public servants pursuant to the provisions of this section.
- (2) No person related to any member of the legislature by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty within the legislative branch of government or otherwise be employed by the legislative branch of government when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.
  - (3) No person related to a mayor or member of a city council by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the mayor's or city council's city when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.
  - (4) No person related to a county commissioner by blood or marriage within the second degree shall be appointed to any clerkship, office, position, employment or duty with the commissioner's county when the salary, wages, pay or compensation of such appointee or employee is to be paid out of public funds.
  - (5)
    - (a) An employee of a governmental entity holding a position prior to the election of a local government official, who is related within the second degree, shall be entitled to retain his or her position and receive general pay increases, step increases, cost of living increases, and/or other across the board increases in salary or merit increases, benefits and bonuses or promotions.
    - (b) Nothing in this section shall be construed as creating any property rights in the position held by an employee subject to this section, and all authority in regard to disciplinary action, transfer, dismissal, demotion or termination shall continue to apply to the employee.
  - (6) The prohibitions contained within this section shall not include conduct defined by the provisions of section ~~59-703~~ 74-403 (4), Idaho Code.

- (7) The prohibitions within this section and section 18-1356, Idaho Code, as it applies to part-time public servants, do not include those actions or conduct involving the public servant's business, profession or occupation and unrelated to the public servant's official conduct, and do not apply to a pecuniary benefit received in the normal course of a legislator's business, profession or occupation and unrelated to any bill, legislation, proceeding or official transaction.

**SECTION 16.** 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 one (1) of the following applies. He:
- (a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law;
  - (b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year;
  - (c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year;
  - (d) Is a fugitive from justice;
  - (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](#);
  - (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;
    - (ii) Mentally ill as defined in section 66-317, Idaho Code;
    - (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.
  - (g) Is or has been discharged from the armed forces under dishonorable conditions;
  - (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 have elapsed since disposition or pardon has occurred prior to the date on which the application is submitted;
  - (i) Has had entry of a withheld judgment for a criminal offense which would disqualify him from obtaining a concealed weapon license;
  - (j) Is an alien illegally in the United States;
  - (k) Is a person who having been a citizen of the United States has renounced his or her citizenship;
  - (l) Is under twenty-one (21) years of age;
  - (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 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, place of birth, social security number, military status, citizenship 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 this subsection. In the event the sheriff has collected a fee to cover the cost of processing fingerprints for the records check, the sheriff shall provide the applicant with a copy of the results of the records check upon request of the applicant.

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~~ 74-102, 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 to one hundred eighty (180) days 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 to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an initial application for a license and to pay the fees prescribed in subsection (2) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff shall notify the Idaho state police within five (5) days on a form or in a manner prescribed.

- (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, any knife, cleaver or other instrument primarily used in the processing, preparation or eating of food, any knife with a blade four (4) inches or less or any lawfully possessed taser, stun gun or pepper spray.
- (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 whichever of the following applies:
- (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;
  - (b) Completion of any national rifle association firearms safety or training course or any national rifle association hunter education course;
  - (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;
  - (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;
  - (e) Presents evidence or equivalent experience with a firearm through participation in organized shooting competition or military service;
  - (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;
  - (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
  - (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;
  - (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.

**SECTION 17.** That Section 18-3302H, Idaho Code, be, and the same is hereby amended to read as follows:

**18-3302H. Carrying of concealed firearms by qualified retired law enforcement officers.**

- (1) A county sheriff shall issue a license to carry a concealed firearm to a qualified retired law enforcement officer provided that the provisions of this section are met.
- (2) As used in this section:
  - (a) "Firearm" means a handgun and does not include:
    - (i) Any machine gun, as defined in 26 U.S.C. section 5845(b);
    - (ii) Any firearm silencer, as defined in [18 U.S.C. section 921](#); or
    - (iii) Any destructive device, as defined in [18 U.S.C. section 921](#).
  - (b) "Qualified retired law enforcement officer" means an individual who:
    - (i) Retired in good standing from service with a public agency as a law enforcement officer, provided that such retirement was for reasons other than mental instability;
    - (ii) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
    - (iii) Before such retirement, was regularly employed as a law enforcement officer for an aggregate of fifteen (15) years or more, or retired from service with such agency after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
    - (iv) Has a nonforfeitable right to benefits under the retirement plan of the agency;
    - (v) During the most recent twelve (12) month period has met, at his own expense, the standards for training and qualification of this state, as required at the discretion of the sheriff under paragraph (d) of this subsection or the agency from which he retired for active law enforcement officers, to carry a concealed firearm;
    - (vi) Is not chronically under the influence of alcohol, or under the influence of another intoxicating or hallucinatory drug or substance in violation of any provision of federal or state law;
    - (vii) Is not prohibited by federal law from receiving a firearm;
    - (viii) Has a current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer;
    - (ix) Provides by his affidavit, in triplicate, sworn and signed by him under penalty of perjury, that he meets all of the conditions set forth in this subsection (2);
    - (x) Pays the fees charged by the sheriff pursuant to this section; and

- (xi) Completes the original application or renewal application as provided by this section.
- (c) "Retired in good standing" means that at the time of his retirement, he was not under investigation, or subject to discipline, for any violation of this state's law enforcement code of conduct.
- (d) "Standards for training and qualification in this state" means that when issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following methods, provided the sheriff may require an applicant to complete more than one (1) firearms safety or training course:

  - (i) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;
  - (ii) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course;
  - (iii) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;
  - (iv) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of a law enforcement agency or security enforcement agency;
  - (v) Presentation of evidence of equivalent experience with a firearm through participation in organized shooting competitions or military service;
  - (vi) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor; or
  - (vii) Any other firearms safety training that the sheriff may deem appropriate.
- (3) The original and renewal license applications under this section shall be in triplicate, in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, identification of the law enforcement agency from which the applicant retired, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.
- (4) The fee for original issuance of a license under this section shall be twenty dollars (\$ 20.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the cost of processing and the cost of materials for the license, which shall also be paid to the sheriff.
- (5) An original or renewed license issued pursuant to this section shall be in a form substantially similar to that of the Idaho driver's license and shall be valid for a period of one (1) year. The license shall bear the signature, name, address, date of birth, picture of the licensee, expiration date, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license, and shall state that the licensee is a qualified retired law enforcement officer. Upon issuing a license under the provisions of this section, the sheriff shall notify the Idaho state police on a form or in a manner prescribed by the director of the Idaho state police.
- (6) A qualified retired law enforcement licensee under this section may renew his license if he applies for renewal at any time before or within ninety (90) days after the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete a renewal application pursuant to subsection (3) of this section and an affidavit pursuant to subsection (2) of this section. A renewed license shall take effect upon the expiration date of the prior license.

- (7) The fee for renewal of the license, which must be paid on a yearly basis, shall be twelve dollars (\$ 12.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the processing costs and the cost of materials for the license, which shall also be paid to the sheriff. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$ 10.00) in addition to the renewal fee. The renewal penalty fee, if any, shall be paid to the sheriff.
- (8) A current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer, together with a license issued by the sheriff pursuant to this section, shall serve as a license to carry a firearm for a qualified retired law enforcement officer under [18 U.S.C. section 926C](#).
- (9) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license issued under this section pursuant to the provisions of section 18-3302(15), Idaho Code.
- (10) A county sheriff, deputy sheriff, or county employee who issues a license to carry a concealed weapon pursuant to this section shall not incur any civil or criminal liability as the result of the performance of his duties under this section.
- (11) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor shall a political subdivision ask the applicant to voluntarily submit any information not required by this section.
- (12) A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action shall be brought in the county in which the application was made.
- (13) In lieu of or in addition to qualification to carry a concealed firearm under this section, a retired law enforcement officer may apply for a license to carry concealed weapons under section 18-3302, Idaho Code.
- (14) Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section ~~9-338~~ 74-102 , Idaho Code.

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

**18-3302K. ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED WEAPONS.**

- (1) The sheriff of a county 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 and has otherwise complied with the requirements of this section for an enhanced license, issue an enhanced license to the person to carry a weapon concealed on his person. Licenses issued under this section shall be valid for five (5) years from the date of issue.
- (2) A person may file an application with the sheriff of the county in which he resides or, if not an Idaho resident, with the sheriff of any county in Idaho. The license application shall be 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, place of birth, social security number, military status, citizenship and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. If the applicant is not a U.S. citizen, the application shall also require any alien or admission number issued to the applicant by U.S. immigration and customs enforcement, or any successor agency. The application shall indicate that the provision of the social security number is optional. The sheriff shall make such applications readily available at the office of the sheriff or at other public offices in his jurisdiction. 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.

- (3)** 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 section. Within five (5) days after the filing of an application, the sheriff shall forward the application and fingerprints to the Idaho state police. The Idaho state police shall conduct a national fingerprint-based records check, an inquiry through the national instant criminal background check system, and a check of any applicable state database, including a check for any mental health records that would disqualify a person from possessing a firearm under state or federal law, and shall return the results to the sheriff within seventy-five (75) days. If the applicant is not a U.S. citizen, an immigration alien query shall also be conducted through U.S. immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving and reviewing the results of the records check.
- (4)** The sheriff shall deny an enhanced license to carry a concealed weapon if the applicant is disqualified under any of the criteria listed in section 18-3302(1)(a) through (n), Idaho Code, or does not meet all of the following qualifications:
  - (a)** Has been a legal resident of the state of Idaho for at least six (6) consecutive months before filing an application under this section or holds a current license or permit to carry concealed firearms issued by his state of residence; and
  - (b)** Has successfully completed within twelve (12) months immediately preceding filing an application, a qualifying handgun course as specified in this paragraph and taught by a certified instructor who is not prohibited from possessing firearms under state or federal law. A copy of the certificate of successful completion of the handgun course, in a form to be prescribed by the director of the Idaho state police and signed by the course instructor, shall be submitted to the sheriff at the time of filing an application under this section. Certified instructors of handgun courses when filing an application under this section shall not be required to submit such certificates but shall submit a copy of their current instructor's credential. The sheriff shall accept as a qualifying handgun course a personal protection course offered by the national rifle association or an equivalent course meeting the following requirements:
    - (i)** The course instructor is certified by the national rifle association, or by another nationally recognized organization that customarily certifies firearms instructors, as an instructor in personal protection with handguns, or the course instructor is certified by the Idaho peace officers standards and training council as a firearms instructor;
    - (ii)** The course is at least eight (8) hours in duration;
    - (iii)** The course is taught face to face and not by electronic or other means; and
    - (iv)** The course includes instruction in:
      1. Idaho law relating to firearms and the use of deadly force, provided that such instruction is delivered by either of the following whose name and credential shall appear on the certificate:
        - (A)** An active licensed member of the Idaho state bar; or
        - (B)** A law enforcement officer who possesses an intermediate or higher Idaho peace officers standards and training certificate.
      2. The basic concepts of the safe and responsible use of handguns;
      3. Self-defense principles; and
      4. Live fire training including the firing of at least ninety-eight (98) rounds by the student.



- (5) 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. The license shall be clearly distinguishable from a license issued pursuant to section 18-3302, Idaho Code, and shall be marked "Idaho enhanced concealed weapons license" on its face. Upon issuing a license under the provisions of this section, the sheriff shall notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho 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 ~~9-340B~~ 74-105, Idaho Code.
- (6) The fee for original issuance of a license shall be twenty dollars (\$ 20.00), which the sheriff shall retain for the purpose of performing the duties required in this section. 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.
- (7) The fee for renewal of the enhanced license shall be fifteen dollars (\$ 15.00), which the sheriff shall retain for the purpose of performing duties required in this section. 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.
- (8) 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. The Idaho state police shall conduct the same records checks as required for an initial license under subsection (3) of this section and shall return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving and reviewing the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in 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 to one hundred eighty (180) days 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 to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an initial application for an enhanced license and to pay the fees prescribed in subsection (6) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff shall notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.
- (9) The sheriff shall have the power to revoke a license issued pursuant to this section subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons, provided that the sheriff shall notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police of any such revocation:

  - (a) Fraud or intentional misrepresentation in the obtaining of a license;
  - (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
  - (c) The doing of an act or existence of a condition that would have been grounds for the denial of the license by the sheriff;
  - (d) The violation of any of the provisions of this section; or

- (e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime that would have disqualified him from initially receiving a license.
- (10) An applicant who provides information on the application for an enhanced license to carry a concealed weapon knowing the same to be untrue shall be guilty of a misdemeanor.
- (11) The attorney general shall contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the enhanced license to carry a concealed weapon by other states, whether by formal agreement or otherwise.
- (12) Any license issued pursuant to this section is valid throughout the state of Idaho and shall be considered an authorized state license.
- (13) The Idaho state police shall maintain a computerized record system that is accessible to law enforcement agencies in any state for the purpose of verifying current enhanced licensee status. Information maintained in the record system shall be confidential and exempt from disclosure under section ~~9-340B~~ 74-105, Idaho Code, except that any law enforcement officer or law enforcement agency, whether inside or outside the state of Idaho, may access the record system for the purpose of verifying current enhanced licensee status.

**SECTION 19.** That Section 19-1112, Idaho Code, be, and the same is hereby amended to read as follows:

**19-1112.**

Proceedings to be secret. Every member of the grand jury must keep secret whatever he himself, or any other grand juror may have said, or in what manner he or any other grand juror may have voted on a matter before them; and such matters shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, but may, however, be required by any court to disclose the testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before them by any person, upon a charge against such person for perjury in giving his testimony, or upon trial therefor.

**SECTION 20.** That Section 19-5514, Idaho Code, be, and the same is hereby amended to read as follows:

**19-5514. Limitations on disclosure of information.**

- (1) All DNA profiles retained by the bureau of forensic services pursuant to this chapter shall be treated as confidential as provided by ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.
- (2) The DNA information shall be filed with the offender's file maintained by the Idaho state police.
- (3) The DNA information shall not be included in the state summary criminal history information.
- (4) The DNA information, and thumbprint impressions, shall be released only to law enforcement agencies, including, but not limited to, parole officers of the department of correction, hearing officers of the parole authority, and prosecuting attorneys' offices, at the request of the agency, except as specified in this chapter. Dissemination of this information to law enforcement agencies and prosecuting attorneys' offices outside the state shall be done in conformity with the provisions of this chapter.
- (5) Any person who, by virtue of employment or official position, or any person contracting to carry out any function under this chapter, including any officers, employees and agents of such contractor who has possession of or access to individual identifiable DNA information contained in the state DNA database or databank and who willfully discloses such information in any manner to any person or agency not entitled to receive it is guilty of a misdemeanor.
- (6) Furnishing DNA information or thumbprint comparison results to defense counsel for criminal defense purposes in compliance with discovery is not a violation of this section.
- (7) It is not a violation of this section to disseminate statistical or research information obtained from the offender's file, the computerized databank system, or any of the bureau of forensic services' databases

provided that the subject of the file is not identified and cannot be identified from the information disclosed. It is also not a violation of this section to include information obtained from a file in a transcript or record of a judicial proceeding or in any other public record when the inclusion of the information in the public record is authorized by a court, statute or case law.

**SECTION 21.** That Section 19-5801, Idaho Code, be, and the same is hereby amended to read as follows:

**19-5801.**

Definitions. As used in this chapter:

- (1) "Alternative Idaho mailing address" means the address of a law enforcement officer's employing entity.
- (2) "Application" means a written form prescribed and made available by the Idaho peace officer standards and training council. Such application shall contain, at minimum, all of the following:
  - (a) A sworn statement by the law enforcement officer's employing entity that the applicant is in fact a law enforcement officer as defined in subsection (6) of this section;
  - (b) A sworn statement by the law enforcement officer that names such officer's residing household member(s), if any, as defined in subsection (11) of this section;
  - (c) The alternative Idaho mailing address as defined in subsection (1) of this section, and the telephone number or numbers where the law enforcement officer and such officer's residing household member(s) can be contacted by the public agency; and
  - (d) A sworn statement by the law enforcement officer that such officer knowingly and voluntarily designates his or her employing entity as agent for purposes of service of process and receipt of first class, certified or registered mail.
- (3) "County detention officer" means an employee in a county jail who is responsible for the safety, care, protection and monitoring of county jail inmates.
- (4) "Custodian" as defined in section ~~9-337~~ 74-101, Idaho Code.
- (5) "Federal officer" means a special agent or law enforcement officer who is a resident as defined in section 51-102, Idaho Code, employed by a federal agency and who is empowered to effect an arrest with or without a warrant for violations of the United States Code and who is authorized to carry firearms in the performance of duty.
- (6) "Law enforcement officer" means any current federal officer, peace officer, parole officer, probation officer, correctional officer, county detention officer and any person who prosecutes criminal cases. The term "law enforcement officer" shall not include a person who holds an elected office.
- (7) "Parole officer" means an employee of the Idaho department of correction who is charged with or whose duties include supervision of parolees.
- (8) "Peace officer" means any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho.
- (9) "Probation officer" means an employee of the Idaho department of correction or of the Idaho department of juvenile corrections who is charged with or whose duties include supervision of probationers.
- (10) "Public agency" as is defined in section ~~9-337~~ 74-101, Idaho Code.
- (11) "Residing household member(s)" means a law enforcement officer's spouse and any child or children who currently reside at the same residential street address as such officer.

**SECTION 22.** That Section 19-5803, Idaho Code, be, and the same is hereby amended to read as follows:

**19-5803. Address confidentiality -- eligibility.**

- (1) Law enforcement officers desiring that their Idaho residential street address and telephone number, and the Idaho residential street address and telephone number of their residing household member(s) be exempt from disclosure pursuant to this chapter and section ~~9-340C~~ 74-106 (30), Idaho Code, may submit an application and a fee, if any, to the custodian of the public record that contains such information. Upon receipt of an application and fee, the public agency shall comply with the provisions of this chapter for a period of four (4) years. Thereafter, law enforcement officers may renew the exemption by submitting a new application and fee, if any. The public agency may establish a fee schedule not to exceed the actual cost to the agency of complying with the provisions of this chapter.
- (2) Law enforcement officers may submit an application to a public agency requesting that the public agency use an alternative Idaho mailing address rather than the Idaho residential street address of any such officer and of any such officer's residing household member(s) on all applications and on all identification cards, licenses, certificates, permits, tags and other similar documents that are issued to the officer or to such officer's residing household member(s) by the public agency. A public agency receiving such application shall comply with the request.
- (3) A person shall cease to be eligible for an exemption under this chapter if such person ceases to be a law enforcement officer or a residing household member(s). Within thirty (30) days of such cessation, the person shall notify, in writing, every public agency to which the person has made an application stating that he or she is no longer eligible for such exemption. If a law enforcement officer changes employment but is still eligible for an exemption under this chapter, such law enforcement officer shall, within thirty (30) days of changing employment, submit a new application to every public agency to which such officer has made an application.
- (4) Nothing in this chapter shall prevent a public agency from obtaining the residential street address and telephone number of a law enforcement officer and of any residing household member(s). A law enforcement officer who has submitted an application pursuant to the provisions of this chapter shall provide his or her current Idaho residential street address to his or her employing entity.

**SECTION 23.** That Section 20-226, Idaho Code, be, and the same is hereby amended to read as follows:

**20-226.**

Records of prisoners. The state board of correction shall cause a complete record to be kept of every prisoner committed to its custody. Such record shall be organized in accordance with the most modern method of filing and indexing so that there will always be immediately available a complete history on each prisoner. Such records shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 24.** That Section 20-511, Idaho Code, be, and the same is hereby amended to read as follows:

**20-511. Diversion or informal disposition of the petition.**

- (1) Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the county probation officer to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the county probation officer or a community-based diversion program for informal probation and counseling. If the diversion process is utilized pursuant to this subsection, then statements made by a juvenile in a diversion proceeding shall be inadmissible at an adjudicative proceeding on the underlying charge as substantive evidence of guilt. If community service is going to be utilized pursuant to this subsection, the prosecuting attorney shall collect a fee of sixty cents (60[cents]) per hour for each hour of community service work the juvenile is going to

perform and remit the fee to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

- (2) After the petition has been filed and where, at the admission or denial hearing, the juvenile offender admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition. Informal adjustment includes, but is not limited to:
  - (a) Reprimand of the juvenile offender;
  - (b) Informal supervision with the probation department;
  - (c) Community service work;
  - (d) Restitution to the victim;
  - (e) Participation in a community-based diversion program.
- (3) The court may dismiss the case upon an application by the juvenile offender if:
  - (a) An informal adjustment has been granted and the juvenile offender has satisfied the terms or conditions of the informal adjustment;
  - (b) The court is convinced by the showing made that there is no longer cause for continuing the period of informal adjustment; and
  - (c) It be compatible with the public interest.
- (4) Information uniquely identifying the juvenile offender, the offense, and the type of program utilized shall be forwarded to the department. This information shall be maintained by the department in a statewide juvenile offender information system. Access to the information shall be controlled by the department, subject to the provisions of section ~~9-342~~ 74-113, Idaho Code.
- (5) Such informal adjustment of the petition shall be conducted in the manner prescribed by the Idaho juvenile rules. When an informal adjustment is made pursuant to this section and the juvenile offender is to perform community service work, the court shall assess the juvenile offender a fee of sixty cents (60[cents]) per hour for each hour of community service work the juvenile offender is to perform. This fee shall be remitted by the court to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

**SECTION 25.** That Section 20-516, Idaho Code, be, and the same is hereby amended to read as follows:

**20-516. Apprehension and release of juveniles -- Detention.**

- (1) A peace officer may take a juvenile into custody, or a private citizen may detain a juvenile until the juvenile can be delivered forthwith into the custody of a peace officer, without order of the court:
  - (a) When he has reasonable cause to believe that the juvenile has committed an act which would be a misdemeanor or felony if committed by an adult; or
  - (b) When in the presence of a peace officer or private citizen the juvenile has violated any local, state or federal law or municipal ordinance; or
  - (c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a

specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements.

- (2) A peace officer may take a juvenile into custody upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile comes within the purview of this chapter. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the juvenile is taken into custody. When an officer takes a juvenile into custody, he shall notify the parent, guardian or custodian of the juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of society or the juvenile, such juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the juvenile.
- (3) A juvenile taken into custody may be fingerprinted and photographed. Any fingerprints and photographs taken shall be forwarded as provided in subsection (8) of this section. If the court finds good cause it may order any fingerprints and photographs expunged.
- (4) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include, but are not limited to, the following:

- (a) Parents of the juvenile;
  - (b) Relatives of the juvenile;
  - (c) Foster care;
  - (d) Group care;
  - (e) A juvenile detention center; or
  - (f) Community-based diversion programs.
- (5) The person in charge of a detention center shall give immediate notice to the court that the juvenile is in his custody.
  - (6) No juvenile shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.
  - (7) As soon as a juvenile is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.
  - (8) A juvenile taken into detention for an offense shall be fingerprinted and photographed. Fingerprints and photographs taken of juveniles shall be forwarded to the appropriate law enforcement agency and filed with the bureau of criminal identification of the Idaho state police which shall create a juvenile offender fingerprint file and enter the fingerprint data into the automated fingerprint identification system. If the court finds good cause it may order the fingerprints and photographs of the juvenile offender expunged.
  - (9) Peace officers' records of juveniles shall be kept separate from records of adults and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 26.** That Section 20-525, Idaho Code, be, and the same is hereby amended to read as follows:



**20-525. Records -- Privileged information.**

- (1) The court shall maintain records of all cases brought before it. In proceedings under this act the following juvenile courtroom proceedings and records shall be open to the public: all proceedings against a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult including the court docket, petitions, complaints, information, arraignments, trials, sentencing, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.
- (2) Juvenile courtroom proceedings and records shall remain confidential when the court and the prosecutor agree extraordinary circumstances exist that justify records of a juvenile offender of the age of fourteen (14) years or older and who is petitioned or charged with an offense which would be a felony if committed by an adult should remain confidential because it is in the best interest of the juvenile offender.
- (3) In proceedings under this act the following records and court proceedings of juvenile offenders of the age of thirteen (13) years or younger shall not be withheld from public inspection, except on court order, which order must be made in writing in each case: the court docket, petitions, complaints, information, arraignments, trials, sentencing, probation violation hearings and dispositions, motions and other papers filed in any case in any district; transcripts of testimony taken by the court; and findings, verdicts, judgments, orders, decrees and other papers filed in proceedings before the court of any district.
- (4) These records shall be open to inspection according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. All information obtained and social records prepared in the discharge of official duty by an employee of the court shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (5) The victim of misconduct shall always be entitled to the name of the juvenile offender involved, the name of the juvenile offender's parents or guardian, and their addresses and telephone numbers, if available in the records of the court.
- (6) Notwithstanding the other provisions of this act and notwithstanding any order entered pursuant hereto, nothing in this act shall prohibit the exchange of records created pursuant to this act between prosecuting attorneys or courts in this state.

**SECTION 27.** That Section 20-804, Idaho Code, be, and the same is hereby amended to read as follows:

**20-804. Authority of county or city to house prisoners in a private prison facility.**

- (1) A board of county commissioners or the governing body of a city may authorize the housing of specific minimum to medium security prisoners of the county or the city in a private prison facility pursuant to contract with the private prison contractor and subject to the review and approval of the prisoners by the department of correction. Provided, however, that in no event shall a board of county commissioners or the governing body of a city authorize, nor shall the department of correction approve, housing of any maximum or close custody prisoners, inmates imprisoned for sexual offenses or prisoners with a history or record of institutional violence involving the use of a deadly weapon, a history or record of committing any act of an assaultive nature that would qualify as a felony under the laws of the state of Idaho against any prisoner, employee or visitor while confined, or a history or record of escape or attempted escape from secure custody.
- (2) A board of county commissioners may not contract with a private prison contractor in which a commissioner or an elected or appointed peace officer or other county official has an interest pursuant to ~~chapter 2, title 59~~ chapter 5, title 74 , Idaho Code. The governing body of a city may not contract with a private prison contractor in which the mayor, a member of the city council, or any appointed

peace officer or other city official has an interest pursuant to ~~chapter 2, title 59~~ chapter 5, title 74 , Idaho Code. A contract made in violation of the provisions of this subsection is voidable.

**SECTION 28.** That Section 22-606, Idaho Code, be, and the same is hereby amended to read as follows:

**22-606.**

Formulas. The department may require submission of the complete formula of any fertilizer and the source of all ingredients if it is deemed necessary for the registration of any fertilizer product or the administration of this chapter. Any formula so submitted is exempt from disclosure to the public pursuant to section ~~9-340D~~ 74-107 (1) or (2), Idaho Code.

**SECTION 29.** That Section 22-609, Idaho Code, be, and the same is hereby amended to read as follows:

**22-609. Tonnage reports.**

- (1) The registrant or tonnage-only distributor distributing or selling fertilizer to a nonregistrant or consumer shall furnish to the department a report showing the amount (in tons) of each grade of fertilizer, and the form in which the fertilizer was distributed (dry or liquid). In the case of fertilizer sold to an intermediate distributor, the registrant, tonnage-only distributor, or distributor shall list the name, address, telephone number, and amount (in tons) of each fertilizer product sold to each intermediate distributor.
- (2) Information furnished to the department under this section is exempt from disclosure under section ~~9-340D~~ 74-107 (1) or (2), Idaho Code, if the disclosure would divulge the operation of any person.

**SECTION 30.** That Section 22-1215, Idaho Code, be, and the same is hereby amended to read as follows:

**22-1215.**

Access to records. All papers, records, correspondence, communications and proceedings of the Idaho potato commission shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 31.** That Section 22-2206, Idaho Code, be, and the same is hereby amended to read as follows:

**22-2206.**

Submission of formulas. The department may require submission of the complete formula of any soil amendment or plant amendment and the source(s) of all ingredients if it is deemed necessary for the registration of any soil amendment or plant amendment product or administration of this chapter. Any formula so submitted is exempt from disclosure to the public pursuant to section ~~9-340D~~ 74-107 (1) or (2), Idaho Code.

**SECTION 32.** That Section 22-2209, Idaho Code, be, and the same is hereby amended to read as follows:

**22-2209. Tonnage reports -- Required.**

- (1) The registrant distributing or selling soil amendments or plant amendments to a nonregistrant or consumer shall furnish to the department a report showing the amounts in tons of each registered brand of plant amendment and soil amendment, and the form in which the plant amendment and soil amendment was distributed, dry or liquid. In the case of soil amendments or plant amendments distributed to an intermediate distributor, the registrant or distributor shall list the current name, address, telephone number, and amount in tons of each soil amendment and plant amendment product distributed to each intermediate distributor.
- (2) Information furnished to the department under this section is exempt from disclosure under section ~~9-340D~~ 74-107 (1) or (2), Idaho Code, if the disclosure would divulge the operation of any person.

**SECTION 33.** 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 perform all functions conferred upon it by this chapter and shall be a nonregulatory agency. The commission shall consist of five (5) members appointed by the governor. 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, 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. 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, 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 state soil and water conservation commission shall appoint the administrator of the state soil and water 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. 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 in the carrying out of any of their powers and programs.
  - (b) To keep the supervisors of each of the several soil conservation districts informed of the activities and experience of all other soil conservation districts 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 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~~ 74-107, 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 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;
  - (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 34.** That Section 22-3309, Idaho Code, be, and the same is hereby amended to read as follows:

**22-3309. Duties and powers of commission.**

- (1) Consistent with the general purposes of this chapter, the commission shall establish the policies to be followed in the accomplishments of such purposes.
- (2) In the administration of this act, the commission shall have the following duties, authorities and powers:
  - (a) To conduct a campaign of research, education and publicity.
  - (b) To find new markets for wheat and wheat products.
  - (c) To give, publicize and promulgate reliable information showing the value of wheat and wheat products for any purpose for which it is found useful and profitable.
  - (d) To make public and encourage the widespread national and international use of the special kinds of wheat and wheat products produced from all varieties of wheat grown in Idaho.
  - (e) To investigate and participate in studies of the problems peculiar to the producers of wheat in Idaho.
- (3) The commission shall have the duty, power and authority:
  - (a) To take such action as the commission deems necessary or advisable in order to stabilize and protect the wheat industry of the state and the health and welfare of the public.
  - (b) To sue and be sued.
  - (c) To enter into such contracts as may be necessary or advisable.
  - (d) To appoint and employ officers, agents and other personnel, including experts in agriculture and the publicizing of the products thereof, and to prescribe their duties and fix their compensation.
  - (e) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.
  - (f) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity and reciprocal enforcement.
  - (g) To lease, purchase or own the real or personal property deemed necessary in the administration of this act.
  - (h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in this act.
  - (i) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties, including the calling of any referendum of the wheat growers in the state of Idaho as deemed necessary by the commission.
  - (j) To incur indebtedness and carry on all business activities.
  - (k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller at all times and to the public as set forth in ~~chapter 3, title 9-~~ chapter 1, title 74 , Idaho Code.

**SECTION 35.** 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- 74-107~~ , 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.

**SECTION 36.** That Section 22-5119, Idaho Code, be, and the same is hereby amended to read as follows:

**22-5119.**

Confidential and protected records. Records required by the department to validate the collection and remittance of assessments, including, but not limited to, production summaries, receiving records, conditioning reports, records relating to the payment of seed crops and seed indemnity fund reporting forms of a seed buyer, and financial records that may be required pursuant to section 22-5113(4), Idaho Code, shall be held confidential and will be protected as production records according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. These records shall not be subject to disclosure unless specifically authorized in writing by the licensee or as otherwise authorized pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 37.** That Section 23-515, Idaho Code, be, and the same is hereby amended to read as follows:

**23-515.**

Inspection and examination of records of permits and sales. The records of the division with respect to permits and sales thereunder shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 38.** That Section 25-207B, Idaho Code, be, and the same is hereby amended to read as follows:

**25-207B. Identification of livestock, poultry or fish -- Rules for disease control.**

- (1) In order to provide for disease control and increase the traceability of infected or exposed animals or fish, the division of animal industries, in cooperation with the state brand board, is authorized to promulgate rules for the identification of livestock, poultry or fish and the registration of premises where such animals or fish are held.
- (2) All data and information collected by the division of animal industries or the state brand board pursuant to the provisions of this section, or rules promulgated hereunder, shall not be considered a public record and shall be exempt from public disclosure requirements as provided in section ~~9-340D- 74-107~~ , Idaho Code.

**SECTION 39.** That Section 25-2714, Idaho Code, be, and the same is hereby amended to read as follows:

**25-2714.**

Publications. The director shall publish at least annually, in such forms as he may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as he may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label; provided, however, that the information concerning production and use of commercial feeds shall not disclose the operations of any person and the information shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 40.** That Section 25-3806, Idaho Code, be, and the same is hereby amended to read as follows:

**25-3806.**



Inspections -- Records confidential. The director or his designee is authorized to enter and inspect any agricultural operation and have access to or copy any facility records deemed necessary to ensure compliance with the provisions of this chapter or required odor management plans. Prior to conducting an investigation, the department shall notify the board of county commissioners for the county in which the agricultural operation is located and the board of county commissioners may have a designee accompany the director or his designee during the inspection. All records copied or obtained by the director or his designee as a result of an inspection pursuant to this section shall be confidential private records and shall be exempt from disclosure under ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, except:

- (1) Records otherwise deemed to be public records not exempt from disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code; and
- (2) Inspection reports, determinations of compliance or noncompliance and all other records created by the director or his designee pursuant to this section.

**SECTION 41.** That Section 25-3807, Idaho Code, be, and the same is hereby amended to read as follows:

**25-3807.**

Complaints. The department shall respond to all odor complaints lodged against agriculture operations. A complaint must include the name, address and telephone number of the complainant. The response of the department may be limited to informing the complainant that an odor plan is being implemented. Complaints pursuant to this section are a public record open to public inspection and copying pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 42.** That Section 26-1111, Idaho Code, be, and the same is hereby amended to read as follows:

**26-1111. Records not public.**

- (1) The department of finance shall keep proper books and records of all regulatory acts, matters and things done by it under the provisions of chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 18, 21, 26, 32, 33, 34, 35, 36 and 37, title 26, Idaho Code, as records of its office, but the same shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, except as otherwise provided in this section and in sections 26-1112 and 67-2743E, Idaho Code.
- (2) All written communications and copies thereof, between the department, the director, department employees and any bank, bank holding company, trust company, savings and loan association and credit union which relate in any manner to the examination or condition of the financial institution, are the property of the department of finance and, if acquired by any person, shall be returned to the department upon written demand.
- (3)
  - (a) The director of the department of finance, any federal bank or other financial institution regulatory or supervisory agency, and any bank, bank holding company, trust company, savings and loan association, or credit union incorporated or chartered under title 26, Idaho Code, or under federal law or the law of any state and doing business in the state of Idaho, shall each have a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, and the contents of any documents relating to any confidential communications, between the financial institution and the department of finance or federal bank or financial institution regulatory or supervisory agency made during the regulatory relationship.
  - (b) A communication is confidential if it is made during the regulatory relationship between the department of finance or the federal bank or other financial institution regulatory or supervisory agency and any such bank, bank holding company, trust company, savings and loan association or credit union, and if the communication is not designed or intended for disclosure to any other parties.

- (c) The privilege may be claimed by the financial institution or by the department of finance or the federal bank or other financial institution regulatory or supervisory agency, or by the lawyer for either. The privilege may be waived only in accordance with this section and sections 26-1112 and 67-2743E, Idaho Code.
- (d) The director of the department of finance or the appropriate officer or employee of the federal bank or other financial institution regulatory or supervisory agency may disclose confidential communications between the department or agency and financial institutions to the court, in camera, in a civil action. Such disclosure shall also be a privileged communication and the privilege may be claimed by the director, officer or employee or his lawyer.
- (e) No sanction may be imposed upon any financial institution as a result of the claim of a privilege by the financial institution or the director of the department of finance or the officer or employee of the federal supervisory agency under this section.

**SECTION 43.** That Section 26-1112, Idaho Code, be, and the same is hereby amended to read as follows:

**26-1112. Penalty for disclosure of confidential information.**

- (1) Neither the department of finance, its director nor its employees shall disclose to any person or agency any fact or information obtained in the course of business of the department under this act, except in the following cases:
  - (a) When by the terms of this act or ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, it is made the duty of the department to make public records and publish the same.
  - (b) When the department is required by law to take special action regarding the affairs of any bank.
  - (c) When called as a witness in any criminal proceeding in a court of competent jurisdiction, provided that the court must review such information in chambers to determine the necessity of disclosing such information, and subject to the privilege provided by subsection (3) of section 26-1111, Idaho Code.
  - (d) When, in the case of a problem bank, it is necessary or advisable, in the discretion of the director, for the good of the public or of the depositors.
  - (e) When, in the discretion of the department, it is advisable to disclose any such information to a state or federal bank supervisory agency.
- (2) Any person violating the provisions of this section shall be guilty of a felony and conviction shall subject the offender to a forfeiture of his office or employment.

**SECTION 44.** That Section 26-2610, Idaho Code, be, and the same is hereby amended to read as follows:

**26-2610. Cooperative agreements.**

- (1) The director is authorized to enter into cooperative and reciprocal agreements with other financial institution regulatory agencies, both federal and state, and from bank supervisory authorities from foreign countries, to facilitate the regulation of financial institutions and financial institution holding companies doing business in this state. The director may accept reports of examinations and other records from such other agencies in lieu of conducting his own examinations of financial institutions controlled by financial institution holding companies located in other states. The director may share examination reports with such other agencies. The director may examine such institutions in Idaho, in the financial institution's home state or such other location as may be necessary. The director may take any action jointly with other regulatory agencies having concurrent jurisdiction over financial institutions and financial institution holding companies doing business in this state or may take such actions independently in order to carry out his responsibilities.

- (2) The director may, in his discretion, enter into agreements with a professional association of which the department is a member. The purposes of such agreements may include the facilitation of examination of banks or bank holding companies operating in other states in addition to Idaho. Notwithstanding any other provision of law, such examination agreements may provide for the exchange of bank information, including examination reports, with such a professional association; provided however, that such communication shall not constitute a public disclosure of such records under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, nor a waiver of the statutory privilege in section 26-1111, Idaho Code.

**SECTION 45.** That Section 26-2916, Idaho Code, be, and the same is hereby amended to read as follows:

**26-2916. Confidentiality of data submitted to the director.**

- (1) All information or reports obtained by the director from an applicant, licensee or authorized representative, whether obtained through reports, applications, examinations, audits, investigation, or otherwise including, but not limited to:
- (a) All information contained in or related to examination, investigation, operating, or condition reports reported by, on behalf of, or for the use of the director; or
  - (b) Financial statements, balance sheets, or authorized representative information;  
are confidential trade secrets and may not be disclosed or distributed outside the department in accordance with the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, by the director or any officer or employee of the department.
- (2) The director, however, may provide for the release of information to representatives of state or federal agencies who state in writing that they shall maintain the confidentiality of such information or if the director finds that the release is reasonably necessary for the protection of the public and in the interests of justice.
- (3) Nothing in this section shall prohibit the director from releasing to the public a list of persons licensed under the provisions of this chapter or to release aggregated financial data on such licensees.

**SECTION 46.** That Section 26-31-103, Idaho Code, be, and the same is hereby amended to read as follows:

**26-31-103. DIRECTOR'S AUTHORITY UNDER THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

- (1) The legislature has determined that a nationwide mortgage licensing system and registry for mortgage brokers, mortgage lenders and mortgage loan originators is consistent with both the public interest and the purposes of this chapter.
- (2) For the sole purpose of participating in the nationwide mortgage licensing system and registry, the director is authorized to:
- (a) Modify by rule the license renewal dates under this chapter;
  - (b) Establish by rule such new requirements as are necessary for the state of Idaho to participate in the nationwide mortgage licensing system and registry upon the director's finding that each new requirement is consistent with both the public interest and the purposes of this chapter; and
  - (c) Require a background investigation of each applicant and each control person of an applicant for a mortgage broker, mortgage lender or mortgage loan originator license by means of fingerprint checks by the Idaho state police and the FBI for state and national criminal history record checks. The information obtained thereby may be used by the director to determine the applicant's eligibility for licensing under this chapter. The fee required to perform the criminal history record check shall be borne by the license applicant. Information obtained or held by the director pursuant

to this subsection shall be considered confidential personal information and shall be exempt from disclosure pursuant to section ~~9-340C~~ 74-106 (8) and (9), Idaho Code.

**SECTION 47.** That Section 26-31-315, Idaho Code, be, and the same is hereby amended to read as follows:

**26-31-315.**

Confidentiality. In order to promote effective regulation and reduce regulatory burden through supervisory information sharing:

- (1) Except as otherwise provided in section 1512, P.L. 110-289, the requirements under any federal law or ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or Idaho state law, including the rules of any federal or Idaho state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the NMLSR. Such information and material may be shared with all state and federal regulatory officials having mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (2) For these purposes, the director is authorized to enter into agreements or sharing arrangements with other governmental agencies, the conference of state bank supervisors, the American association of residential mortgage regulators or other associations representing governmental agencies as established by rule or order of the director.
- (3) Information or material that is subject to a privilege or confidentiality under subsection (1) of this section shall not be subject to:
  - (a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or
  - (b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the NMLSR with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.
- (4) Coordination with ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, relating to the disclosure of confidential supervisory information or any information or material described in subsection (1) of this section that is inconsistent with subsection (1) shall be superseded by the requirements of this section.
- (5) This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the NMLSR for access by the public.

**SECTION 48.** That Section 28-46-106, Idaho Code, be, and the same is hereby amended to read as follows:

**28-46-106. Investigatory powers.**

- (1) If the administrator has cause to believe that a person has engaged in conduct or committed an act that is subject to action by the administrator, he may make an investigation to determine whether the person has engaged in the conduct or committed the act. To the extent necessary for this purpose, he may administer oaths or affirmations, and, upon his own motion or upon request of any party, subpoena witnesses, compel their attendance, adduce evidence, and require the production of, or testimony as to, any matter relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

- (2) If the person's records are located outside this state, the person at his option shall make them available to the administrator at a convenient location within this state or pay the reasonable and necessary expenses for the administrator or his representative to examine them where they are located. The administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect them on his behalf.
- (3) Upon application by the administrator showing failure without lawful excuse to obey a subpoena or to give testimony, and upon reasonable notice to all persons affected thereby, the court shall grant an order compelling compliance.
- (4) The name or identity of a person whose acts or conduct the administrator investigates pursuant to this section or the facts disclosed in the investigation shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, but this subsection does not apply to disclosures in actions or enforcement proceedings pursuant to this act.

**SECTION 49.** That Section 28-46-304, Idaho Code, be, and the same is hereby amended to read as follows:

**28-46-304. Records -- Annual reports.**

- (1) Every regulated lender shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the regulated lender is complying with the provisions of this act. The recordkeeping system of a regulated lender shall be sufficient if he makes the required information reasonably available. The records need not be kept in the place of business where regulated consumer loans are made, if the administrator is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than two (2) years after making the final entry relating to the loan, but in the case of an open-end account, the two (2) years is measured from the date of each entry.
- (2) Concurrent with license renewal, on or before May 31 of each year, every licensee shall file with the administrator a composite annual report for the prior calendar year in the form prescribed by the administrator relating to all regulated consumer loans made by him. Information contained in annual reports shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and may be published only in composite form.

**SECTION 50.** That Section 28-46-409, Idaho Code, be, and the same is hereby amended to read as follows:

**28-46-409. Records -- Annual reports.**

- (1) Every licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with the provisions of this act. The recordkeeping system of a licensee shall be sufficient if he makes the required information reasonably available. The records need not be kept in the place of business where payday loans are made if the administrator is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than two (2) years after the due date of the loan.
- (2) On or before May 31 of each year, every licensee shall file with the administrator a composite annual report for the prior calendar year in the form prescribed by the administrator relating to all payday loans made by him. Information contained in annual reports shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and may be published only in composite form.

**SECTION 51.** That Section 28-51-104, Idaho Code, be, and the same is hereby amended to read as follows:

**28-51-104.**

Definitions. For purposes of sections 28-51-104 through 28-51-107, Idaho Code:

- (1) "Agency" means any "public agency" as defined in section ~~9-337~~ 74-101 , Idaho Code.

- (2) "Breach of the security of the system" means the illegal acquisition of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of personal information for one (1) or more persons maintained by an agency, individual or a commercial entity. Good faith acquisition of personal information by an employee or agent of an agency, individual or a commercial entity for the purposes of the agency, individual or the commercial entity is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.
- (3) "Commercial entity" includes corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, organization, joint venture and any other legal entity, whether for profit or not-for-profit.
- (4) "Notice" means:
- (a) Written notice to the most recent address the agency, individual or commercial entity has in its records;
  - (b) Telephonic notice;
  - (c) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in [15 U.S.C. section 7001](#); or
  - (d) Substitute notice, if the agency, individual or the commercial entity required to provide notice demonstrates that the cost of providing notice will exceed twenty-five thousand dollars (\$ 25,000), or that the number of Idaho residents to be notified exceeds fifty thousand (50,000), or that the agency, individual or the commercial entity does not have sufficient contact information to provide notice. Substitute notice consists of all of the following:
    - (i) E-mail notice if the agency, individual or the commercial entity has e-mail addresses for the affected Idaho residents; and
    - (ii) Conspicuous posting of the notice on the website page of the agency, individual or the commercial entity if the agency, individual or the commercial entity maintains one; and
    - (iii) Notice to major statewide media.
- (5) "Personal information" means an Idaho resident's first name or first initial and last name in combination with any one (1) or more of the following data elements that relate to the resident, when either the name or the data elements are not encrypted:
- (a) Social security number;
  - (b) Driver's license number or Idaho identification card number; or
  - (c) Account number, or credit or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial account.
- The term "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.
- (6) "Primary regulator" of a commercial entity or individual licensed or chartered by the United States is that commercial entity's or individual's primary federal regulator, the primary regulator of a commercial entity or individual licensed by the department of finance is the department of finance, the primary regulator of a commercial entity or individual licensed by the department of insurance is the department of insurance and, for all agencies and all other commercial entities or individuals, the primary regulator is the attorney general.

**SECTION 52.** That Section 30-14-607, Idaho Code, be, and the same is hereby amended to read as follows:

**30-14-607. Public records -- Confidentiality.**



- (a) Presumption of public records. Except as otherwise provided in subsection (b) of this section, records obtained by the administrator or filed under this chapter, including a record contained in or filed with a registration statement, application, notice filing, or report, are public records and are available for public examination.
- (b) Nonpublic records. Records as set forth in section ~~9-340H~~ 74-111, Idaho Code, are not public records and are not available for public examination under subsection (a) of this section.
- (c) Administrator discretion to disclose. If disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in section 30-14-608(a), Idaho Code, the administrator may disclose a record obtained in connection with an audit or inspection under section 30-14-411(d), Idaho Code, or a record obtained in connection with an investigation under section 30-14-602, Idaho Code.

**SECTION 53.** That Section 31-874, Idaho Code, be, and the same is hereby amended to read as follows:

**31-874.**

Proceedings and records of medical indigents. All proceedings and records related to medical indigency pursuant to the provisions of section 31-873, Idaho Code, and chapters 34 and 35, title 31, Idaho Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and shall not be subject to the provisions of ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code.

**SECTION 54.** That Section 31-1415, Idaho Code, be, and the same is hereby amended to read as follows:

**31-1415.**

Organization of board -- Meetings -- Officers -- Official bonds.

Immediately after qualifying, the board of fire protection commissioners shall meet and organize as a board, and at that time, and whenever thereafter vacancies in the respective offices may occur, they shall elect a president from their number, and shall appoint a secretary and treasurer who may also be from their number, all of whom shall hold office during the pleasure of the board, or for terms fixed by the board. The offices of secretary and treasurer may be filled by the same person. Certified copies of all such appointments, under the hand of each of the commissioners, shall be forthwith filed with the clerk of the board of county commissioners and with the tax collector of the county.

As soon as practicable after the organization of the first board of fire protection commissioners, and thereafter when deemed expedient or necessary, such board shall designate a day and hour on which regular meetings shall be held and a place for the holding thereof, which shall be within the district. Regular meetings shall be held at least quarterly. The minutes of all meetings must show what bills are submitted, considered, allowed or rejected. The secretary shall make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed or disallowed. Such list shall be acted on by the board. All meetings of the board must be public, and a majority shall constitute a quorum for the transaction of business. All fire protection districts shall meet the financial audit filing requirements as provided in section 67-450B, Idaho Code. All meetings of fire protection boards shall be noticed and run in accordance with the open meeting law provided for in ~~sections 67-2340 through 67-2347~~ chapter 2, title 74, Idaho Code, inclusive. All records of fire protection districts shall be available to the public in accordance with the provisions of public records law as provided for in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

The officers of the district shall take and file with the secretary, an oath for faithful performance of the duties of the respective offices. The treasurer shall on his appointment execute and file with the secretary an

official bond in compliance with section 41-2604, Idaho Code, in such an amount as may be fixed by the fire protection board but in no case less than ten thousand dollars (\$ 10,000).

**SECTION 55.** That Section 31-3418, Idaho Code, be, and the same is hereby amended to read as follows:

**31-3418.**

Confidentiality -- Proceedings and records of indigents. All proceedings and records related to indigency, pursuant to chapter 34, title 31, Idaho Code, shall be exempt from disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 56.** That Section 31-3551, Idaho Code, be, and the same is hereby amended to read as follows:

**31-3551.**

Advisory panel for prelitigation consideration of indigent resource eligibility claims -- Procedure. The counties in the state of Idaho and the health providers furnishing care to eligible medically indigent persons, as defined in section 31-3502, Idaho Code, are directed to cooperate in providing an advisory panel in the nature of a special civil grand jury and procedure for prelitigation consideration of claims arising out of contested resource availability of persons applying for indigent relief under the provisions of chapter 35, title 31, Idaho Code, which proceedings shall be informal and nonbinding, but nevertheless compulsory as a condition precedent to litigation. Proceedings conducted or maintained under the authority of this chapter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. Formal rules of evidence shall not apply and all such proceedings shall be expeditious and informal. The panel, thus created, will render opinions where the resource eligibility of applicants, as herein described, has been contested.

**SECTION 57.** That Section 31-4814, Idaho Code, be, and the same is hereby amended to read as follows:

**31-4814.**

Confidential and proprietary data. All data submitted to governing boards by wireless carriers deemed by such carriers as confidential and proprietary shall be deemed to be trade secrets pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 58.** That Section 31-4904, Idaho Code, be, and the same is hereby amended to read as follows:

**31-4904.**

District board -- Quorum -- Meetings. A district shall be governed by a board of directors consisting of not less than three (3) members, hereinafter referred to as the district board, which shall be vested with the authority, control and supervision of the district. The district board shall consist of one (1) commissioner from each participating county, appointed by the commissioners of the participating county. If the district includes only

**two**

(2) counties, the commissioners of the two (2) participating counties shall jointly appoint a third member of the district board. Ex officio, nonvoting members may be appointed by the district board. The district board shall designate one (1) of its members as president, shall appoint a treasurer, who need not be a member of the district board, and shall establish such other officers as it deems necessary. The district board shall adopt bylaws for its

own operation and establish such regular meeting dates and times as it shall deem necessary. A majority of the voting members of the district board shall constitute a quorum, and a majority of the quorum present shall be sufficient to take any action. A member of the district board shall serve for a two (2) year term and may be reappointed by the commissioners appointing such member. Any member may be removed by the commissioners who originally appointed such member, at any time and for any reason. Any vacancy shall be filled by the original appointing commissioners. Members of a district board shall serve without compensation, but may be reimbursed for their actual expenses incurred in attending board meetings or conducting other district business under such rules as the district board may adopt. Regular and special meetings of a district board shall be conducted in compliance with ~~sections 67-2340 through 67-2347~~ chapter 2, title 74 , Idaho Code.

**SECTION 59.** That Section 31-5104, Idaho Code, be, and the same is hereby amended to read as follows:

**31-5104.**

- Study commission -- Organization -- Meetings -- Conduct of business. (1) The commission shall meet within thirty (30) days of its appointment and shall organize by electing from its members a chairman, a vice-chairman, and a clerk-secretary.
- (2) Meetings of the study commission shall be held upon the call of the chairman, the vice-chairman in the absence or inability of the chairman, or a majority of the members. A majority of the members of the study commission constitutes a quorum for the transaction of business.
- (3) All meetings, hearings and deliberations of the commission shall be subject to the provisions of ~~sections 67-2340 through 67-2347~~ chapter 2, title 74 , Idaho Code.
- (4) The commission may prepare a proposed budget for its operation which shall be submitted to the governing body for approval.
- (5) The commission may adopt rules governing its own organization and procedure.
- (6) The commission shall keep written records of its proceedings and appropriate financial records. All such records shall be open for public inspection at the offices of the study commission during regular office hours.
- (7) Subject to the approval of the governing body, the commission may employ and fix the compensation and duties of necessary research, clerical, legal and other staff.
- (8) Upon the request of the chairman of the study commission, the officers and employees of state agencies, other counties and other units of local government shall furnish or make available to the commission such information as may be necessary for carrying out the commission's function.
- (9) The commission may apply for and accept available private, state and federal funds and may accept donations from any source.
- (10) A study commission may establish advisory boards and committees, including on them persons who are not members of the study commission.

- (11) The governing body shall provide the commission with suitable space and access to county facilities for holding public hearings, may contribute clerical and other assistance to the commission, and shall provide the members and staff of the commission with information and assistance necessary to conduct a complete study of county government.

**SECTION 60.** That Section 33-357, Idaho Code, be, and the same is hereby amended 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~~ chapter 1, title 74 , 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;
- (vi) To the extent possible, a unique identifier for each expenditure;
- (vii) The annual budget approved by the education provider's governing board, to be posted within thirty (30) days after its approval; and
- (viii) Any current master labor agreements approved by the education provider's governing board.

(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 61.** That Section 33-510, Idaho Code, be, and the same is hereby amended to read as follows:

**33-510.**

Annual meetings -- Regular meetings -- Boards of trustees. The annual meeting of each school district shall be on the date of its regular July meeting in each year. Notice of the annual meeting of elementary school districts shall be given as provided in section 33-402, Idaho Code, but one (1) publication shall suffice.

Regular meetings of each board of school district trustees shall be held monthly, on a uniform day of a uniform week as determined at the annual meeting. Special meetings may be called by the chairman or by any two (2) members of the board and held at any time. If the time and place of special meetings shall not have been determined at a meeting of the board with all members being present, then notice of the time and place shall be given to each member and announced by written notice conspicuously posted at the school district office and at least two (2) or more public buildings within the school district not less than twenty-four (24) hours before such special meeting is to be convened.

A quorum for the transaction of business of the board of trustees shall consist of a majority of the members of the board. Unless otherwise provided by law, all questions shall be determined by a majority of the vote cast. The chairman of the board may vote in all cases.

All meetings shall conform to the provisions of ~~section 67-2340 through section 67-2345~~ chapter 2, title 74, Idaho Code.

**SECTION 62.** That Section 33-514, Idaho Code, be, and the same is hereby amended to read as follows:

**33-514.**

Issuance of annual contracts -- Support programs -- Categories of contracts -- Optional placement. (1) The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code.

- (2) There shall be three (3) categories of annual contracts available to local school districts under which to employ certificated personnel:

- (a) A category 1 contract is a limited one-year contract as provided in section 33-514A, Idaho Code.
- (b) A category 2 contract is for certificated personnel in the first and second years of continuous employment with the same school district. Upon the decision by a local school board not to reemploy the person for the following year, the certificated employee shall be provided a written statement of reasons for non-reemployment by no later than May 25. No property rights shall attach to a category 2 contract and therefore the employee shall not be entitled to a review by the local board of the reasons or decision not to reemploy.
- (c) A category 3 contract is for certificated personnel during the third year of continuous employment by the same school district. District procedures shall require at least one (1) evaluation prior to the

beginning of the second semester of the school year and the results of any such evaluation shall be made a matter of record in the employee's personnel file. When any such employee's work is found to be unsatisfactory a defined period of probation shall be established by the board, but in no case shall a probationary period be less than eight (8) weeks. After the probationary period, action shall be taken by the board as to whether the employee is to be retained, immediately discharged, discharged upon termination of the current contract or reemployed at the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections ~~67-2344~~ **74-205** and ~~67-2345~~ **74-206**, Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work which are deficient, including the conditions of probation. Each such certificated employee on a category 3 contract shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the twenty-fifth day of May of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees. The parameters of an informal review shall be determined by the local board.

- (3) School districts hiring an employee who has been on renewable contract status with another Idaho district or has out-of-state experience which would otherwise qualify the certificated employee for renewable contract status in Idaho, shall have the option to immediately grant renewable contract status, or to place the employee on a category 3 annual contract. Such employment on a category 3 contract under the provisions of this subsection may be for one (1), two (2) or three (3) years.
- (4) There shall be a minimum of two (2) written evaluations in each of the annual contract years of employment, and at least one (1) evaluation shall be completed before January 1 of each year. The provisions of this subsection (4) shall not apply to employees on a category 1 contract.

**SECTION 63.** That Section 33-515, Idaho Code, be, and the same is hereby amended to read as follows:

**33-515. ISSUANCE OF RENEWABLE CONTRACTS.**

- (1) During the third full year of continuous employment by the same school district, including any specially chartered district, each certificated employee named in subsection (16) of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district subject to the provisions included in this chapter.
- (2) After the third full year of employment and at least once annually, the performance of each such certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the first day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the fifteenth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section.



- (3) Any contract automatically renewed under the provisions of this section shall be for the same length as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, service, or performance, except where a board of trustees has declared a financial emergency pursuant to section 33-522, Idaho Code.
- (4) Nothing in this section shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning an administrative employee to a nonadministrative position with appropriate reduction of salary from the preexisting salary level. In the event the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the local board of trustees.
- (5) Before a board of trustees can determine not to renew for reasons of an unsatisfactory report of the performance of any certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section ~~67-2345~~ 74-206, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.
- (6) If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, the action of the board shall be consistent with the procedures specified in section 33-513 5., Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.
- (7) If the board of trustees takes action after the declaration of a financial emergency pursuant to section 33-522, Idaho Code, and such action is directed at more than one (1) certificated employee and, if mutually agreed to by both parties, a single informal review shall be conducted. Without mutual consent of both parties, the board of trustees shall use the following procedure to conduct a single due process hearing within sixty-seven (67) days of the declaration of financial emergency pursuant to section 33-522(2), Idaho Code, or on or before June 22, whichever shall occur first:

  - (a) The superintendent or any other duly authorized administrative officer of the school district may recommend the change in the length of the term stated in the current contract or reduce the salary of any certificated employee by filing with the board of trustees written notice specifying the purported reasons for such changes.
  - (b) Upon receipt of such notice, the board of trustees, acting through its duly authorized administrative official, shall give the affected employees written notice of the reductions and the recommendation of the change in the length of the term stated in the current contract or the reduction of salary, along with written notice of a hearing before the board of trustees prior to any determination by the board of trustees.
  - (c) The hearing shall be scheduled to take place not less than six (6) days nor more than fourteen (14) days after receipt of the notice by the employees. The date provided for the hearing may be changed by mutual consent.
  - (d) The hearing shall be open to the public.

- (e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board of trustees, may administer oaths to witnesses or affirmations by witnesses.
  - (f) The employees may be represented by legal counsel and/or by a representative of a local or state education association.
  - (g) The chairman of the board of trustees or the designee of the chairman shall conduct the hearing.
  - (h) The board of trustees shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board of trustees upon request of the employee.
  - (i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the reduction contained in such notice.
  - (j) The employees may produce evidence to refute the reduction. Any witness presented by the superintendent or by the employees shall be subject to cross-examination. The board of trustees may also examine witnesses and be represented by counsel.
  - (k) The affected employees may file written briefs and arguments with the board of trustees within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employees and the board of trustees.
  - (l) Within seven (7) days following the close of the hearing, the board of trustees shall determine and, acting through its duly authorized administrative official, shall notify the employees in writing whether the evidence presented at the hearing established the need for the action taken.  
  
The due process hearing pursuant to this subsection (7) shall not be required if the board of trustees and the local education association reach an agreement on issues agreed upon pursuant to section 33-522(3), Idaho Code.
- (8) If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

**SECTION 64.** That Section 33-1211, Idaho Code, be, and the same is hereby amended to read as follows:

**33-1211.**

Privileged communication or publication. Any publication or communication made by any member of the state board of education, or by any person delegated by the said state board to hold or conduct any hearing, or by any certification officer of the state board of education, in the proper discharge of any official duty imposed under section 33-1208 or 33-1209, Idaho Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 65.** That Section 33-1273A, Idaho Code, be, and the same is hereby amended to read as follows:

**33-1273A. Negotiations in open session.**

- (1) Any other provision of law notwithstanding, including any provisions to the contrary in section ~~67-2345~~ 74-206, Idaho Code, all negotiations pursuant to this act shall be in open session and shall be open and available for the public to attend.
- (2) All documentation exchanged between the parties during negotiations, including all offers, counteroffers and meeting minutes shall be subject to public writings disclosure laws.
- (3) Any other provision of law notwithstanding, including any other provisions to the contrary in sections 33-402 and ~~67-2343~~ 74-204, Idaho Code, the district shall post notice of all negotiation sessions at the earliest possible time practicable. This shall be done by the district immediately posting notice of the

negotiation session on the front page of its district website. If time permits, the district shall also post notice within twenty-four (24) hours at its regular meeting physical posting locations.

**SECTION 66.** That Section 33-2505A, Idaho Code, be, and the same is hereby amended to read as follows:

**33-2505A.**

Definitions. As used in this chapter:

- (1) "Digital repository" means electronic publications stored and accessible to the public online in a secure digital environment with redundant backup.
- (2) "Format" includes any media used for state publications including, but not limited to, electronic, print, audio, visual and microform.
- (3) "State agency" includes every constitutional and statutory office, officer, department, division, bureau, board, commission and agency of the state and, where applicable, all subdivisions of each.
- (4) "State publication" means any information, regardless of format, published by a state agency and intended for distribution to the public. State publication does not include correspondence, internal confidential publications, office memoranda, university press publications, items detailed by ~~sections 9-340A through 9-340H~~ chapter 1, title 74 , Idaho Code, or other information excluded or exempted by rule promulgated by the board of library commissioners.

**SECTION 67.** That Section 33-2606, Idaho Code, be, and the same is hereby amended to read as follows:

**33-2606.**

Board of trustees -- Meetings. The board of trustees shall meet at least once in each quarter unless required by city ordinance to meet more frequently. One (1) of the meetings shall be designated as the annual meeting. The purposes of the annual meeting are to elect the officers of the board, to establish a regular meeting date, and to review, amend, repeal or adopt bylaws, policies and procedures. Special meetings may be held from time to time as the board may determine, but written notice thereof shall be given to the members at least two (2) days prior to the day of the meeting. A quorum shall consist of three (3) voting members, but a smaller number may adjourn. All library board meetings are to be held pursuant to the open meeting law, ~~sections 67-2340 through 67-2347~~ chapter 2, title 74 , Idaho Code.

**SECTION 68.** That Section 33-2719, Idaho Code, be, and the same is hereby amended to read as follows:

**33-2719.**

Board of trustees -- Meetings. The annual meeting of a library district board shall be on the date of its first regular meeting following each trustee election. The purposes of the annual meeting are to administer the oath of office to the newly elected or re-elected trustee or trustees, to elect the officers of the board, to establish a regular meeting date, and to review, amend, repeal or adopt bylaws, policies and procedures. The regular meetings of the board of trustees of an administrative only district shall be held at least once in each quarter. All other library district boards shall meet at least once every two (2) months at a uniform day of the month as the board of trustees shall determine at its annual meeting. Special or adjourned meetings may be held from time to time as the board may determine, but written notice thereof shall be given to the members at least two (2) days prior to the day of the meeting. A quorum shall consist of three (3) members, but a smaller number may adjourn. All meetings shall be held under the provisions of ~~section 67-2340 through 67-2347~~ chapter 2, title 74 , Idaho Code. It is the duty of each trustee to attend all meetings of the board of trustees.

**SECTION 69.** That Section 33-3407, Idaho Code, be, and the same is hereby amended to read as follows:

**33-3407. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE.**

- (1) The Idaho

bureau of educational services for the deaf and the blind, as provided for in this chapter, is not a single department of state government unto itself, nor is it a part of any of the twenty (20) departments of state government authorized by section 20, article IV, of the constitution of the state of Idaho, or of the departments provided for in section 67-2402, Idaho Code. It is legislative intent that the Idaho bureau of educational services for the deaf and the blind operate and be recognized not as a state agency or department, but as a governmental entity whose creation has been authorized by the state, much in the manner as other single purpose districts. For the purposes of section 59-1302(15), Idaho Code, the Idaho bureau of educational services for the deaf and the blind created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by the Idaho bureau of educational services for the deaf and the blind are exempt from payment of the sales and use tax. The Idaho bureau of educational services for the deaf and the blind, its employees and its board of directors are subject to the following provisions in the same manner as a traditional public school and the board of trustees of a school district:

- (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
  - (b) ~~Chapter 2, title 59~~ Chapter 5, title 74 , Idaho Code, on prohibitions against contracts with officers;
  - (c) ~~Chapter 7, title 59~~ Chapter 4, title 74 , Idaho Code, on ethics in government;
  - (d) ~~Chapter 23, title 67~~ Chapter 2, title 74 , Idaho Code, on open public meetings; and
  - (e) ~~Chapter 3, title 9~~ Chapter 1, title 74 , Idaho Code, on disclosure of public records.
- (2) The Idaho bureau of educational services for the deaf and the blind, its employees and its board of directors are subject to the following provisions:
- (a) Section 33-1216, Idaho Code, on sick and other leave, or the laws, rules and policies of the state of Idaho for sick and other leave as provided for in chapter 53, title 67, Idaho Code, as determined by the board;
  - (b) Section 33-1217, Idaho Code, on accumulation of unused sick leave, or the laws, rules and policies of the state of Idaho for accumulation of unused sick leave as provided for in section 67-5333, Idaho Code, as determined by the board;
  - (c) Section 33-1218, Idaho Code, on sick leave in excess of statutory minimum amounts, or the laws, rules and policies of the state of Idaho for sick leave in excess of statutory minimum amounts as provided for in section 67-5333, Idaho Code, as determined by the board; and
  - (d) Section 33-1228, Idaho Code, on severance allowance at retirement, or the laws, rules and policies of the state of Idaho for severance allowance at retirement as provided for in section 67-5333, Idaho Code, as determined by the board.
- (3) The Idaho bureau of educational services for the deaf and the blind may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and its employees, directors

and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code.

- (4) The Idaho bureau of educational services for the deaf and the blind shall be considered a state department for purposes of risk management and group insurance pursuant to chapter 57, title 67, Idaho Code, and the department of administration shall treat the bureau as such.

- (5) It shall be unlawful for:

(a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the Idaho bureau of educational services for the deaf and the blind, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection. The board of directors of the Idaho bureau of educational services for the deaf and the blind may accept and award contracts involving the Idaho bureau of educational services for the deaf and the blind to businesses in which the director or a person related to him by blood or marriage within the second degree of consanguinity has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of the Idaho bureau of educational services for the deaf and the blind for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to the Idaho bureau of educational services for the deaf and the blind, shall not be deemed to be a contract pertaining to the maintenance or conduct of the Idaho bureau of educational services for the deaf and the blind within the meaning of this section; nor shall the payment of compensation by the Idaho bureau of educational services for the deaf and the blind board of directors to any bank or trust company for services rendered in the transaction of any banking business with the Idaho bureau of educational services for the deaf and the blind board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of the Idaho bureau of educational services for the deaf and the blind to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or shall require, the payment or delivery of any Idaho bureau of educational services for the deaf and the blind funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

- (6) When any relative of any director, or relative of the spouse of a director related by affinity or consanguinity within the second degree, is to be considered for employment in the Idaho bureau of educational services for the deaf and the blind, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

**SECTION 70.** That Section 33-5204, Idaho Code, be, and the same is hereby amended to read as follows:

**33-5204. Nonprofit corporation -- Liability -- Insurance.**

- (1) A public

charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a public charter school shall be deemed public agents authorized by a public school district, the public charter school commission, or the state board of education to control the public charter school, but shall function independently of any school board of trustees in any school district in which the public charter school is located or independently of the public charter school commission, except as provided in the charter. For the purposes of section 59-1302(15), Idaho Code, a public

charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax. A public charter school and the board of directors of a public charter school are subject to the provisions of:

- (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
  - (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions against contracts with officers;
  - (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in government;
  - (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public meetings; and
  - (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of public records;
    - in the same manner that a traditional public school and the board of school trustees of a school district are subject to those provisions.
- (2) A public charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a traditional public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code. The authorized chartering entity that approves a public school charter shall have no liability for the acts, omissions, debts or other obligations of a public charter school, except as may be provided in the charter. A local public school district shall have no liability for the acts, omissions, debts or other obligations of a public charter school located in its district that has been approved by an authorized chartering entity other than the board of trustees of the local school district.
- (3) Nothing in this chapter shall prevent the board of directors of a public charter school, operating as a nonprofit corporation, from borrowing money to finance the purchase or lease of school building facilities, equipment and furnishings of those school building facilities. Subject to the terms of a contractual agreement between the board and a lender, nothing herein shall prevent the board from using the facility, its equipment and furnishings as collateral for the loan.
- (4) Public charter schools shall secure insurance for liability and property loss.
- (5) It shall be unlawful for:
- (a) Any director to have pecuniary interest, directly or indirectly, in any contract or other transaction pertaining to the maintenance or conduct of the authorized chartering entity and charter or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection. The board of directors of a public charter school may accept and award contracts involving the public charter school to businesses in which the director or a person related to him by blood or marriage within the second degree has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of a public charter school for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to any public charter school, shall not be deemed to be a contract pertaining to the maintenance or conduct of a public charter school and authorized chartering entity within the meaning of this section; nor shall the payment by any public charter school board of directors of compensation to any bank or trust company for services rendered in the transaction of any banking business with such public charter school board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.



- (b) The board of directors of any public charter school to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any public charter school funds, moneys or property to such spouse, except as provided in paragraph (c) of this subsection or in section 18-1361 or 18-1361A, Idaho Code.
- (c) No spouse of any director may be employed by a public charter school physically located within the boundaries of a school district with a fall student enrollment population of greater than one thousand two hundred (1,200) in the prior school year. For public charter schools physically located within the boundaries of a school district with a fall student enrollment population of one thousand two hundred (1,200) or less in the prior school year, such spouse may be employed in a nonadministrative position for a school year if each of the following conditions has been met:
  - (i) The position has been listed as open for application on the public charter school website or in a local newspaper, whichever is consistent with the school's current practice, and the position shall be listed for at least sixty (60) days, unless the opening occurred during the school year, in which case the position shall be so listed for at least fifteen (15) days. If the position is listed in a newspaper, the listing shall be made in a manner consistent with the provisions of section 60-106, Idaho Code;
  - (ii) No applications were received that met the minimum certification, endorsement, education or experience requirements of the position other than such spouse;
  - (iii) The director abstained from voting in the employment of the spouse and was absent from the meeting while such employment was being considered and determined.

The public charter school may employ such spouse for further school years, provided that the conditions contained in this paragraph are met for each school year in which such spouse is employed. The director shall abstain from voting in any decisions affecting the compensation, benefits, individual performance evaluation or disciplinary action related to the spouse and shall be absent from the meeting while such issues are being considered and determined. Such limitation shall include, but not be limited to: any matters relating to negotiations regarding compensation and benefits; discussion and negotiation with district benefits providers; and any matter relating to the spouse and letters of reprimand, direction, probation or termination. Such limitations shall not prohibit the trustee spouse from participating in deliberation and voting upon the district's annual fiscal budget or annual audit report. Any spouse of a director employed as a certificated employee pursuant to this paragraph shall be employed under a category 1 contract pursuant to section 33-514A, Idaho Code.

- (6) When any relative of any director or relative of the spouse of a director related by affinity or consanguinity within the second degree is to be considered for employment in a public charter school, such director shall abstain from voting in the election of such relative and shall be absent from the meeting while such employment is being considered and determined.

**SECTION 71.** That Section 33-5204, Idaho Code, as enacted by Section 9, Chapter 252, Laws of 2014, be, and the same is hereby amended to read as follows:

**33-5204. Nonprofit corporation -- Liability -- Insurance.**

- (1) A public

charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a public charter school shall be deemed public agents authorized by a public school district, the public charter school commission, or the state board of education to control the public charter school, but shall function independently of any school board of

trustees in any school district in which the public charter school is located or independently of the public charter school commission, except as provided in the charter. For the purposes of section 59-1302(15), Idaho Code, a public charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax. A public charter school and the board of directors of a public charter school are subject to the provisions of:

- (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
- (b) ~~Chapter 2, title 59~~ Chapter 5, title 74 , Idaho Code, on prohibitions against contracts with officers;
- (c) ~~Chapter 7, title 59~~ Chapter 4, title 74 , Idaho Code, on ethics in government;
- (d) ~~Chapter 23, title 67~~ Chapter 2, title 74 , Idaho Code, on open public meetings; and
- (e) ~~Chapter 3, title 9~~ Chapter 1, title 74 , Idaho Code, on disclosure of public records;

in the same manner that a traditional public school and the board of school trustees of a school district are subject to those provisions.

- (2) A public charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a traditional public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code. The authorized chartering entity that approves a public school charter shall have no liability for the acts, omissions, debts or other obligations of a public charter school, except as may be provided in the charter. A local public school district shall have no liability for the acts, omissions, debts or other obligations of a public charter school located in its district that has been approved by an authorized chartering entity other than the board of trustees of the local school district.
- (3) Nothing in this chapter shall prevent the board of directors of a public charter school, operating as a nonprofit corporation, from borrowing money to finance the purchase or lease of school building facilities, equipment and furnishings of those school building facilities. Subject to the terms of a contractual agreement between the board and a lender, nothing herein shall prevent the board from using the facility, its equipment and furnishings as collateral for the loan.
- (4) Public charter schools shall secure insurance for liability and property loss.
- (5) It shall be unlawful for:
  - (a) Any director to have pecuniary interest, directly or indirectly, in any contract or other transaction pertaining to the maintenance or conduct of the authorized chartering entity and charter or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection. The board of directors of a public charter school may accept and award contracts involving the public charter school to businesses in which the director or a person related to him by blood or marriage within the second degree has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of a public charter school for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to any public charter school, shall not be deemed to be a contract pertaining to the maintenance or conduct of a public charter school and authorized chartering entity within the meaning of this section; nor shall the payment by any public charter school board of directors of compensation to any bank or trust

company for services rendered in the transaction of any banking business with such public charter school board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

- (b) The board of directors of any public charter school to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any public charter school funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.
- (6) When any relative of any director or relative of the spouse of a director related by affinity or consanguinity within the second degree is to be considered for employment in a public charter school, such director shall abstain from voting in the election of such relative and shall be absent from the meeting while such employment is being considered and determined.

**SECTION 72.** That Section 33-5204A, Idaho Code, be, and the same is hereby amended to read as follows:

**33-5204A. Applicability of professional codes and standards -- Limitations upon authority.**

- (1) Every person who serves in a public charter school, either as an employee, contractor, or otherwise, in the capacity of teacher, supervisor, administrator, education specialist, school nurse or librarian, must comply with the professional codes and standards approved by the state board of education, including standards for ethics or conduct.
- (2) Every employee of a public charter school and every member of the board of directors of a public charter school, whether compensated or noncompensated, shall comply with the standards of ethics or conduct applicable to public officials including, but not limited to, ~~chapter 7, title 59~~ chapter 4, title 74, Idaho Code, except that section ~~59-704A~~ 74-405, Idaho Code, which permits a noncompensated public official to have an interest in a contract made or entered into by the board of which he is a member under certain conditions, shall not apply to the board of directors of a public charter school. A member of the board of directors of a public charter school is prohibited from receiving a personal pecuniary benefit, directly or indirectly, pertaining to a contractual relationship with the public charter school.

**SECTION 73.** That Section 33-5504A, Idaho Code, be, and the same is hereby amended to read as follows:

**33-5504A. Governmental entity.**

- (1) The Idaho digital learning academy shall be a governmental entity as provided in section 33-5502, Idaho Code. For the purposes of section 59-1302(15), Idaho Code, the Idaho digital learning academy created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or purchases by the Idaho digital learning academy are exempt from payment of the sales and use tax. The Idaho digital learning academy, its employees and its board of directors are subject to the following provisions in the same manner as a traditional public school and the board of trustees of a school district:
  - (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
  - (b) ~~Chapter 2, title 59~~ Chapter 5, title 74, Idaho Code, on prohibitions against contracts with officers;
  - (c) ~~Chapter 7, title 59~~ Chapter 4, title 74, Idaho Code, on ethics in government;
  - (d) ~~Chapter 23, title 67~~ Chapter 2, title 74, Idaho Code, on open public meetings;
  - (e) ~~Chapter 3, title 9~~ Chapter 1, title 74, Idaho Code, on disclosure of public records;
  - (f) Section 33-1216, Idaho Code, on sick and other leave;
  - (g) Section 33-1217, Idaho Code, on accumulation of unused sick leave;

- (h) Section 33-1218, Idaho Code, on sick leave in excess of statutory minimum amounts; and
- (i) Section 33-1228, Idaho Code, on severance allowance at retirement.
- (2) The Idaho digital learning academy may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code.
- (3) The Idaho digital learning academy shall secure insurance for liability and property loss.
- (4) It shall be unlawful for:
  - (a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the Idaho digital learning academy, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection (4). The board of directors of the Idaho digital learning academy may accept and award contracts involving the Idaho digital learning academy to businesses in which the director or a person related to him by blood or marriage within the second degree of consanguinity has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of the Idaho digital learning academy for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to the Idaho digital learning academy, shall not be deemed to be a contract pertaining to the maintenance or conduct of the Idaho digital learning academy within the meaning of this section; nor shall the payment of compensation by the Idaho digital learning academy board of directors to any bank or trust company for services rendered in the transaction of any banking business with the Idaho digital learning academy board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.
  - (b) The board of directors of the Idaho digital learning academy to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any Idaho digital learning academy funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.
- (5) When any relative of any director, or relative of the spouse of a director related by affinity or consanguinity within the second degree, is to be considered for employment in the Idaho digital learning academy, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

**SECTION 74.** That Section 34-416, Idaho Code, be, and the same is hereby amended to read as follows:

**34-416. Registration cards.**

- (1) The registration card shall contain the following warning:

WARNING: Any elector who supplies any information, knowing it to be false, is guilty of perjury.
- (2) The elector shall read the warning set forth in subsection (1) of this section and shall sign his name in an appropriate place on the completed card.
- (3) The registration card completed and signed as provided in this section constitutes the official registration card of the elector. The county clerk shall keep and file all such cards in a convenient manner in his office. Such cards constitute the register of electors and shall be considered confidential and unavailable for public inspection and copying except as provided by subsection (25) of section ~~9-340C~~ **74-106**, Idaho Code.

**SECTION 75.** That Section 36-105, Idaho Code, be, and the same is hereby amended to read as follows:

**36-105. Commission orders, rules and proclamations.**

- (1) Adoption and Publication of Rules and Orders. All rules and orders adopted pursuant to the provisions of this title shall be made in accordance with chapter 52, title 67, Idaho Code. Said rules and orders may also be given such other publicity as the commission may deem desirable.
- (2) Violation of Rules, Proclamations and Orders. All rules, proclamations and orders made as herein provided shall have full force and effect as law and any person violating any such rule, proclamation or order of the commission, adopted and published as herein set forth, shall be found guilty as set forth in section 36-1401, Idaho Code.
- (3) Notwithstanding any other provision of chapter 52, title 67, Idaho Code, the Idaho fish and game commission and the director of the Idaho fish and game department shall be excepted from the requirements of rulemaking when adopting, repealing, or amending any proclamation relating to setting of any season or limit on numbers, size, sex or species of wildlife classified by the commission as game animals, game birds, furbearers, migratory birds, salmon, steelhead and resident fish which may be taken in this state if:
  - (a) Notice of the proposed proclamation is published in the Idaho administrative bulletin and is provided in the same manner as an open meeting under section ~~67-2343~~ 74-204 , Idaho Code;
  - (b) Notice is given to the director of the legislative services office for review by the germane joint subcommittee as soon as possible after adoption by the commission; and
  - (c) The proclamation shall be published in a pamphlet or brochure as provided in section 59-1012, Idaho Code, and distributed without charge to the public. The text of the proclamation published in a pamphlet or brochure shall be the official text of the proclamation. Judicial notice shall be taken of the proclamation pamphlet or brochure.

**SECTION 76.** 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~~ chapter 1, title 74 , Idaho Code, unless written consent is obtained from the affected person.

**SECTION 77.** That Section 36-2114, Idaho Code, be, and the same is hereby amended to read as follows:

**36-2114.**

Revocation or suspension of license -- Review of denial of license -- Procedure. (a) Proceedings for the revocation or suspension of a license issued hereunder may be taken upon information and recommendation of any person. All accusations must be made in writing and signed by a person familiar

therewith and submitted to the board. Thereupon, the board, acting as a board, or through its executive director, shall make a preliminary investigation of all facts in connection with such charge. The board in its discretion may either decide to take no further action and the results of such investigation shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, or the board may decide to initiate proceedings to suspend or revoke the license of the outfitter or guide against whom a complaint has been filed, in which case the board shall set a time and place for hearing as provided in chapter 52, title 67, Idaho Code. Notice of such hearing shall be given to the licensee against whom a citation or formal complaint has been filed not later than one hundred eighty (180) days after the filing of such citation or formal complaint. If, after full, fair and impartial hearing, the majority of the board shall find the accused has committed the violations alleged, the board may suspend the license for a period not to exceed one (1) year, or the board may order the license revoked. The board shall forthwith suspend or revoke such license in accordance with and pursuant to its order under the procedure established in chapter 52, title 67, Idaho Code.

- (b) Any applicant aggrieved by a denial of his application in whole or in part for an outfitter's or guide's license by the board shall have twenty-one (21) days from the day of receiving such notice of denial in which to submit a written request for a hearing before the board to review such action. Upon receipt of such request, the board shall hold a hearing as provided in chapter 52, title 67, Idaho Code.

**SECTION 78.** That Section 37-401, Idaho Code, be, and the same is hereby amended to read as follows:

**37-401.**

Inspections, examinations and tests by department of agriculture --  
Dairy farms -- Nutrient management plans required -- Certain evidence required.

- (1) The director of the department of agriculture is hereby authorized and directed to designate any agent to inspect, examine and test any or all dairy products in accordance with rules as the department may prescribe; and to ascertain and certify the grade, classification, quality or sanitary condition thereof and other pertinent facts as the department may require. The director or agent of the department of agriculture of the state of Idaho shall make sanitary inspection of milk, cream, butter and dairy products of any kind whatsoever, intended for human consumption, and of containers, utensils, equipment, buildings, premises or anything whatsoever employed in the production, handling, storing, processing or manufacturing of dairy products or that would affect the purity of the products. Inspections, examinations and tests shall be made to meet the requirements of the laws of the state and of the United States for the sale of the products or their transportation in both intrastate and interstate commerce. Any agent designated by the director to



make inspections shall have the right for that purpose to enter any premises and buildings where milk, cream, butter or dairy products shall be produced, stored, processed or manufactured.

- (2) Acting in accord with rules of the department, the director or agent of the department shall review plans and specifications for construction of new, modified or expanded waste systems and inspect any dairy farm to ascertain and certify sanitary conditions, waste systems and milk quality.
- (3) The director or agent shall issue a permit authorizing the sale of milk for human consumption to all dairy farms that meet the requirements of this chapter, and rules promulgated pursuant to this chapter.
- (4) All dairy farms shall have a nutrient management plan approved by the department. The nutrient management plan shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator. Nutrient management plans submitted to the department by the dairy farm shall include the names and addresses of each recipient of that dairy farm's livestock waste, the number of acres to which the livestock waste is applied and the amount of such livestock waste received by each recipient. The information provided in this subsection shall be available to the county in which the dairy farm, or the land upon which the livestock waste is applied, is located. If livestock waste is converted to compost before it leaves the dairy farm, only the first recipient of the compost must be listed in the nutrient management plan as a recipient of livestock waste from the dairy farm. Existing dairy farms shall submit a nutrient management plan to the department on or before July 1, 2001.
- (5) Any new dairy farms or dairy farms that change owners or operators shall have an approved nutrient management plan on file with the department prior to the issuance of the milk permit for that dairy. The nutrient management plan shall be implemented upon approval of the plan by the department.
- (6) The director or his agent may issue a permit to sell milk for human consumption to a new or expanding dairy farm only upon presentation to the director by the new or expanding dairy farm of:
  - (a) A certified letter, supplied by the board of county commissioners, certifying the new or expanding dairy farm's compliance with applicable county livestock ordinances; and
  - (b) Evidence that a valid water right exists to supply adequate water for the new or expanding dairy farm; or
  - (c) A copy of an application for a permit to appropriate water that has been filed with the Idaho department of water resources and which, if approved, will supply adequate water for the dairy farm; or
  - (d) A copy of an application to change the point of diversion, place, period and nature of use of an existing water right that has been filed with the Idaho department of water resources and which, if approved, will supply adequate water for the dairy farm.
- (7) As used in this section:
  - (a) "Animal units" shall be as defined in rule by the director.
  - (b) "Expanding dairy farm" means an existing, legally permitted dairy farm that increases, or applies to increase, its existing animal units beyond the number for which it is permitted under applicable county livestock ordinances or increases, or applies to increase, the waste containment system.
  - (c) "New dairy farm" means a dairy farm constructed after the effective date of this act.
- (8) The nutrient management plan, and all information generated by the dairy 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~~ 74-107, Idaho Code.

**SECTION 79.** That Section 37-606, Idaho Code, be, and the same is hereby amended to read as follows:

**37-606. Nutrient management plan.**

- (1) All dairy farms shall have a nutrient management plan approved by the department. The nutrient management plan shall cover the dairy farm site and other land owned and operated by the dairy farm owner or operator. Nutrient management plans submitted to the department by the dairy farm shall include the names and addresses of each recipient of that dairy farm's livestock waste, the number of acres to which the livestock waste is applied and the amount of such livestock waste received by each recipient. The information provided in this subsection shall be available to the county in which the dairy farm, or the land upon which the livestock waste is applied, is located. If livestock waste is converted to compost before it leaves the dairy farm, only the first recipient of the compost must be listed in the nutrient management plan as a recipient of livestock waste from the dairy farm. Existing dairy farms shall submit a nutrient management plan to the department.
- (2) Any new dairy farms or dairy farms that change owners or operators shall have an approved nutrient management plan on file with the department prior to the issuance of the milk permit for that dairy. The nutrient management plan shall be implemented upon approval of the plan by the department.
- (3) The nutrient management plan, and all information generated by the dairy 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~~ 74-107 , Idaho Code.

**SECTION 80.** That Section 37-2743, Idaho Code, be, and the same is hereby amended to read as follows:

**37-2743. Cooperative arrangements.**

- (a) The director of the Idaho state police shall cooperate with federal and other state agencies in discharging his responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he may:
  - (1) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;
  - (2) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;
  - (3) Cooperate with the bureau by establishing a centralized unit to accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state and local law enforcement purposes. The name or identity of a patient or research subject whose identity could not be obtained under subsection (c) of this section shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code;
  - (4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substance may be extracted;
  - (5) Enter into agreements with other states to coordinate and facilitate the enforcement of this act; and
  - (6) Require law enforcement agencies to report such information regarding traffic in controlled substances and abuse of controlled substances as he deems necessary to enforce this act. Such reports shall be on forms supplied by the director of the Idaho state police and shall include, but not be limited to, the following information: Names, ages, sex, race, and residences of individuals involved in violations of this act; the contraband confiscated, showing the kind, location, quantity, date, and place where seized; the circumstances surrounding the arrests and a report of the disposition of charges.
- (b) Results, information, and evidence received from the bureau relating to the regulatory functions of this act, including results of inspections and investigations conducted by the bureau may be relied and acted upon by the board in the exercise of its regulatory functions under this act.
- (c) A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the director, nor may he be compelled in any state or local

civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential and as such the name or identity of the patient or research subject is subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 81.** That Section 38-712, Idaho Code, be, and the same is hereby amended to read as follows:

**38-712.**

Information, correspondence and data -- Duty to guard. It shall be the duty of all officers and employees of the forest, wildlife and range experiment station, appointed or assigned, to guard carefully all confidential information accumulated in the progress of their work and such information shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code; and to consider as property of the forest, wildlife and range experiment station all correspondence, notes, illustrations and data of any kind accumulated by them in the execution of the work of the experiment station delegated to them.

**SECTION 82.** That Section 39-111, Idaho Code, be, and the same is hereby amended to read as follows:

**39-111.**

Availability of records. Any records or other information furnished to the board, department or to agents, contractors, or other representatives of the department under any provisions of this chapter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 83.** That Section 39-270, Idaho Code, be, and the same is hereby amended to read as follows:

**39-270. Disclosure of information.**

- (a) Certificates and records in the custody of the state registrar shall be open to inspection subject to the provisions of this chapter and the rules of the board, the provisions of section 9-302, Idaho Code, to the contrary notwithstanding; and it shall be unlawful for any state or local official or employee under this chapter to disclose any data contained in the records, except as authorized by this chapter and the rules of the board.
- (b) A complete copy, or any part of a certificate, may be issued to any applicant who can show direct and tangible interest in the record for which he applies. A complete copy, or any part of a certificate, shall be issued upon request to a state, federal or local public agency for child support enforcement purposes pursuant to chapters 10, 11 and 12, title 7, Idaho Code, and sections 16-1628, 20-524, 32-710A, and 56-203, Idaho Code, or for the purpose of investigation of fraud related to benefit payments. Subject to such provisions as the board may prescribe, data contained on records may be used by federal, state or municipal agencies for the purpose of verification of data.
- (c) As provided in ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, data contained on records may be used for research, public health or statistical purposes. No lists of registration shall be compiled for public use.
- (d) The manner of keeping local records and the use thereof shall be prescribed by the board, in keeping with the provisions of this section.
- (e) When one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, stillbirth, marriage or divorce, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 84.** That Section 39-606, Idaho Code, be, and the same is hereby amended to read as follows:

**39-606.**

Reports. Reports to the director of the department of health and welfare of the existence of diseases included in this chapter shall be made by the name of the patient being treated for such disease. It is the intent of this chapter to observe all possible secrecy for the benefit of the sufferer so long as the said sufferer conforms to the requirements of this chapter. Confidential disease reports containing patient identification reported under this section shall only be used by public health officials who must conduct investigations and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. Any person who willfully or maliciously discloses the content of any confidential public health record, as described herein to any third party, except pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator, or as otherwise authorized by law, shall be guilty of a misdemeanor.

**SECTION 85.** That Section 39-610, Idaho Code, be, and the same is hereby amended to read as follows:

**39-610. Disclosure of HIV and HBV reporting information.**

- (1) Confidential public health record as described in section 39-606, Idaho Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, shall not be discoverable, and shall not be compelled to be produced in any civil or administrative hearing.
- (2) State or local health authorities may contact and advise those persons who, in the judgment of health authorities, have been exposed to the HIV (human immunodeficiency virus) or hepatitis B (HBV) infections.
- (3) The department of health and welfare shall, in a manner established by rules and regulations, accept from persons involved in providing emergency or medical services reports of significant exposures to the blood or body fluids of a patient or deceased person. The department of health and welfare shall promulgate rules and regulations defining the term "significant exposure" as used in this section. Upon receipt of a report made pursuant to section 39-602, Idaho Code, confirming the presence of HIV or HBV virus in a patient or a deceased person, the director of the department of health and welfare, or his designee, shall immediately contact and advise any and all persons who, on the basis of information then or thereafter reported to the department, have had a significant exposure to the blood or body fluids of that infected patient or deceased person. The significantly exposed person shall be informed only that he may have been exposed to HIV or HBV, as the case may be, and thereafter advised of whatever prophylactic and testing procedures are appropriate. The significantly exposed person shall not be informed of the name of the infected patient or deceased person. Additionally, the department of health and welfare shall, to the greatest extent consistent with public health requirements, maintain the confidentiality of the identity of the significantly exposed person.
- (4) Public health authorities may disclose personally identifying information in public health records, as described in section 39-606, Idaho Code, to other local or state public health agencies when the confidential information is necessary to carry out the duties of the agency in the investigation, control and surveillance of disease, as determined by the state board of health and welfare, or as otherwise authorized by law.
- (5) Nothing in this chapter imposes liability or criminal sanction for disclosure or nondisclosure of the results of a blood test to detect HIV or HBV virus in accordance with any reporting requirements of the department of health and welfare.

**SECTION 86.** That Section 39-1210, Idaho Code, be, and the same is hereby amended to read as follows:

**39-1210.**

Standards for children's residential care facilities. The board of health and welfare shall have the power and it shall be its duty to promulgate appropriate rules necessary to implement and enforce the following standards for licensing a children's residential care facility:

- (1) Assure the organizational stability of the facility, which may require incorporation under the laws of Idaho.
- (2) Require from the policy-making authority of the facility the promulgation of a statement setting forth the facility's purposes and objectives and describing the character and extent of the services which it offers and maintains, and the geographical area to be served.
- (3) Require a statement of solvency sufficient to maintain facilities and personnel necessary to achieve its purposes and objectives and to maintain its services.
- (4) Assure such recordkeeping and reporting as may be deemed necessary to the facility's services and to the department's licensing responsibility.
- (5) Assure the safety and physical care of children for whom the facility assumes or accepts responsibility.
- (6) Establish the legal status of each child accepted for care and the legal authority and responsibility of the facility for the child.
- (7) Require a statement of intake policy which shall set forth criteria for accepting children for care or service in relation to the facility's purposes and facilities.
- (8) Provide through observation and collateral inquiry for studies of homes into which children may be placed sufficient to enable a judgment determining the adequacy of the homes in relation to the needs of the children.
- (9) In the case of an institution specializing in maternity care to unmarried mothers:
  - (a) Assure social services on behalf of both the mother and infant; and
  - (b) Assure protection of the legal rights and rights to confidential treatment of minor unmarried mothers and their children which shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (10) The department shall obtain a criminal history check on the owners, operators and employees of all children's residential care facilities. The criminal history check shall include the following:
  - (a) Statewide criminal identification bureau;
  - (b) Federal bureau of investigation (FBI) criminal history;
  - (c) National crime information center; and
  - (d) Statewide child abuse register.

**SECTION 87.** That Section 39-1310, Idaho Code, be, and the same is hereby amended to read as follows:

**39-1310.**

Information. Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this law, which would identify individual residents or patients of facilities or agencies as defined shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, except in a proceeding involving the question of licensure. Public disclosure of information obtained by the licensing agency for the purposes of this act shall be governed by ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. Nothing in this act, however, shall be construed, nor shall any rule or regulation be promulgated under this section, as to impair, restrict or alter the confidentiality and privilege afforded the physician and patient communications, including without limitation, documentation thereof in records of facilities or agencies as defined, or communications to and with nurses or other assisting persons or entities, nor shall this act be construed to amend by implication such physician-patient communication privilege as provided elsewhere in this code, including without limitation section 9-203(4), Idaho Code, which shall remain inviolate.

**SECTION 88.** That Section 39-1393, Idaho Code, be, and the same is hereby amended to read as follows:

**39-1393. Notification of professional review action imposed upon physician or emergency medical services personnel.**

- (1) Any health care organization in this state that is by law required to conduct peer review or which voluntarily formally elects to conduct professional review actions shall notify the board of medicine of professional review actions taken against physicians licensed in Idaho required to be reported as provided in this section. Such reports shall be made to the board of medicine within fifteen (15) days of completion of the professional review action by the health care organization. For emergency medical services personnel, such reports shall be made to the department of health and welfare within fifteen (15) days of completion of the professional review action by the health care organization. Such required reports shall be made on forms approved by the board of medicine for reports concerning physicians, or the department of health and welfare for reports concerning emergency medical services personnel, consistent with the reporting requirements of this section. The reporting obligation shall not be stayed by the filing of any court proceeding unless otherwise ordered by the court.
- (2) A health care organization in Idaho shall report to the board of medicine if it:

  - (a) Takes a professional review action against a physician licensed in Idaho and imposes a sanction of the type included in subsection (3) of this section which lasts longer than thirty (30) days; or
  - (b) Accepts a voluntary sanction by a physician licensed in Idaho of the type identified in subsection (3) of this section while the physician is under investigation or to avoid investigation by the health care organization relating to the professional competence or professional conduct of the physician or in exchange for the health care organization not conducting such an investigation or initiating a professional review action, if the sanction lasts longer than thirty (30) days.
- (3) Professional review action sanctions against a physician which must be reported to the board of medicine pursuant to subsection (2) of this section, whether voluntary or involuntary, shall be:

  - (a) Restriction or limitation of privileges;
  - (b) Revocation of privileges;
  - (c) Suspension of privileges;
  - (d) Reduction of privileges;
  - (e) Denial of a request for initial privileges;
  - (f) Submission to monitoring of the physician's physical or mental condition;
  - (g) Submission to monitoring of the physician's delivery of medical services other than to assess and monitor the physician's qualifications for new or additional privileges;
  - (h) Surrender of privileges;
  - (i) Summary suspension or reduction of privileges lasting longer than thirty (30) days;
  - (j) Termination of employment;
  - (k) Suspension of employment lasting longer than thirty (30) days.
- (4) The reporting requirements of this section shall not apply to:

  - (a) Actions based on compliance with medical records or confidentiality requirements of a health care organization;
  - (b) Voluntary requests for assistance or monitoring by a physician as part of an educational process to improve physician skills or enhance patient care when unrelated to a professional review action concerning the quality or necessity of patient medical care;



- (c) Voluntary or involuntary revocation, nonrenewal, denial, reduction, restriction, resignation, or limitation of privileges or employment of a physician based upon factors not directly impacting the quality of patient care or safety of practice of the physician;
  - (d) Adverse actions taken against a physician by a health care organization that is not required by law to conduct peer review and that has not voluntarily formally elected to conduct professional review actions; and
  - (e) The denial of a physician's request for additional privileges or credentials with a health care organization.
- (5) The report to the board of medicine required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.
- (6) A health care organization required to report a professional review action concerning a physician to the board of medicine pursuant to this section shall, if requested by the board of medicine, provide to the board the following:
  - (a) A statement of the specific quality of care concerns or professional conduct which resulted in the professional review action sanction;
  - (b) A statement of the specific professional review action sanction; and
  - (c) Any patient care records of the health care organization regarding the care provided by the reported physician. However, the board of medicine may not request or require production of any peer review records from any person or health care organization, including the identification of which particular patient care records were selected for, or reviewed, examined or discussed in any peer review activity of a health care organization, or the method used by the health care organization to select such patient care records for peer review.
- (7) The records lawfully requested by the board of medicine pursuant to subsection (6) of this section shall be provided by the health care organization without a subpoena or court order. If the health care organization fails to comply with the board of medicine's lawful request, the board may petition the district court for an order compelling compliance with the board's request, which shall be granted if disclosure is required by law.
- (8) Professional review action sanctions against emergency medical services personnel, whether voluntary or involuntary, which are the result of any action, conduct, or failure to act which is inconsistent with the professionalism and/or standards established in the rules governing emergency medical services personnel as promulgated by the department of health and welfare must be reported to the department of health and welfare.
- (9) The report to the department of health and welfare required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.
- (10) Any person or health care organization that provides notification as required by law, or in a good faith belief that such notification is required by law, shall be immune from any civil or other liability arising from providing the notification. Such immunity shall likewise pertain to the provision of files, records and information a health care organization may in good faith provide to the board of medicine pursuant to this section or other applicable law. Such materials provided to the board of medicine shall be subject to disclosure by the board according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and available only to the board of medicine and its staff unless and until such matter becomes the subject of formal proceedings by or before the board of medicine or authorized by it.

**SECTION 89.** That Section 39-2812, Idaho Code, be, and the same is hereby amended to read as follows:

**39-2812.**

Pests -- Public health and welfare -- Disasters -- Emergencies --

Interim abatement districts. (1) To provide for the timely response to an elevated or anticipated pest population that may constitute a risk to public health and welfare, the board of county commissioners of each county of this state, in collaboration with duly recognized local and state officials, and after a public hearing is called for such purpose as a special meeting pursuant to the provisions of section ~~67-2343~~ 74-204 (2), Idaho Code, is hereby granted full power and authority to declare such pests as public health and welfare pests, and to initiate activities to hinder in the potential spread of disease, or adverse economic impact, caused by these pests by taking appropriate steps to intervene in the natural biological cycle of the pests or disease.

(2) Boards of county commissioners are further authorized and empowered, in the event of a disaster or emergency declared by such boards, to make direct appropriations for the purpose of controlling public health and welfare pests as declared pursuant to this section. All moneys raised by direct appropriation shall be placed in a county public health and welfare pest fund, which shall be used exclusively for the control of pests of public health and welfare significance and for payment of all necessary expenses incurred in such control program. In addition, the county may impose an annual property tax assessment pursuant to section 39-2805, Idaho Code, and in accordance with the provisions of sections 63-802 and 63-803, Idaho Code, for the term of the disaster or emergency or until all expenses incurred during the disaster or emergency have been recovered. Such fund shall be a revolving fund and all moneys returned to the fund under any of the provisions of this chapter shall continue to be available for the operation of the control program.

(3) The disaster or emergency declaration of a pest of public health and welfare significance within a county and subsequent pest management activity shall, except as provided herein, place the whole county into an interim abatement district for administrative purposes for no more than two (2) years. The transition of an interim abatement district into a formally defined abatement district, shall be brought to a vote of the electorate within twenty-four (24) months of the declaration, subject to the notification and establishment requirements provided in this chapter and conducted during a general election held on the first Tuesday following the first Monday in November of even numbered years, and if passed, the district shall be recognized and the provisions of this chapter shall be implemented. If the measure fails, the balance of revolving fund moneys shall be distributed as required by state law. In the event the disaster or emergency exceeds the county's capacity or resources, provisions should be made to request state or federal disaster or emergency funds to address the evolving situation. If the interim abatement district provides the same service as an existing abatement district, the interim abatement district shall exclude any area within an existing abatement district.

**SECTION 90.** That Section 39-3556, Idaho Code, be, and the same is hereby amended to read as follows:

**39-3556. Complaints.**

(1) A person who believes that any provision of this chapter has been violated may file a complaint with the certifying agency. Any such complaint shall be subject to the exemption from disclosure set forth in section ~~9-340B~~ 74-105 (16), Idaho Code.

- (2) The certifying agency shall investigate, or cause to be investigated, any complaint alleging a violation of this chapter or applicable rules. If the certifying agency reasonably believes there has been such a violation, it shall conduct an inspection of the facility.

**SECTION 91.** That Section 39-3913, Idaho Code, be, and the same is hereby amended to read as follows:

**39-3913. Confidentiality of and access to records.**

- (1) Records developed by the evaluation committee and records contained in court files of judicial proceedings brought under this chapter shall be governed by the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.
- (2) The administrative director of the courts shall compile statistics for each calendar year, accessible to the public, including:
  - (a) The total number of petitions filed pursuant to this chapter;
  - (b) The number of petitions in which the evaluation committee recommended a procedure and the number of petitions in which the evaluation committee recommended against a procedure;
  - (c) The number of petitions granted by the court;
  - (d) For categories described in paragraphs (b) and (c) of this subsection, the number of appeals taken from the court's order in each category; and
  - (e) For each of the categories set out in paragraph (d) of this subsection, the number of cases for which the district court's order was affirmed and the number of cases for which the district court's order was reversed.

**SECTION 92.** That Section 39-4411, Idaho Code, be, and the same is hereby amended to read as follows:

**39-4411. Records -- Reporting -- Monitoring.**

- (1) Pursuant to the provisions of section 39-4405, Idaho Code, the board shall adopt, and amend as necessary, such rules relating to records, reporting, and monitoring as may be needed to achieve the purposes of this chapter. These rules may include, but shall not be limited to, prescribing procedures and requirements for:
  - (a) The establishment, maintenance, and format of records and reports;
  - (b) The submittal of records and reports;
  - (c) The taking of samples and the performing of tests and of analyses;
  - (d) The use of approved monitoring methods and techniques;
  - (e) The installation, calibration, use, and maintenance of monitoring equipment; and
  - (f) The provision of relevant information to the department.
- (2) Sixty (60) days after promulgation of the criteria and lists specified under section 39-4407, Idaho Code, and the rules required under section 39-4405, Idaho Code, and subsection (1) of this section, the generation, transportation, treatment, storage, or disposal of a hazardous waste in this state by any person without reporting such activity to the department as required by the rules issued pursuant to subsection (1) of this section shall be unlawful.
- (3) Information obtained by the department or by agents, contractors, or other representatives of the department, under any provisions of this chapter, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

- (4) Effective January 1, 1996, each generator shall, at the discretion of the director, no later than thirty (30) days after the end of each calendar year submit a written annual report to the department including the following information:
  - (a) The types and quantities of hazardous wastes generated;
  - (b) The types and quantities of such wastes shipped for treatment and disposal by landfilling or other means of disposal;
  - (c) The types and quantities of such wastes remaining in storage at the end of the reporting period;
  - (d) Whether such wastes are destined for disposal or treatment in this state or whether such wastes are destined for disposal or treatment outside this state.
- (5) Effective January 1, 1996, the operator of each commercial hazardous waste disposal facility or site in the state shall, no later than thirty (30) days after the end of each calendar year, submit a written annual report to the department providing information on the types and quantities of wastes received which were generated in Idaho, and information on the types and quantities of wastes received which were generated in other states.
- (6) Prior to March 1 of each year the department shall submit a report to the governor and the legislature detailing the types and quantities of hazardous wastes generated in this state, the types and quantities of such wastes shipped for treatment and disposal by landfilling or other means of disposal, the types and quantities of such wastes remaining in storage at the end of the most recent reporting period and the types and quantities of hazardous waste generated outside this state and shipped into this state for storage or disposal.

**SECTION 93.** That Section 39-4412, Idaho Code, be, and the same is hereby amended to read as follows:

**39-4412. Inspections -- Right of entry.**

- (1) All inspections and searches conducted under the authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and article I, section 17, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless administrative searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health or environmental emergency.
- (2) For the purposes of developing or enforcing any provision of this chapter or any rule or regulation authorized by this chapter, any duly authorized state employee or representative may, upon presentation of appropriate credentials, at any reasonable time:
  - (a) Enter upon any private or public property where hazardous wastes are or have been generated, transported, treated, stored, or disposed of to inspect and to secure samples of such wastes, their containers, and their labels;
  - (b) Enter into any aircraft, vehicle, vessel, rail car, trailer, van, or other means of conveyance where hazardous wastes are or have been contained to inspect and to secure samples of such wastes, their containers, and their labels;
  - (c) Enter any private or public property, or means of conveyance, where records, reports, information or test results relating to the generation, transportation, treatment, storage, or disposal of hazardous wastes exist to inspect and copy such documents.
- (3) Upon request by an authorized agent of a property owner or facility operator, the department shall provide the property owner or facility operator with a receipt for samples taken and a copy of sample analysis. Duplicate samples shall similarly be provided upon request if the requesting party agrees to have the samples analyzed and to share the results of the analysis with the department.

- (4) The right of entry of a duly authorized state employee or representative shall not be subject to the waiver of any potential tort liability of the facility owner or operator. The right of entry of a duly authorized state or health district employee shall not be subject to any confidentiality requirements other than those specified in section 39-4411(3), Idaho Code, and ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. The right of entry of a private contractor working in a representative capacity for the department may, however, be made subject to additional confidentiality requirements so long as those requirements do not interfere unreasonably with the development of information by the department or the transmission of information from the contractor to the department or the United States environmental protection agency.
- (5) Any magistrate or district court judge is authorized to issue an administrative search warrant upon a request from the director describing reasonable cause for issuance of the warrant or the existence of a reasonable program of inspection.

**SECTION 94.** That Section 39-5211, Idaho Code, be, and the same is hereby amended to read as follows:

**39-5211.**

Qualifications of applicants. To qualify for domestic violence grants under the provisions of this chapter, an applicant must:

- (1) Propose to operate and provide an eligible project;
- (2) Be a private, nonprofit corporation of the state of Idaho, or a public entity of the state of Idaho;
- (3) Provide matching moneys equal to twenty-five percent (25%) of the amount of the grant. The applicant may contribute to or provide the required local matching funds. The value of in-kind contributions and volunteer labor from the community may be computed and included as part of the local matching requirement;
- (4) Require persons employed by or volunteering services to the project to maintain the confidentiality of any information that would identify individuals served by the project; such information identifying individuals served by the project shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;
- (5) Require victims to reimburse the project monetarily or through volunteer efforts for services provided as they are able to do so. Minimum reimbursement may be established by the council, with a sliding scale of reimbursement based on the victim's ability to pay;
- (6) Provide a policy of nondiscrimination in its admissions and provision of services on the basis of race, religion, gender, color, age, marital status, national origin or ancestry.

**SECTION 95.** That Section 39-5307, Idaho Code, be, and the same is hereby amended to read as follows:

**39-5307.**

Access to records. Any person, department, agency or commission authorized to carry out the duties enumerated in this chapter shall have access to all relevant records, which shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and shall only be divulged with the written consent of the vulnerable adult or his legal representative. No medical records of any vulnerable adult may be divulged for any purpose without the express written consent of such person or his legal representative, or pursuant to other proper judicial process.

**SECTION 96.** That Section 39-5403, Idaho Code, be, and the same is hereby amended to read as follows:

**39-5403. Consent -- Filing and notice requirements.**

- (1) Artificial insemination shall not be performed upon a woman without her prior written request and consent and the prior written request and consent of her husband.

- (2) Whenever a child is born who may have been conceived by artificial insemination, a copy of the request and consent required under subsection (1) of this section shall be filed by the physician who performs the artificial insemination with the state registrar of vital statistics. The state board of health and welfare shall have the authority to promulgate rules and regulations and to prescribe methods and forms of reporting, and fees to carry out the provisions of this act. Storage, retrieval and confidentiality of records shall be governed by ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (3) The information filed under subsection (2) of this section shall be sealed by the state registrar and may be opened only upon an order of a court of competent jurisdiction, except that pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, data contained in such records may be used for research and statistical purposes.
- (4) If the physician who performs the artificial insemination does not deliver the child conceived as a result of the artificial insemination, it is the duty of the mother and her husband to give that physician notice of the child's birth. The physician who performs the artificial insemination shall not be liable for noncompliance with subsection (2) of this section if the noncompliance is a result of the failure of the mother and her husband to notify the physician of the birth.

**SECTION 97.** That Section 39-5818, Idaho Code, be, and the same is hereby amended to read as follows:

**39-5818. Information obtained -- Public record.**

- (1) Except as provided in subsection (2) of this section, information obtained by the department under the provisions of this chapter shall be deemed to be a public record.
- (2) A person regulated under the provisions of this chapter may designate a record, site license application, other information, or a portion of a record, site license application, or other information furnished to or obtained by the department or its agents, as being only for the use of the department and the panel. The material shall then be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 98.** That Section 39-7408B, Idaho Code, be, and the same is hereby amended to read as follows:

**39-7408B. Site review panels -- Members, chairman, quorum, meetings, staff.**

- (1) A site review panel shall be established to insure public input in the licensing process, to recommend to the director conditions which should be included in a siting license and to recommend to the director whether a particular facility should or should not be constructed, expanded or enlarged.
- (2) A panel shall consist of eight (8) members to be appointed as follows:
  - (a) Three (3) members shall be the director of the department of environmental quality or his designee, the director of the Idaho transportation department or his designee and the director of the department of water resources or his designee.
  - (b) One (1) member shall be a public member appointed by the governor. The public member shall be an environmental professional, shall serve as chairman of the panel and shall be a voting member. A member who is a public member shall be appointed to serve on site review panels only until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.
  - (c) Two (2) members shall be appointed by the city council of the city located closest to or in which the commercial solid waste facility is proposed to be located, at least one (1) of whom shall be a resident of the city. The members serving pursuant to this subsection shall serve until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.
  - (d) Two (2) members shall be appointed by the county commission and be residents of the county where the commercial solid waste facility is proposed to be located. The members serving



pursuant to this subsection shall serve until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

- (e) A person nominated to represent a city or county shall not have a conflict of interest, as that term is defined in section ~~59-703~~ 74-403, Idaho Code, or derive any economic gain as that term is defined in section ~~59-703~~ 74-403, Idaho Code, from the location or siting of the proposed commercial solid waste facility.
- (3) The director shall notify the city council of the nearest city and the board of county commissioners of a siting license application filed with the department, and shall instruct the city and county to appoint the necessary members to a panel.
- (4) Five (5) of the eight (8) members of the panel shall constitute a quorum for the transaction of business of the panel and the concurrence of five (5) members of the panel shall constitute a legal action of the panel, provided that no meeting of the panel shall occur unless there are at least as many members present representing the city and county as there are representing the state and the public as appointed pursuant to subsections (2)(a) and (b) of this section. All meetings of the panel shall be conducted pursuant to the state open meeting law.
- (5) The director shall make staff available to assist a panel in carrying out its responsibilities.
- (6) Members of the panel who are not state employees shall be entitled to receive compensation as provided in section 59-509(b), Idaho Code.

**SECTION 99.** That Section 39-7908, Idaho Code, be, and the same is hereby amended to read as follows:

**39-7908. Site review panels established.**

- (1) A site review panel shall be established to ensure public input in the siting process and to recommend to the director site approval, approval with conditions or rejection.
- (2) A panel shall consist of eight (8) members to be appointed as follows:
  - (a) Three (3) members shall be the director of the department of environmental quality or his designee, the director of the department of water resources or his designee, and the director of the department of agriculture or his designee.
  - (b) One (1) member shall be a public member appointed by the governor. The public member shall be an environmental professional, shall serve as chairman of the panel and shall be a voting member. A member who is a public member shall be appointed to serve on site review panels only until the particular site application subject to their review is approved, or until the application is rejected and is no longer subject to their review.
  - (c) Two (2) members shall be appointed by the city council of the city located closest to, or in which the swine facility is proposed to be located or expanded, provided the governing body of the city has signified compliance with this chapter as provided in section 39-7903, Idaho Code. At least one (1) shall be a resident of the city. However, if two (2) cities are equidistant from the proposed or expanding swine facility, plus or minus five (5) miles, the city council of each city shall appoint one (1) member each to the site review panel, each of whom shall be a resident of the city appointing them. The members serving pursuant to this subsection shall serve until the particular site application subject to their review is approved or it is rejected and is no longer subject to their review.
  - (d) Two (2) members shall be appointed by the county commission and be residents of the county where the swine facility is proposed to be located or expanded, provided the board of county commissioners has signified compliance with this chapter as provided in section 39-7903, Idaho Code. The members serving pursuant to this subsection shall serve until the particular site application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

- (e) A person nominated to represent a city or county shall not have a conflict of interest, as that term is defined in section ~~59-703~~ 74-403 , Idaho Code, or derive any economic gain as that term is defined in section ~~59-703~~ 74-403 , Idaho Code, from the location of the proposed or expanding swine facility.
- (3) The director shall notify the city council of the nearest city, or cities if two (2) cities are within five (5) miles of the site of the proposed facility, and the board of county commissioners in which the site is located, of a site application filed with the department and shall instruct the city or cities and county to appoint the necessary members to a panel.
- (4) A majority of members of the panel shall constitute a quorum for the transaction of business of the panel and the concurrence of a majority of the panel shall constitute a legal action of the panel, provided that no meeting of the panel shall occur unless there are at least as many members present representing the city and county as there are representing the state and the public as appointed pursuant to subsections (2)(a) and (b) of this section. All meetings of the panel shall be conducted pursuant to the state open meeting law.
- (5) The director shall make staff available to assist the panel in carrying out its responsibilities.
- (6) Members of the panel who are not state employees shall be entitled to receive compensation as provided in section 59-509(b), Idaho Code.

**SECTION 100.** That Section 39-7914, Idaho Code, be, and the same is hereby amended to read as follows:

**39-7914.**

Confidentiality of records. Information obtained by a public agency pursuant to this chapter or its associated rules is subject to public disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment as provided in section ~~9-342A~~ 74-114 , Idaho Code, and rules of the department of environmental quality.

**SECTION 101.** That Section 39-8206, Idaho Code, be, and the same is hereby amended to read as follows:

**39-8206. Claim of parental rights -- Procedure.**

- (1) A parent of the child may make a claim of parental rights of an abandoned child, abandoned pursuant to the provisions of this chapter, by filing a notice of claim of parental rights with the vital statistics unit of the department of health and welfare. The vital statistics unit of the department of health and welfare shall maintain an abandoned child registry for this purpose which shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. The department shall provide forms for the purpose of filing a claim of parental rights, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. Any parent claiming a parental right of an abandoned child, abandoned pursuant to the provisions of this chapter, shall file the form with the vital statistics unit of the department of health and welfare. The form must be filled out completely and provide the name and address for service of the person asserting the parental claim and set forth the approximate date the child was left in a safe haven. The form must be signed by the person claiming the parental right and be witnessed before a notary public. The department shall record the date and time the claim of parental rights is filed with the department. The claim shall be deemed to be duly filed with the department as of the date and time recorded on the claim by the department. To be valid, a claim of parental rights must be filed before an order terminating parental rights is entered by the court. A parent that fails to file a claim of parental rights prior to entry of an order terminating their parental rights is deemed to have abandoned the child and waived and surrendered any right in relation to the child, including the right to notice of any judicial proceeding in connection with the termination of parental rights or adoption of the child. Registration of notice of commencement of paternity proceedings pursuant to chapter 15, title 16, Idaho Code, shall not satisfy the requirements of this section.

- (2) Prior to the time set for hearing on the petition to terminate parental rights filed by the department of health and welfare, and prior to entry of an order terminating parental rights by the court, the department of health and welfare shall obtain and file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of claims of parental rights of abandoned children, abandoned pursuant to this chapter, and shall set forth the results of that search.
- (3) If a claim of parental rights is made before an order terminating parental rights is entered by the court, notice pursuant to section 16-2007, Idaho Code, will be required and the court shall hold the action for involuntary termination of parental rights in abeyance for a period of time not to exceed sixty (60) days unless otherwise ordered by the court. During that period:
- (a) The court shall order genetic testing to establish maternity or paternity, at the expense of the person or persons claiming the parental right.
  - (b) The department of health and welfare shall conduct an investigation pursuant to section 16-2008, Idaho Code, and in those cases where a guardian ad litem has been appointed, the guardian ad litem shall have all rights, powers and duties as provided for in chapter 16, title 16, Idaho Code, and as provided for in chapter 20, title 16, Idaho Code.
  - (c) When indicated as a result of the investigation, a shelter care hearing shall be conducted by the court in accordance with section 16-1615, Idaho Code, within forty-eight (48) hours, or at an earlier time if ordered by the court, to determine whether the child should remain in the physical custody of the department or be released to a parent or other third party.
  - (d) Further proceedings shall be conducted as the court determines appropriate. However, where a claim of parental rights is made before an order terminating parental rights is entered by the court, a parent shall not be found to have neglected or abandoned a child placed in accordance with this chapter solely because the child was left with a safe haven.
- (4) If there is no showing that a parent has claimed a parental right to the child, the department of health and welfare shall file with the court a certificate from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, stating that a diligent search has been made of the registry of parental claims for children abandoned pursuant to the provisions of this chapter and that no parental claim has been made. The certificate shall be filed with the court prior to the entrance of the final order of termination of parental rights.

**SECTION 102.** That Section 40-1306C, Idaho Code, be, and the same is hereby amended to read as follows:

**40-1306C.**

Highway district records -- Open to the public. All records of the highway district are open to the public, except as provided by law. With respect to highway district records, ~~sections 9-337 through 9-351~~ chapter 1, title 74, Idaho Code, provide ~~s~~ definitions, procedure for the right to examine, requests for the examination, records exempt from disclosure, copy fees, separation of exempt and nonexempt records, enforcement rights, court orders and penalties.

**SECTION 103.** That Section 40-1309, Idaho Code, be, and the same is hereby amended to read as follows:

**40-1309.**

Corporate powers of highway districts. Each highway district has power:

- (1) To sue and be sued.
- (2) To purchase and hold lands, make contracts, purchase and hold personal or real property as may be necessary or convenient for the purposes of this chapter, and to sell and exchange any real or personal property other than public lands which by the constitution and laws of the state are placed under the jurisdiction of the state land board. Personal or real property, no longer useful to the district,

not exceeding five thousand dollars (\$ 5,000) in value may be sold by the highway commissioners at a private sale or at any regular board meeting without advertisement. Before disposing of all other personal or real property exceeding five thousand dollars (\$ 5,000) in value, the highway district commissioners shall first conduct a public hearing for which notice shall be published in accordance with the provisions of section 40-206, Idaho Code, and at which hearing any person interested may appear and show cause that such personal or real property is still useful to the district and that the sale or exchange should not be made. Following testimony by all interested persons at the public hearing, the highway district commissioners may adopt a resolution finding that such personal or real property is no longer useful to the district and finding that such personal or real property should be sold or exchanged and establishing procedures for the sale of such personal or real property including, but not limited to, the date and time of the sale and whether the sale will be by live public auction, by receipt of sealed bids or by some other reasonably commercial means. The hearing and sale or exchange shall not be conducted at the same regular meeting and, except as otherwise provided by law, the only notice required for such sale or exchange shall be as set forth in section ~~67-2343~~ 74-204 , Idaho Code. Provided however, that before the district disposes of surplus real property at public sale, the district shall first notify any person who owns real property that is contiguous with the surplus real property of the district that such person has first option to purchase the surplus real property for an amount not less than the current appraised value. If more than one (1) adjoining owner wants to purchase the surplus real property, a private auction shall be held for such parties. If no owner of adjoining property exercises his or her option to buy, the district may proceed to public sale. Highway district commissioners, highway directors, employees, and their families must be personally disinterested, directly or indirectly, in the purchase of property for the use of the highway district, or in the sale of any property belonging to the highway district, or in any contract made by the highway district or other person on behalf of the highway district unless otherwise authorized by law.

- (3) To levy and apply ad valorem taxes for purposes under its exclusive jurisdiction as are authorized by law.

**SECTION 104.** That Section 40-2004, Idaho Code, be, and the same is hereby amended to read as follows:

**40-2004.**

Relocation expense -- Compensation options -- Limit of compensation for business or farm relocations. (1) As a part of the cost of any public program or project, any agency using any funds for public purposes shall compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property, and for any actual direct losses of tangible personal property as the result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the agency, and for actual reasonable expenses in searching for a replacement business or farm. However, the compensation authorized by this section for actual and reasonable moving expenses, actual direct losses of tangible personal property, and expenses in searching for a replacement farm or business shall be limited to relocating a displaced person, family, business or farm operation within a reasonable distance from the location previously occupied and from which the displaced person has been required to move.

- (2) Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section shall receive a moving

expense allowance, determined according to regulations and schedules established by the agency, not to exceed three hundred dollars (\$ 300), and in addition a dislocation allowance of two hundred dollars (\$ 200).

- (3) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section, shall receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that the payment shall not be less than two thousand five hundred dollars (\$ 2,500) nor more than ten thousand dollars (\$ 10,000). In the case of a business, no payment shall be made under this subsection unless the agency is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one (1) other establishment not being acquired which is engaged in the same or similar business. In addition to the other requirements of this chapter, to be eligible for the payment authorized by this subsection the business or farm operation must make its financial statements, accounting records, and state income tax returns available to the agency for audit for confidential use in determining the payment or payments authorized by this subsection. Such financial statements, accounting records and state income tax returns shall be subject to disclosure according to ~~chapter 3, title 9-~~ chapter 1, title 74 , Idaho Code.
- (4) If any agency determines that property, contiguous with property acquired, owned or occupied by an individual, family, business or farm operation, has been damaged as the result of a public program or project, it shall offer the individual, family, business or farm operation the same compensation as it might offer to a displaced person under subsection (1), (2) or (3) of this section and under sections 40-2005 and 40-2007, Idaho Code.

**SECTION 105.** That Section 41-227, Idaho Code, be, and the same is hereby amended to read as follows:

**41-227. Examination report.**

- (1) The director or his examiner shall make a full and true written report of every examination made by him under this chapter, and shall verify the report by his oath.
- (2) The report shall comprise only facts appearing upon the books, papers, records or documents of the person being examined, or ascertained from testimony of individuals under oath concerning the affairs of such person, together with such conclusions and recommendations as may reasonably be warranted from such facts.
- (3) Prior to a hearing and prior to any modifications the report shall be subject to disclosure according to ~~chapter 3, title 9-~~ chapter 1, title 74 , Idaho Code.
- (4) No later than sixty (60) days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than thirty (30) days to make a written submission or rebuttal with respect to any matters contained in the examination report.
- (5) Within thirty (30) days of the end of the period allowed for the receipt of written submissions or rebuttals, the director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers, and enter an order:
  - (a) Adopting the examination report as filed or with modifications or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the director, the director may order the company to take any action the director considers necessary and appropriate to cure such violation;
  - (b) Rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refile pursuant to subsection (2) of this section; or



- (c) Calling for an investigatory hearing with no less than twenty (20) days' notice to the company for purposes of obtaining additional documentation, data, information and testimony.

(6)

- (a) All orders entered pursuant to subsection (5)(a) of this section shall be accompanied by findings and conclusions resulting from the director's consideration and review of the examination report, relevant examiner work papers and any written submissions or rebuttals. Any such order shall be considered a final order and may be appealed pursuant to sections 67-5270 through 67-5279, Idaho Code, and shall be served upon the company by certified mail, together with a copy of the adopted examination report. Within thirty (30) days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.
- (b) Any hearing conducted under subsection (5)(c) of this section by the director or authorized representative, shall be conducted in accordance with the provisions of chapter 52, title 67, Idaho Code, as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies or disputed issues apparent upon the face of the filed examination report or raised by, or as a result of, the director's review of relevant work papers or by the written submission or rebuttal of the company. Within twenty (20) days of the conclusion of any such hearing, the director shall enter an order pursuant to the provisions of subsection (5)(a) of this section.
- (c) The director shall not appoint a contract examiner or an employee of the department as an authorized representative to conduct the hearing.  
Nothing contained in this section shall require the department to disclose any information or records which would indicate or show the content of any investigation or activity of a criminal justice agency, except to the extent that the director relied upon information furnished to the director by such criminal justice agency in making his decision.
- (7) The report when so verified and filed shall be admissible in evidence in any action or proceeding brought by the director against the person examined, or against its officers, employees or agents, and shall be presumptive evidence of the material facts stated therein. The director or his examiners may at any time testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed in the department.
- (8) After an order is entered under the provisions of subsection (5)(a) of this section, the director may publish the report or the results of the examination as contained therein which report or results are a public record and shall be exempt from the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (9) Nothing contained in this chapter shall prevent or be construed as prohibiting the director from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of this or any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.
- (10) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the director or any other person in the course of an examination made under the provisions of this chapter shall be made available to the person or company which was the subject of the examination in proceedings pursuant to chapter 52, title 67, Idaho Code, but shall otherwise be held by the director as a record not required to be made public pursuant to exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 106.** That Section 41-249, Idaho Code, be, and the same is hereby amended to read as follows:



**41-249. Sharing of information among governmental agencies and the national association of insurance commissioners.**

- (1) Any document, report, or other recorded information provided to the director by any federal, state or foreign regulatory or law enforcement agency, or any combination thereof, or by the national association of insurance commissioners (NAIC), which is marked "confidential" or "for regulator use only" or by similar terms or concerning which the entity requires written assurance that the director maintain such information in confidence before the entity will release the information, may be maintained by the director on a confidential basis and is not required to be disclosed to the public.
- (2) The director may provide any document, report, or other recorded information to any federal, state or foreign regulatory or law enforcement agency, or any combination thereof, or to the NAIC, which is marked "confidential" or "for regulator use only" or by similar terms or concerning which the director requires written assurance that the entity maintain such information in confidence before he will release it to such entity.
- (3) The director is authorized to enter into agreements with other governments, agencies, or any combination thereof, or with the NAIC, in connection with his duties and responsibilities pursuant to this section.
- (4) The application of this section shall not prevent an insurance company or producer or other licensee from obtaining information used by the department of insurance in making regulatory decisions or taking regulatory action affecting the company consistent with ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and title 41, Idaho Code.

**SECTION 107.** That Section 41-296, Idaho Code, be, and the same is hereby amended to read as follows:

**41-296. Confidentiality -- Compulsory testimony.**

- (1) The department of insurance, state fire marshal or authorized agency described in section 41-291, Idaho Code, which has received any information furnished pursuant to section 41-258, 41-290 or 41-292, Idaho Code, shall hold the information and the information shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (2) Any authorized agency referred to in section 41-291, Idaho Code, or their personnel, may be required to testify in any litigation in which the insurance company at interest is named as a party, if such testimony is not otherwise privileged by law.

**SECTION 108.** That Section 41-335, Idaho Code, be, and the same is hereby amended to read as follows:

**41-335. Annual statement.**

- (1) Each authorized insurer shall annually on or before March 1, or within any extension of time therefor, not to exceed thirty (30) days, which the director for good cause may have granted, file with the director a full and true statement of its financial condition, transactions and affairs as of the preceding December 31. Unless otherwise required by the director, the statement is to be prepared in accordance with the national association of insurance commissioners' (NAIC) annual statement instructions and the NAIC's accounting practices and procedures manual, utilizing the version of the manual effective January 1, 2004, and any subsequent revisions that are adopted for use by the director by rule, administrative order or bulletin, and is to be submitted on the NAIC annual statement blank form, and any statement, form or other information relating to the compensation of any officer, director or employee will be deemed confidential. At the seasonable request of a domestic insurer the director shall furnish to the insurer the blank form of annual statement to be used by it. The statement shall be verified by the oath of the insurer's president or vice president, and secretary or actuary as applicable, or if a reciprocal insurer, by the oath of the attorney in fact or its like officers if a corporation.
- (2) The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized, and shall relate only to the insurer's transactions and affairs in the United States unless the

director requires otherwise. If the director requires a statement as to the insurer's affairs throughout the world, the insurer shall file such statement with the director as soon as reasonably possible.

- (3) Any insurance company licensed to do business in this state which neglects to file or fails to file in the time prescribed by statute its annual statement or supplemental summary statement requested by the director shall be subject to a penalty of twenty-five dollars (\$ 25.00) per day for each day in default. This penalty will be in addition to any administrative penalty which may be assessed pursuant to sections 41-327 and 41-324, Idaho Code.
- (4) Each domestic insurer authorized to do business in this state shall annually, on or before March 1 of each year, file with the NAIC its annual financial statement in a form prescribed by the director along with any additional filings prescribed by the director for the preceding year. The information filed with the NAIC shall be in the same format and scope as that required by this code. Any amendments or addenda to the annual statement shall also be filed with the NAIC.
- (5) At time of filing, the insurer shall pay to the director the fee for filing its statement as prescribed by rule of the department of insurance.
- (6) The financial statements filed with the director pursuant to this section, with the exception of information relating to officer, director, or employee compensation referred to in subsection (1) of this section, are public records and available to the public, notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 109.** That Section 41-1019, Idaho Code, be, and the same is hereby amended to read as follows:

**41-1019. Notification to director of termination.**

- (1) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director, if the reason for termination is one of the reasons set forth in section 41-1016, Idaho Code, or the insurer has knowledge that the producer was found by a court, governmental body or self-regulatory organization authorized by law to have engaged in any of the activities set forth in section 41-1016, Idaho Code. Upon the written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.
- (2) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer for any reason not set forth in section 41-1016, Idaho Code, shall notify the director within thirty (30) days following the effective date of the termination, using a format prescribed by the director. Upon written request of the director, the insurer shall provide additional information, documents, records or other data pertaining to the termination.
- (3) The insurer or authorized representative of the insurer shall promptly notify the director in a format acceptable to the director if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the director in accordance with subsection (1) of this section.
- (4) A copy of any notification shall be provided to the producer as follows:
  - (a) Within fifteen (15) days after making the notification required by subsections (1), (2) and (3) of this section, the insurer shall mail a copy of the notification to the producer at his or her last known address. If the producer is terminated for cause for any other reasons listed in section 41-1016, Idaho Code, the insurer shall provide a copy of the notification to the producer at his or her last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.
  - (b) Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the director.

The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the director's file and shall accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (6) of this section.

**(5) Immunities.**

- (a)** In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the director, or an organization of which the director is a member and that compiles information and makes it available to other insurance directors or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the director from an insurer or producer or as a result of any statement by a terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under subsection (1) of this section was reported to the director, provided that the propriety of any termination for cause under subsection (1) of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.
- (b)** In any action brought against a person that may have immunity under paragraph (a) of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the director, the party bringing the action shall plead specifically in any allegation that paragraph (a) of this subsection does not apply because the person making the statement or providing the information did so with actual malice.
- (c)** Paragraph (a) or (b) of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

**(6) Confidentiality.**

- (a)** Any documents, materials or other information obtained by the director in an investigation pursuant to this section shall be exempt from public disclosure under ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (b)** In order to assist in the performance of the director's duties under this chapter, the director:
  - (i)** May share documents, materials or other information, including confidential and privileged documents and materials or information subject to paragraph (a) of this subsection, with other state, federal and international regulatory agencies and law enforcement authorities, and with the national association of insurance commissioners, its affiliates or subsidiaries, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials or other information;
  - (ii)** May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of insurance commissioners, its affiliates or subsidiaries and from regulatory agencies and law enforcement authorities of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials or information received with notice or with the understanding that they are confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials or information; and
  - (iii)** May enter into agreements governing sharing and use of information consistent with this subsection.
- (c)** No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized in paragraph (b) of this subsection.

- (d) Nothing in this chapter shall prohibit the director from releasing final adjudicated actions, including for cause terminations that are open to public inspection pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 and title 41, Idaho Code, to a database or other clearinghouse service maintained by the national association of insurance commissioners or its affiliates or subsidiaries.
- (7) Penalties for failing to report. An insurer, the authorized representative of the insurer, or a producer who fails to report as required under the provisions of this section or who is found by a court of competent jurisdiction to have reported with actual malice may, after notice and hearing, have his license or certificate of authority suspended or revoked and may be fined in accordance with section 41-1016 or 41-327, Idaho Code.

**SECTION 110.** That Section 41-1440, Idaho Code, be, and the same is hereby amended to read as follows:

**41-1440. Hearings.**

- (1) Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by an insurer or rating organization may himself or by his authorized representative make written request of the insurer or rating organization to review the manner in which the rate, plan, system, or rule has been applied with respect to insurance afforded him. If the request is not granted within thirty (30) days after it is made, the requestor may treat it as rejected. Any person aggrieved by the refusal of an insurer or rating organization to grant the review requested, or by the failure or refusal to grant all or part of the relief requested, may file a written complaint and request for hearing with the director, specifying the grounds relied upon. If the director has already disposed of the issue as raised by a similar complaint, he may deny the hearing. If the director believes that probable cause for the complaint does not exist or that the complaint is not made in good faith, he shall deny the hearing. Otherwise, and if he also finds that the complaint charges a violation of this chapter and that the complainant would be aggrieved if the violation is proven, he shall proceed as provided in subsection (2) of this section.
- (2) If after examination of an insurer, rating organization, advisory organization, or group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, or upon the basis of other information, or upon sufficient complaint as provided in subsection (1) of this section, the director has good cause to believe that such insurer, organization, group or association, or any rate, rating plan or rating system made or used by any such insurer or rating organization, does not comply with the requirements and standards of this chapter applicable to it, he shall, unless he has good cause to believe such noncompliance is willful, give notice in writing to such insurer, organization, group or association stating therein in what manner and to what extent noncompliance is alleged to exist and specifying therein a reasonable time, not less than ten (10) days thereafter, in which the noncompliance may be corrected. Notices under this section shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, unless a hearing is held under subsection (3) of this section.
- (3) If the director has good cause to believe that such noncompliance is willful, or if within the period prescribed by the director in the notice required by subsection (2) of this section, the insurer, organization, group or association does not make such changes as may be necessary to correct the noncompliance specified by the director or establish to the satisfaction of the director that such specified noncompliance does not exist, then the director may hold a public hearing in connection therewith in accordance with chapter 2, title 41, Idaho Code. If no notice has been given as provided in subsection (2) of this section, the notice shall state in what manner and to what extent noncompliance is alleged to exist. The hearing shall not consider any subject not specified in the notice required by subsection (2) of this section.
- (4) If after a hearing pursuant to subsection (3) of this section, the director finds:
- (a) That any rate, rating plan or rating system violates the applicable provisions of this chapter, he may issue an order to the insurer, or rating organization, group or association which has been the

subject of the hearing specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.

- (b) That an insurer, rating organization, advisory organization, or a group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, is in violation of the applicable provisions of this chapter other than the provisions dealing with rates, rating plans or rating systems, he may issue an order to such insurer, organization, group or association which has been the subject of the hearing specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.
  - (c) That any such violation by an insurer or rating organization which has been the subject of hearing was willful, he may suspend or revoke, in whole or in part, the certificate of authority of such insurer or the license of such rating organization with respect to the class of insurance which has been a subject of the hearing.
  - (d) That any rating organization has willfully engaged in any fraudulent or dishonest act or practice, he may suspend or revoke, in whole or in part, the license of such organization in addition to any other penalty provided in this chapter.
- (5) Except as otherwise provided in this chapter, all proceedings in connection with the denial, suspension or revocation of a license or certificate of authority shall be conducted in accordance with the provisions of chapters 2 and 3, title 41, Idaho Code, and the director shall have all the powers granted to him therein.

**SECTION 111.** That Section 41-2710, Idaho Code, be, and the same is hereby amended to read as follows:

**41-2710. Requirements for agents.**

- (1) A title insurance agent is a person owning or leasing separately or with another licensed agent a complete set of tract indexes and abstract records of each county for which policies are written and authorized in writing by a title insurer to solicit insurance, issue or countersign policies, or otherwise engage in the title insurance business. A title insurer shall not allow or permit any person, firm, association or corporation to act as its agent in relation to the issuance of any certificate, title insurance policy, or other underwriting contract unless such person, firm, association or corporation shall first have obtained a title insurance agent's license for each county for which policies are to be written from the director of the department of insurance. No person, firm, association or corporation shall act within this state as such agent for any title insurer without first having obtained a license from the director of insurance and filed a bond or cash deposit in lieu thereof as required herein.
- (2) A separate agent's license for each county shall be issued by the director of the department of insurance upon due showing filed by the applicant upon forms to be provided by the director of the department of insurance and payment of a fee of fifty dollars (\$ 50.00), upon oath, that such applicant if an individual, is a bona fide resident of Idaho, if a firm or association is composed wholly of Idaho residents, or if a corporation is duly authorized or qualified to do business in the state, that the individual agent (or if a corporation or association, its managerial personnel who are going to exercise the license privilege) has reasonable experience or instruction in the field of title examinations and title insurance and the insurance laws of Idaho, that the applicant owns or leases, separately or with another, and maintains an adequate, complete set of tract indexes and abstract records of each county wherein he proposed to do business, and such application shall be endorsed by the title insurer with whom he proposed to do business that the proposed agent is known to have a good reputation and is worthy of public trust and that such title insurer knows of no fact or condition that would disqualify the agent from receiving the permit. An agent's license shall continue from the date issued until the first day of January of each year and shall be automatically renewed thereon upon the payment of the annual fee of fifty dollars (\$ 50.00) by the agent, unless terminated as herein provided by the director of the department of insurance for cause. If the filing fee is not promptly paid, the applicant shall be subject to a late filing fee of two dollars (\$ 2.00) a day up to a maximum of one hundred dollars (\$ 100).

- (3) Upon the termination of any agency by a title insurer or by the agent terminating, the title insurer shall immediately notify the director of the department of insurance in writing and a title insurance agent shall forthwith notify the director of the department of insurance of the name of a new title insurer with whom he proposes to do business, with the new title insurer's endorsement upon said notification. No title insurer shall allow the license of an agent for which it has vouched to continue unless all of the foregoing conditions have been complied with.
- (4) The license of any title insurance agent may be denied, or the license suspended, revoked or renewal thereof refused, by the director of the department of insurance after notice and hearing if he finds that such license holder has:
- (a) Willfully violated any provisions of title 41, Idaho Code, or the rules issued thereunder;
  - (b) Has intentionally made a material misstatement in the application for such license;
  - (c) Has obtained or attempted to obtain such license by fraud or misrepresentation;
  - (d) Has misappropriated or converted to his own use or illegally withheld money belonging to a title insurance company, an insured or any other person;
  - (e) Has demonstrated his lack of trustworthiness or competence to act as such agent or been guilty of fraudulent or dishonest practices;
  - (f) Has materially misrepresented the terms and conditions of a title insurance policy or contract, or the condition of the title represented thereby; or
  - (g) Has failed to maintain a separate and distinct accounting of escrowed funds and has failed to maintain an escrow bank account or account separate and apart from all other accounts.
- (5) Before any license is denied, suspended or revoked or renewal refused, the director shall give thirty (30) days' written notice by registered mail to the licensee or applicant and the title insurer represented by the agent, and if said agent or title insurer desires, to set a date of hearing and to allow the production of evidence by said parties or any other interested person as to the matter. The right and remedies of the parties shall be as set forth in chapter 52, title 67, Idaho Code. Any decision of the director of the department of insurance shall be made in writing and filed in his office and mailed to the title insurer and agent involved.
- (6) As a condition of obtaining said license, the individual to be licensed for himself or the entity to be licensed for each employee escrow officer shall obtain, file and pay for a surety bond as provided for an escrow officer.
- (7) Regular examination of the tract indexes, abstract records, and any other records to ascertain compliance with title 41, Idaho Code, and related rules, of a title agent after the first examination thereof by the director shall be limited to not more than every fifth year, unless the agent otherwise requests or the director has cause to believe the same does not comply with this chapter or the rules thereunder. The director shall prepare an examination report following each examination and shall provide such report to the title agent being examined affording the person up to twenty-eight (28) days within which to review, comment and request a hearing. Unless a hearing is requested in accordance with chapter 2, title 41, Idaho Code, the examination report shall be deemed available to the public notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. In addition, if the title agency affirmatively requests, any reply to the examination report shall be deemed available to the public notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. However, all working papers and other records produced by, obtained by or disclosed to the director or any other person in the course of an examination hereunder shall be made available to the person or company which was the subject of the examination in any proceeding pursuant to chapter 2, title 41, Idaho Code, but shall otherwise be held by the director as an exempt record not required to be made public.



**SECTION 112.** That Section 41-3311, Idaho Code, be, and the same is hereby amended to read as follows:

**41-3311.**

Hearings. In all proceedings and judicial reviews thereof under sections 41-3309 and 41-3310, Idaho Code, all records of the insurer, other documents, and all insurance department files and court records and papers, so far as they pertain to or are a part of the record of the proceedings, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 113.** That Section 41-4011, Idaho Code, be, and the same is hereby amended to read as follows:

**41-4011. Records and accounts -- Annual statement.**

- (1) The trustee of a self-funded plan shall cause full and accurate records and accounts to be entered and maintained during all times of the existence of the trust covering all financial transactions and affairs of the trust fund, which records and accounts shall be subject to review by the director. Any audit of the plan or trust shall be completed independently of any other entity.
- (2) Within ninety (90) days after close of a fiscal year of the plan, the trustee shall prepare an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and the financial condition of the trust at the end of such year in accordance with the requirements of this chapter and with generally accepted accounting principles. The statement shall be in a form acceptable to the director and include such information as prescribed by the director. The financial information included therein shall be certified by the accountant who audited such information. The trustee shall promptly deliver a copy of the statement to each employer or postsecondary educational institution participating in the plan and keep a copy thereof on file in the business office from which the plan is operated. Such statement shall be available for review by any beneficiary at all reasonable times for a period of not less than three (3) years from the date of the statement. If the plan is managed by a third party administrator, such statement shall be available at the administrative offices of the employer or employers or postsecondary educational institution.
- (3) The plan's annual statement shall be accompanied by the certified actuarial opinion described in section 41-4010, Idaho Code. Such annual statement shall be prepared in accordance with actuarial standard of practice no. 28. The self-funded plan shall require that the qualified actuary retain the actuarial work papers until the department has filed an examination report of the plan covering the period of the actuarial opinion but no longer than seven (7) years from the date of such opinion.
- (4) On or before expiration of such ninety (90) day period the trustee shall file an original of the annual statement and certified actuarial opinion with the director. The actuarial opinion shall be filed in a form prescribed by the director. The trustee shall pay a filing fee as provided for by rule. The director may grant a thirty (30) day extension of the time for filing the annual statement.
- (5) The trustee shall also file quarterly supplemental unaudited financial reports and other periodic supplemental unaudited financial reports in a form and at the times prescribed by the director.
- (6) The director shall transmit and account for all fees received by him hereunder as provided in section 41-406, Idaho Code.
- (7) The annual and quarterly reports required under this section are public records and are available to the public, notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 114.** That Section 41-4111, Idaho Code, be, and the same is hereby amended to read as follows:

**41-4111. Records and accounts -- Annual statement.**

- (1) The board of a joint public agency self-funded plan shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund.

- (2) Within ninety (90) days after the close of a fiscal year of the plan, the board shall make an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and its financial condition at the end of such year in accordance with this chapter and generally accepted and applicable accounting principles. The statement shall be in the form as prescribed by the director and the financial information therein shall be certified by an independent public accountant by whom such information was prepared. The board shall keep a copy thereof on file in the business office of the plan where it shall be available at all reasonable times for a period of not less than three (3) years for review by any beneficiary and shall deliver a copy of a financial summary to each participating employer.
- (3) On or before expiration of such ninety (90) day period the board shall cause an original of the annual statement to be filed with the director. The joint public agency self-funded plan shall not be subject to any filing fees provided for by rule. The director may grant a thirty (30) day extension of the time for filing the annual statement.
- (4) The board shall also file quarterly supplemental financial reports in a form and at the times prescribed by the director.
- (5) The annual and quarterly reports required under this section are public records and are available to the public, notwithstanding the exemptions from disclosure provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 115.** That Section 41-5103, Idaho Code, be, and the same is hereby amended to read as follows:

**41-5103. Licensure.**

- (1) No person, firm, association or corporation shall act as a RB in this state if the RB maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation:
  - (a) In this state, unless such RB is a licensed producer in this state; or
  - (b) In another state, unless such RB is a licensed producer in this state or another state having a law substantially similar to this law or such RB is licensed in this state as a nonresident reinsurance intermediary.
- (2) No person, firm, association or corporation shall act as a RM:
  - (a) For a reinsurer domiciled in this state, unless such RM is a licensed producer in this state;
  - (b) In this state, if the RM maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this state, unless such RM is a licensed producer in this state;
  - (c) In another state for a nondomestic insurer, unless such RM is a licensed producer in this state or another state having a law substantially similar to this law or such person is licensed in this state as a nonresident reinsurance intermediary.
- (3) The director may require a RM subject to subsection (2) of this section to:
  - (a) File a bond in an amount from an insurer acceptable to the director for the protection of the reinsurer; and
  - (b) Maintain an errors and omissions policy in an amount acceptable to the director.
- (4)
  - (a) The director may issue a reinsurance intermediary license to any person, firm, association or corporation who has complied with the requirements of this chapter. Any such license issued to a firm or association will authorize all the members of such firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons shall be named in the application and any supplements thereto. Any such license issued to a corporation

shall authorize all of the officers, and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of such corporation, and all such persons shall be named in the application and any supplements thereto.

- (b) If the applicant for a reinsurance intermediary license is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate the director as agent for service of process in the manner, and with the same legal effect, provided for in this title for designation of service of process upon unauthorized insurers, and shall also furnish the director with the name and address of a resident of this state upon whom notices or orders of the director or process affecting such nonresident reinsurance intermediary may be served. Such licensee shall promptly notify the director in writing of every change in its designated agent for service of process, and such change shall not become effective until acknowledged by the director.
- (5) The director may refuse to issue a reinsurance intermediary license if, in his judgment, the applicant, anyone named on the application, or any member, principal, officer or director of the applicant, is not trustworthy, or that any controlling person of such applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance of such license. Upon written request therefor, the director will furnish a summary of the basis for refusal to issue a license, which document shall be privileged and exempt from disclosure pursuant to exemptions provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.
- (6) Licensed attorneys at law of this state when acting in their professional capacity as such shall be exempt from the provisions of this section.

**SECTION 116.** That Section 41-5408, Idaho Code, be, and the same is hereby amended to read as follows:

**41-5408. Confidentiality -- Prohibition on announcements, prohibition on use in ratemaking.**

- (1) All RBC reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and RBC plans, including the results or report of any examination or analysis of an insurer performed pursuant hereto and any corrective order issued by the director pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer which are filed with the director, constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the director and shall be considered privileged. Notwithstanding the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, this information shall not be made public or be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the director is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties.
- (2) Neither the director nor any person who received documents, materials or other information while acting under the authority of the director shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information obtained or provided pursuant to subsection (1) of this section.
- (3) In order to assist in the performance of his duties under this chapter, the director may:
  - (a) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (1) of this section, with other states, federal and international regulatory agencies, with the NAIC and its affiliates and subsidiaries and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;
  - (b) Receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall

maintain as confidential or privileged any document, material or information received with notice of or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

- (c) Enter into agreements governing the sharing and use of information consistent with the provisions of this subsection.
- (4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information referenced in this section shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized in subsection (3) of this section.
- (5) It is the judgment of the legislature that the comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not intended as a means to rank insurers generally. Therefore, except as otherwise required under the provisions of this chapter, the making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing an assertion, representation or statement with regard to the RBC levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; provided however, that if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its RBC levels, or any of them, or an inappropriate comparison of any other amount to the insurers' RBC levels is published in any written publication and the insurer is able to demonstrate to the director with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.
- (6) It is the further judgment of the legislature that the RBC instructions, RBC reports, adjusted RBC reports, RBC plans and revised RBC plans are intended solely for use by the director in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and shall not be used by the director for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the director to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or any affiliate is authorized to write.

**SECTION 117.** That Section 41-5817, Idaho Code, be, and the same is hereby amended to read as follows:

**41-5817. Record retention.**

- (1) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:
  - (a) Name of the insured;
  - (b) Date, location and amount of the loss;
  - (c) Copy of the contract between the public adjuster and insured;
  - (d) Name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;
  - (e) Itemized statement of the insured's recoveries;
  - (f) Itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;
  - (g) A register of all moneys received, deposited, disbursed or withdrawn in connection with a transaction with an insured, including fees, transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;

- (h) Name of public adjuster who executed the contract;
  - (i) Name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and
  - (j) Evidence of financial responsibility in a format prescribed by the department.
- (2) Records shall be maintained for at least five (5) years after the termination of the transaction with an insured and shall be open to examination by the department at all times.
- (3) Records submitted to the department in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the department pursuant to section ~~9-340D~~ **74-107**, Idaho Code.

**SECTION 118.** That Section 42-4010, Idaho Code, be, and the same is hereby amended to read as follows:

**42-4010. Powers and duties -- Penalties -- Enforcement procedure.**

- (a) The water resource board may adopt, amend, or rescind reasonable rules, regulations, and construction standards necessary to the administration of this chapter in accordance with chapter 52, title 67, Idaho Code.
- (b) The board may require that owners or operators of wells or injection wells keep or cause to be kept well logs, core records, and drilling histories of such wells or injection wells. It may require that copies of such logs, records, and/or histories be filed with the director within a reasonable time after well completion. It may further require such other geologic, geochemical, or engineering plans, reports, or records as necessary for the administration of this chapter. Any reports, logs, records, or histories filed with the director shall be available for public inspection subject to disclosure according to ~~chapter 3, title 9~~ **chapter 1, title 74**, Idaho Code, and shall be kept as confidential by the director for a period of one (1) year from well completion, provided however, that the director may use any such reports, logs, records, or histories in any action in any court to enforce the provisions of this chapter or any order or regulation adopted hereunder.
- (c) The director may enter onto private land at any time to inspect any well or geothermal resource development project to determine if such well or project is being constructed, operated, or maintained according to any applicable permits or to determine if the construction, operation, or maintenance of such well or project may involve a threat to life or property or an unreasonable risk to subsurface, surface, or atmospheric resources.
- (d) If the director finds that any person is constructing, operating or maintaining any well or injection well not in accordance with any applicable permit or in a fashion so as to involve an unreasonable risk of, or so as to cause, damage to life or property or subsurface, surface, or atmospheric resources, the director may issue an order to such person to correct or to stop such practices as are found to be improper and to mitigate any injury of any sort caused by such practices.
- (e) The director may enforce any provision of this chapter or any order or regulation issued or adopted pursuant hereto by an appropriate action in the district court. The director may bring an action in the district court to have enjoined any threatened noncompliance with any provision of this chapter, regulations, or orders of the director, or any threatened harm to life, property, or surface, subsurface, or atmospheric resources which would be caused by such noncompliance. It shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in this chapter, and to prosecute actions or proceedings for the enforcement of any criminal provisions of this chapter. The attorney general may delegate the authority and duty under this section to prosecute criminal actions to the prosecuting attorney of the county in which such a criminal action may arise.

- (f) Any willful violation of or failure to comply with any provision of this chapter, or regulation adopted or order issued pursuant to the chapter, shall be a misdemeanor punishable by a fine of up to ten thousand dollars (\$ 10,000) for each offense or a sentence of up to six (6) months in a county jail or both; each day of a continuing violation shall be a separate offense under this subdivision. When the director of the department of water resources determines that any person is in substantial violation of any provision of this chapter or any rule, permit, certificate, condition of approval or order issued or promulgated pursuant to this chapter, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code. A responsible or principal executive officer of any corporate person may be liable under this subdivision if such corporate person is not in compliance with any provision of this chapter or with any valid order or regulation adopted pursuant hereto.
- (g) The director shall undertake such studies, investigations, or research programs as necessary for the proper administration of this chapter and in order to develop experience in and understanding of the entire field of geothermal resource exploration and development in both its technical and regulatory aspects. The director and board shall cooperate with other Idaho state agencies, the state institutions of higher learning, agencies of other states, and agencies of the federal government in the preparation of such investigations, studies, or research projects. The director and board may cooperate with the scientists at the Idaho national engineering laboratory in their research, development, engineering and demonstration of geothermal projects.
- (h) The director may enter into cooperative agreements and memoranda of understanding with agencies of other states for the purpose of the administration of geothermal areas which are partially in Idaho and partially in one (1) or more other states.

**SECTION 119.** That Section 44-1606, Idaho Code, be, and the same is hereby amended to read as follows:

**44-1606.**

Department -- Licensing duties -- License -- Term -- Renewal fee.

- (1) The department shall issue licenses to persons who are at least eighteen
- (18) years of age and who have shown themselves to be fit, competent and qualified to engage in the business of farm labor contracting. Factors to be considered by the department in making this determination shall include, but not be limited to, the following:
  - (a) Whether an applicant has unsatisfied judgments or administrative decisions requiring the payment of unpaid wages;
  - (b) Whether an applicant has worker's compensation coverage for each employee;
  - (c) Whether an applicant has paid unemployment insurance contributions when due;
  - (d) Whether an applicant has violated any provision of this chapter or the rules adopted hereunder;
  - (e) Whether an applicant was ever denied a license or had a license revoked, suspended or not renewed under the farm labor contractor laws of any jurisdiction;
  - (f) Whether an applicant has employed an agent who has had a farm labor contractor license denied, suspended, revoked or not renewed or who has otherwise violated any provisions of this chapter or the rules adopted hereunder; and
  - (g) Whether an applicant, when required by law, has failed or refused to seek food, water, shelter or medical attention, or to provide any other goods or services required for the safety and health of the applicant's employees.



- (2) The industrial commission shall make records available to the department, including records that are otherwise exempt from disclosure under section ~~9-340B~~ 74-105, Idaho Code, for the purpose of determining an applicant's qualifications under subsection (1)(b) of this section. Records disclosed under this subsection shall not be further disclosed by the department.
- (3) The department shall issue a license within fifteen (15) business days of receipt of a completed application if the department determines the applicant to be fit, competent and qualified to engage in the business of farm labor contracting. An application shall be deemed completed when all required information and documentation has been submitted to the department.
- (4) The license shall not be transferable or assignable.
- (5) The first year of licensing shall run from April 1st to the following March 31st and each license shall expire on March 31st following the date of its issuance unless sooner revoked or otherwise terminated by the department. Beginning January 1, 2004, the licensing year shall run from January 1st to the following December 31st and each license shall expire on December 31st following the date of its issuance unless sooner revoked or otherwise terminated by the department.
- (6) A license may be renewed annually upon payment of a nonrefundable fee of two hundred fifty dollars (\$ 250) and by providing the following:
  - (a) Proof of financial responsibility as required by section 44-1604, Idaho Code;
  - (b) A certificate of insurance as required by section 44-1603(2)(e), Idaho Code; and
  - (c) A certificate of insurance as required by section 44-1603(2)(f), Idaho Code.

The department may require any person seeking renewal to file a new application showing the person to be fit, competent and qualified to continue to engage in the business of farm labor contracting.
- (7) The department shall maintain a central public registry of all persons issued a farm labor contractor's license.

**SECTION 120.** That Section 47-319, Idaho Code, be, and the same is hereby amended to read as follows:

**47-319. Land subject to act -- Authority of commission.**

- (1) This act shall apply to all lands located in the state, however owned, including any lands owned or administered by any government or any agency or political subdivision thereof, over which the state under its police power, has jurisdiction.
- (2) The commission is authorized and it is its duty to regulate the exploration for and production of oil and gas, prevent waste of oil and gas and to protect correlative rights, and otherwise to administer and enforce this act. It has jurisdiction over all persons and property necessary for such purposes. In the event of a conflict, the duty to prevent waste is paramount.
- (3) The commission is authorized to make such investigations as it deems proper to determine whether action by the commission in discharging its duties is necessary.
- (4) The commission is authorized to appoint, as necessary, committees for the purpose of advising the commission on matters relating to oil and gas.
- (5) Without limiting its general authority, the commission shall have the specific authority to require:
  - (a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas;
  - (b) The taking and preservation of samples and the making and filing with the commission of true and correct copies of well logs and directional surveys both in form and content as prescribed by the commission; provided however, that logs of exploratory or wildcat wells marked confidential shall

be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and shall be kept confidential by the commission for a period of one (1) year from the date of filing the log with the commission. And provided that the commission may use any well logs and directional surveys in any action to enforce the provisions of this chapter or any order or rule adopted hereunder. And provided further, that after four (4) months from the effective date of this act, the commission may require the owner of a well theretofore drilled for oil or gas to file within four (4) months of such order a true and correct copy of the log or logs of such well;

**(c) The drilling, casing, operation and plugging of wells in such manner as to prevent:**

(i) the escape of oil or gas out of one (1) pool into another; (ii) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations; (iii) the pollution of fresh water supplies by oil, gas, or salt water; (iv) blow-outs, cavings, seepages, and fires; and (v) waste as hereinabove defined;

(d) The taking of tests of oil or gas wells;

(e) The furnishing of a reasonable performance bond with good and sufficient surety, conditioned upon the performance of the duty to comply with the requirements of this law and the regulations of the commission with respect to the drilling, maintaining, operating and plugging of each well drilled for oil or gas;

(f) That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be measured by means and upon standards that may be prescribed by the commission;

(g) That wells not be operated with inefficient gas-oil or water-oil ratios, and to fix these ratios, and to limit production from wells with inefficient gas-oil or water-oil ratios;

(h) Metering or other measuring of oil, gas, or product;

(i) That every person who produces oil and gas in the state keep and maintain for a period of five (5) years complete and accurate records of the quantities thereof, which records, or certified copies thereof, shall be available for examination by the commission or its agents at all reasonable times within said period, and that every such person file with the commission such reasonable reports as it may prescribe with respect to such oil or gas production; and

(j) The filing of reports of plats with the commission that it may prescribe.

(6) Without limiting its general authority, and without limiting the authority of other state agencies or local government as provided by law, the commission shall have the specific authority to regulate:

(a) The drilling and plugging of wells and the compression or dehydration of produced oil and gas, and all other operations for the production of oil and gas;

(b) The shooting and treatment of wells;

(c) The spacing or locating of wells;

(d) Operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into a producing formation; and

(e) The disposal of salt water and oil-field wastes.

(7) The commission is authorized to classify and reclassify pools as oil, gas, or condensate pools, or wells as oil, gas, or condensate wells.

(8) The commission is authorized to make and enforce rules, regulations, and orders reasonably necessary to prevent waste, protect correlative rights, to govern the practice and procedure before the commission, and otherwise to administer this act.

**SECTION 121.** That Section 47-1314, Idaho Code, be, and the same is hereby amended to read as follows:

**47-1314. Disturbed lands to be restored -- Notice and restoration of placer or dredge exploration operations.**

- (a) Any person conducting a placer or dredge mining operation shall, within one (1) year of permanent cessation of operations as to the whole or any part of the permit area, commence restoration of disturbed lands in the permit area or in any portion thereof as to which operations are permanently ceased. In accordance with a permit approved for the operation under section 47-1317, Idaho Code, surfaces shall be returned to a contour reasonably comparable to that contour existing prior to disturbance, topsoil shall be replaced where deemed appropriate by the board, and vegetation shall be planted reasonably comparable to that vegetation existing prior to disturbance. Any disturbed natural watercourse shall be restored to a configuration and pool structure conducive to good fish and wildlife habitat and recreational use.
- (b) Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment shall, within seven (7) days of commencing exploration, notify the director by certified mail of the name and address of the person, and the location, anticipated size, and method of exploration. Such notice shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Any placer or dredge exploration operation which causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, shall be considered a placer or dredge mining operation. Lands disturbed by any placer or dredge exploration operation which causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, shall be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation.

**SECTION 122.** That Section 47-1506, Idaho Code, be, and the same is hereby amended to read as follows:

**47-1506.**

Operator -- Duties prior to operation -- Submission of maps and plans. (a) Any operator desiring to conduct surface mining operations within the state of Idaho for the purpose of immediate or ultimate sale of the minerals in either the natural or processed state, shall submit to the board prior to commencing such surface mining operations a reclamation plan that contains the following:

- (1) A map of the mine panel on which said operator desires to conduct surface mining operations, which sets forth with respect to said panel the following:
  - (i) The location of existing roads and anticipated access and main haulage roads planned to be constructed in conducting the surface mining operations.
  - (ii) The approximate boundaries of the lands to be utilized in the process of surface mining operations.
  - (iii) The approximate location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.
  - (iv) The name and address of the person to whom notices, orders, and other information required to be given to the operator pursuant to this chapter may be sent.
  - (v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.
  - (vi) The approximate boundaries of the lands that will become affected lands as a result of surface mining operations during the year immediately following the date that a reclamation plan is approved as to said panel, together with the number of acres included within said boundaries.
  - (vii) A description of foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices that will be used to control such nonpoint source impacts.

(viii) A description of foreseeable, site-specific impacts from acid rock drainage and the best management practices that will be used to mitigate the impacts, if any, from such acid rock drainage.

(2) Diagrams showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds on said panel.

(3) A description of the action which said operator intends to take to comply with the provisions of this chapter as to the surface mining operations conducted on such mine panel.

(b) Any operator who is not required to submit an operating plan for a surface mining operation to an entity of the federal government shall submit to the board, as part of the reclamation plan, an operating plan with regards to that surface mining operation. The operating plan shall include:

(1) Maps showing the location of existing roads and anticipated access and main haulage roads planned to be constructed for surface mining operations.

(2) The boundaries and acreage of the lands to be utilized in the process of surface mining operations.

(3) Maps showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the surface mining operations.

(4) The location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.

(5) The drainage adjacent to the area where the surface is being utilized by surface mining operations.

(6) The approximate boundaries and acreage of the lands that will become affected during the first year of construction of surface mining operations.

(7) The board shall promulgate rules or guidelines to allow the content of a nonfederal operating plan to be determined based upon the type and size of the surface mining operation.

(c) No operator who is required to submit an operating plan for a surface mining operation to an entity of the federal government shall be required to submit an operating plan to the board. This provision shall apply to all lands, regardless of surface or mineral ownership, covered by the operating plan submitted to the entity of the federal government.

(d) No operator shall commence surface mining operations on any mine panel without first having a reclamation plan approved by the state board of land commissioners.

(e) Any operator desiring to conduct exploration operations within the state of Idaho using motorized earth-moving equipment in order to locate minerals for immediate or ultimate sale in either the natural or the processed state shall notify the board by certified mail as soon after beginning exploration operations as possible and in any event within seven (7) days after beginning exploration operations. The letter shall include the following:

(1) The name and address of the operator;

(2) The location of the operation and the starting date and estimated completion date;

(3) The anticipated size of the operation, and the general method of operation.

The letter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

(f) Any operator desiring to operate a cyanidation facility within the state of Idaho shall submit to the board prior to the operation of such a facility a permanent closure plan that contains the following:

(1) The name and address of the operator;

(2) The location of the operation;

- (3) The objectives, methods and procedures the operator will use to attain permanent closure;
  - (4) An estimate of the cost of attaining permanent closure as well as an estimate of the costs to achieve critical phases of the closure plan;
  - (5) Any other information specified in the rules adopted to carry out the intent and purposes of this chapter.
- (g) The board may require a reasonable fee for reviewing and approving a permanent closure plan. The fee may include the reasonable cost to employ a qualified independent party, acceptable to the operator and the board, to verify the accuracy of the cost estimate required in subsection (f)(4) of this section.
- (h) The board shall coordinate its review of activities in the permanent closure plan under the statutory responsibility of the department of environmental quality with that department, but that coordination shall not extend the time limit in which the board must act on a plan submitted.
- (i) No operator shall commence operation of a cyanidation facility without first having a permanent closure plan approved by the board.

**SECTION 123.** That Section 47-1515, Idaho Code, be, and the same is hereby amended to read as follows:

**47-1515.**

Information. Any information supplied by an operator to the board, the director, or the department of lands, and designated by such operator as confidential, shall be subject to disclosure according to ~~chapter 3, title 9-~~ chapter 1, title 74 , Idaho Code.

**SECTION 124.** That Section 48-612, Idaho Code, be, and the same is hereby amended to read as follows:

**48-612.**

Additional powers of attorney general. To accomplish the objectives and to carry out the duties prescribed by this chapter, the attorney general, in addition to other powers conferred upon him by this chapter, may issue subpoenas to any person and conduct hearings in aid of any investigation or inquiry; provided that information obtained pursuant to the powers conferred in this chapter shall be subject to disclosure according to ~~chapter 3, title 9-~~ chapter 1, title 74 , Idaho Code.

**SECTION 125.** That Section 48-801, Idaho Code, be, and the same is hereby amended to read as follows:

**48-801.**

Definitions. As used in this chapter unless the context requires otherwise:

- (1) "Improper means" include theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.
- (2) "Misappropriation" means:
  - (a) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
  - (b) Disclosure or use of a trade secret of another without express or implied consent by a person who:
    - (A) Used improper means to acquire knowledge of the trade secret; or
    - (B) At the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was:
      - (i) Derived from or through a person who had utilized improper means to acquire it;
      - (ii) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

- (iii) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
- (C) Before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.
- (3) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.
- (4) "Computer program" means information which is capable of causing a computer to perform logical operation(s) and:
  - (a) Is contained on any media or in any format;
  - (b) Is capable of being input, directly or indirectly, into a computer; and
  - (c) Has prominently displayed a notice of copyright, or other proprietary or confidential marking, either within or on the media containing the information.
- (5) "Trade secret" means information, including a formula, pattern, compilation, program, computer program, device, method, technique, or process, that:
  - (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
  - (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Trade secrets as defined in this subsection are subject to disclosure by a public agency according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 126.** That Section 48-1509, Idaho Code, be, and the same is hereby amended to read as follows:

**48-1509.**

Public records. All documents submitted to the attorney general by any person, including nonprofit hospital entities giving notice under section 48-1503, Idaho Code, in connection with the attorney general's review of the proposed nonprofit hospital conversion transaction pursuant to this chapter shall be deemed records contained in court files of judicial proceedings, as provided for in section ~~9-340A~~ 74-104 (2), Idaho Code, and shall only be subject to public disclosure, pursuant to a public document request, in the same manner as set forth in that section.

**SECTION 127.** That Section 49-321, Idaho Code, be, and the same is hereby amended to read as follows:

**49-321. Records to be kept by the department.**

- (1) The department shall file every application for a driver's license received by it and shall maintain suitable indices containing:
  - (a) All applications denied and on each note the reason for denial;
  - (b) All applications granted;
  - (c) The name of every licensee whose driver's license has been suspended, revoked, canceled, denied or disqualified by the department and after each name note the reasons for the action;
  - (d) The driver's license number for the applicant; and
  - (e) The social security number of the applicant.
- (2) The department shall file the original or copy of the medical examiner's certificates, medical exemption letters and skill performance evaluation certificates of all commercial driver's license or instruction permit holders required to provide documentation of their physical qualification. The department shall



maintain the document(s) for a period of three (3) years beyond the date the certificate or document was issued.

- (3) The department shall also file all accident reports and abstracts of court records of convictions received by it under the law from any jurisdiction and is authorized to forward records of convictions, suspensions or disqualifications to any jurisdiction. Records may be in either paper or electronic form. The department shall maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions and the traffic accidents in which the licensee has been involved shall be readily ascertainable and available for consideration of the department upon any application for renewal of a driver's license and at other suitable times.
- (4) The department of health and welfare, on or about the 25th day of each month shall, upon the request of the department, furnish the department a listing showing the name, age, county of residence, and residence address of each Idaho resident who has died during the preceding month. The listing shall be used only for purposes of updating the driver's license files of the department and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 128.** That Section 49-1234, Idaho Code, be, and the same is hereby amended to read as follows:

**49-1234.**

Online insurance verification system -- peace officer duties --

rulemaking. (1) The department shall establish and maintain an online insurance verification system for motor vehicle insurance coverage required by the provisions of this chapter, subject to the following:

- (a) The department shall consult with representatives of the insurance industry to determine the objectives, details and deadlines relating to the verification system;
- (b) The verification system shall be accessible through the internet, world wide web or a similar proprietary or common carrier electronic system by authorized personnel of the department, department of insurance, courts, law enforcement entities and of any other entity authorized by the department;
- (c) The verification system shall provide for direct inquiry and response between the department and insurance carriers, or such other method of inquiry and response as agreed to by the department and individual insurance carriers, and direct access to insurers' records by personnel authorized by the department;
- (d) The verification system shall be capable of sending inquiries to and receiving responses from insurers for the purpose of verifying current motor vehicle insurance coverage via web services established by insurers through the internet, world wide web or a similar proprietary or common carrier electronic system, in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration (IICMVA), provided that the department shall promulgate rules to provide insurers an alternative method for reporting motor vehicle insurance policy data rather than establishing web services or utilizing IICMVA's insurance data transfer guide;
- (e) With the exception of unplanned system outages, the verification system shall be available twenty-four (24) hours a day to verify the insurance status of any motor vehicle registered in this state through the vehicle's identification number, policy number, registered owner's name or other identifying characteristic or marker; provided that a reasonable amount of downtime may be allotted for planned system outages;
- (f) The verification system shall include appropriate provisions, consistent with IICMVA standards, to secure its data against unauthorized access and to maintain a record of all information requests; and
- (g) All information exchanged between the department and insurance companies, any database created, all information contained in the verification system and all reports, responses or other information

generated for the purposes of the verification system shall be exempt from disclosure as provided in section ~~9-340C~~ 74-106 , Idaho Code.

- (2) As a condition for writing motor vehicle liability insurance policies in this state, insurance carriers shall cooperate with the department in establishing and maintaining the insurance verification system and shall provide access to motor vehicle insurance policy status information as may be provided in rules promulgated by the department.
- (3) Insurers that make good faith efforts to comply with the provisions of this section shall be immune from civil or administrative liability related to this section.
- (4) Peace officers shall access information from the online insurance verification system to verify the current validity of motor vehicle liability insurance. If insurance is verified, then the peace officer shall not issue a citation for an infraction violation of the provisions of section 49-1232, Idaho Code.
- (5) If an Idaho uniform citation is issued to a person for an infraction violation of the provisions of section 49-1232, Idaho Code, and it is subsequently found that the legally required motor vehicle insurance coverage was in force at the time of the issuance of the citation, then the court shall dismiss the citation without penalty and such citation shall not appear on the person's record.
- (6) This section shall not apply to any vehicle insured under commercial motor vehicle coverage and shall not apply to implements of husbandry and golf carts. As used in this section, "commercial motor vehicle coverage" means an insurance policy that covers a business's vehicles and employees.
- (7) The department may promulgate rules in accordance with the provisions of chapter 52, title 67, Idaho Code, to carry out the provisions of this section.

**SECTION 129.** That Section 49-1311, Idaho Code, be, and the same is hereby amended to read as follows:

**49-1311.**

Accident reports. All accident reports made by garages shall be without prejudice to the individual reporting and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and shall be used for accident prevention purposes.

**SECTION 130.** That Section 49-1313, Idaho Code, be, and the same is hereby amended to read as follows:

**49-1313.**

Any incorporated city may require accident reports. Any incorporated city may by ordinance require that the driver of a vehicle involved in an accident also file with a designated city department a report of an accident or a copy of any report required to be filed with the department. All such reports shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 131.** That Section 49-1314, Idaho Code, be, and the same is hereby amended to read as follows:

**49-1314. Testing blood of persons killed in accidents.**

- (1) The director of the Idaho state police, jointly with the various county coroners, shall provide a system and procedure whereby all coroners in Idaho shall obtain blood samples from all pedestrians and motor vehicle operators who have died as a result of and contemporaneously with an accident involving a motor vehicle.
- (2) All investigating peace officers shall report traffic fatalities to the county coroner or follow the procedure established by the joint action of the director of the Idaho state police and the various coroners.
- (3) The blood sample, or result of blood testing, with any information as may be required, shall be delivered to the director of the Idaho state police or his designee. Upon receipt of the sample the director will

cause all tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs that may be contained in the sample.

- (4) The results of such tests shall be used for statistical purposes and shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 132.** That Section 50-2006, Idaho Code, be, and the same is hereby amended to read as follows:

**50-2006. Urban renewal agency.**

- (a) **There is hereby created in each municipality an independent public body corporate and politic to be known as the "urban renewal agency" that was created by resolution as provided in section 50-2005, Idaho Code, before July 1, 2011, for the municipality; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless:**

(1) the local governing body has made the findings prescribed in section 50-2005, Idaho Code; and provided further, that such agency created after July 1, 2011, shall not transact any business or exercise its powers provided for in this chapter until (2) a majority of qualified electors, voting in a citywide or countywide election depending on the municipality in which such agency is created, vote to authorize such agency to transact business and exercise its powers provided for in this chapter. If prior to July 1, 2011, the local governing body has made the findings prescribed in subsection (a)(1) of this section then such agency shall transact business and shall exercise its powers hereunder and is not subject to the requirements of subsection (a)(2) of this section.

- (b) Upon satisfaction of the requirements under subsection (a) of this section, the urban renewal agency is authorized to transact the business and exercise the powers hereunder by a board of commissioners to be established as follows:

(1) The mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency which shall consist of not less than three (3) commissioners nor more than nine (9) commissioners. In the order of appointment, the mayor shall designate the number of commissioners to be appointed, and the term of each, provided that the original term of office of no more than two (2) commissioners shall expire in the same year. The commissioners shall serve for terms not to exceed five (5) years, from the date of appointment, except that all vacancies shall be filled for the unexpired term.

(2) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by a majority vote of the board or by the local governing body only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel. Any commission position which becomes vacant at a time other than the expiration of a term shall be filled by a majority vote of the board. The board may elect any person to fill such vacant position where such person meets the requirements of a commissioner provided for in this chapter.

(3) By enactment of an ordinance, the local governing body may appoint and designate itself to be the board of commissioners of the urban renewal agency, in which case all the rights, powers, duties, privileges and immunities vested by the urban renewal law of 1965, and as amended, in an appointed board of commissioners, shall be vested in the local governing body, who shall, in all respects when acting as an urban renewal agency, be acting as an arm of state government, entirely separate and distinct from the municipality, to achieve, perform and accomplish the public purposes prescribed and provided by said urban renewal law of 1965, and as amended.

(4) By enactment of an ordinance, the local governing body may terminate the appointed board of commissioners and thereby appoint and designate itself as the board of commissioners of the urban renewal agency.

- (c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner

shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of an urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the bylaws shall require a larger number.

The commissioners shall elect the chairman, cochairman or vice chairman for a term of one (1) year from among their members. An agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to transact business and exercise powers under this chapter shall file, with the local governing body, on or before March 31 of each year a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. The agency shall be required to hold a public meeting to report these findings and take comments from the public. At the time of filing the report, the agency shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the municipality and that the report is available for inspection during business hours in the office of the city clerk or county recorder and in the office of the agency.

- (d) An urban renewal agency shall have the same fiscal year as a municipality and shall be subject to the same audit requirements as a municipality. An urban renewal agency shall be required to prepare and file with its local governing body an annual financial report and shall prepare, approve and adopt an annual budget for filing with the local governing body, for informational purposes. A budget means an annual estimate of revenues and expenses for the following fiscal year of the agency.
- (e) An urban renewal agency shall comply with the public records law pursuant to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, open meetings law pursuant to ~~chapter 23, title 67~~ chapter 2, title 74, Idaho Code, the ethics in government law pursuant to ~~chapter 7, title 59~~ chapter 4, title 74, Idaho Code, and the competitive bidding provisions of chapter 28, title 67, Idaho Code.

**SECTION 133.** That Section 54-204, Idaho Code, be, and the same is hereby amended to read as follows:

**54-204.**

Powers and duties. The Idaho state board of accountancy, in addition to the other powers and duties set forth in this chapter, shall have the following powers and duties:

- (1) To adopt and amend rules in accordance with the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code, governing its administration and the enforcement of this chapter and the conduct of licensees including, but not limited to:
  - (a) Rules governing the board's meetings and the conduct of its business;
  - (b) Rules of procedure governing the conduct of investigations and hearings by the board;
  - (c) Rules specifying the education, examination and experience qualifications required for the issuance of certificates, and the continuing professional education required for renewal of licenses;
  - (d) Rules of professional conduct directed to controlling the quality and probity of professional services by licensees, and dealing among other things with independence, integrity and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients;
  - (e) Rules governing the professional standards applicable to licensees;
  - (f) Rules governing the manner and circumstances of use of the titles "certified public accountant" and "licensed public accountant";

- (g) Rules regarding peer reviews that may be required to be performed under the provisions of this chapter;
  - (h) Rules on substantial equivalency to implement section 54-227, Idaho Code;
  - (i) Rules adopting statements on standards as specified in section 54-206, Idaho Code, which, if the board may deem appropriate, shall be those standards developed for general application by recognized accountancy organizations such as the AICPA, as such statements are established from time to time; and
  - (j) Such other rules as the board may deem necessary or appropriate to implement or administer the provisions and purposes of this chapter.
- (2) To issue original certificates of qualification and licenses to practice as certified public accountants to such applicants as may be qualified by reciprocity, transfer of examination grades or by examination.
  - (3) To charge and collect from all applicants, certificate holders, and licensees such fees as are provided by this chapter and prescribed by rules of the board.
  - (4) To initiate or receive complaints, cause the same to be investigated, initiate proceedings, and conduct hearings or proceedings pursuant to chapter 2, title 54, Idaho Code. The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board. Unless dismissed by the board as unfounded or trivial, the board may proceed with disciplinary proceedings or may return the report to the investigating officer for further investigation.
  - (a) In order to protect the interests of a complainant, witness, third party or defendant, the board may upon application and for good cause shown, issue a protective order, consistent with ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, prohibiting the disclosure of specific information otherwise not privileged and confidential and direct that the proceedings be conducted so as to implement the order.
  - (b) In carrying into effect the provisions of this chapter, the board may subpoena witnesses and compel their attendance, and also may require the submission of books, papers, documents or other pertinent data; may administer oaths; may take testimony; may cooperate with the appropriate authorities in other states in investigation and enforcement concerning violations of this chapter and comparable acts of other states; and may receive evidence in any disciplinary matters or in any case wherever a violation of the provisions of this chapter is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena, the board may apply to the court in the district where the witness resides to enforce compliance.
- (5) To authorize by written agreement the bureau of occupational licenses as agent to act in its interest.
  - (6) Any action, claim or demand to recover money damages from the board or its employees which any person is legally entitled to recover as compensation for the negligent or otherwise wrongful act or omission of the board or its employees, when acting within the course and scope of their employment, shall be governed by the Idaho tort claims act, chapter 9, title 6, Idaho Code. For purposes of this subsection, the term "employees" shall include special assignment members of the board and other independent contractors while acting within the course and scope of their board related work.
  - (7) All hearings, investigations or proceedings conducted by the board shall be conducted in conformity with chapter 52, title 67, Idaho Code, and rules of the board adopted pursuant thereto, and, unless otherwise requested by the concerned party, be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 134.** That Section 54-918, Idaho Code, be, and the same is hereby amended to read as follows:

**54-918. Examinations -- Certificate of qualification.**

- (1) An applicant for licensure shall pass such examinations in dentistry and in dental hygiene as are conducted by the board or its agent. Examinations shall be written or clinical, or both, and upon such subjects in dentistry and dental hygiene as the board shall determine will thoroughly test the fitness and ability of the applicant to practice dentistry or dental hygiene. An applicant for licensure shall pass the written jurisprudence examination conducted by the board. A passing score of seventy-five percent (75%) correct shall be required on the written jurisprudence examination. A passing score of at least seventy-five percent (75%) correct shall be required on any additional written or clinical examinations conducted by the board. It shall report and record the names of applicants who pass and of those who fail the examinations. Upon the candidate's request, the board will issue to each passing applicant in dentistry, who is qualified for Idaho licensure, a certificate of qualification to practice dentistry, and to each passing applicant in dental hygiene, who is qualified for Idaho licensure, a certificate of qualification to practice dental hygiene within the state of Idaho.
- (2) In lieu of conducting written examinations other than the jurisprudence examination, the board may require and accept the results of the national board dental and dental hygiene examinations administered by the American dental association. The American dental association shall set the standards for passing the national board dental and dental hygiene examinations. In lieu of conducting clinical examinations, the board may require and accept the results of clinical examinations administered by national or regional testing organizations approved by the board. The national or regional testing organizations shall set the standards for passing or acceptable level of competency on the clinical examinations administered.
- (3) Applicants who fail any examination conducted by the board or its agent shall be notified thereof in writing by the board, which shall also record the fact of failure and the date and means of notification.
- (4) Written questions and answers of applicants shall be subject to disclosure according to ~~chapter 3, title 9~~ **chapter 1, title 74**, Idaho Code, unless exempt from disclosure in that chapter and title, and shall be destroyed by the board after the period of one (1) year following the examination.

**SECTION 135.** That Section 54-934, Idaho Code, be, and the same is hereby amended to read as follows:

**54-934.**

Peer review committees -- Immunity from liability --

Confidentiality of records. (1) The state board of dentistry or the Idaho state dental association or both may establish one (1) or more peer review committees pursuant to this section, for the purpose of:

- (a) Determining the relevancy of a dentist's usual and reasonable fees or treatment procedure to the terms of a contract;
- (b) Assessing the quality of services rendered; or
- (c) Evaluating claims against dentists or engaging in underwriting decisions in connection with professional liability insurance coverage for dentists.

- (2) The board or the associations, any one (1) of which has established a peer review committee pursuant to law, any committee member or any staff member of either the board or of the associations assisting a peer review committee, and any witness or consultant appearing before or presenting information to a peer review committee shall be immune from liability in any civil action brought as a result of a peer review investigation or proceeding conducted by a peer review committee, if the board, association, committee or staff member, witness or consultant, acts in good faith within the scope of the function of the committee, has made a reasonable effort to obtain the facts of the matter as to which the board or association or he acts, in the reasonable belief that the action taken is warranted by the facts.



- (3) Any entity, organization or person acting without malice in making any report or other information available to a peer review committee, or who assists in the origination, investigation or preparation of that information, or assists a committee in carrying out any of its duties or functions, shall be immune from civil liability for any such actions.
- (4) Any communications or information relating to peer committee investigations or proceedings as provided by law, and the proceedings and records of the committee related to them, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, unless exempt from disclosure in that chapter and title, and shall not be subject to discovery or introduced into evidence in any civil action against a dentist arising out of matters which are the subject of evaluation and review by the committee.

**SECTION 136.** That Section 54-1210, Idaho Code, be, and the same is hereby amended to read as follows:

**54-1210. Records and reports.**

- (1) The board shall keep a record of its proceedings and a record of all applications for licensure or certification, which record shall show: the name, date of birth and last known address of each applicant; the date of the application; the place of business of such applicant; his education, experience and other qualifications; type of examination required; whether or not the applicant was rejected; whether or not a certificate or license was granted; the dates of the action of the board; and any other information as may be deemed necessary by the board.
- (2) The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and minutes thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.
- (3) Annually the board shall submit to the governor a report of its activities of the preceding year, and shall also transmit to him a summary statement of the receipts and expenditures of the board.
- (4) Board records and papers are subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 137.** That Section 54-1406A, Idaho Code, be, and the same is hereby amended to read as follows:

**54-1406A. Certified medication assistant (MA-C).**

- (1) Effective July 1, 2008, an individual registered as a nursing assistant, without substantiated charges, on the nursing assistant registry currently maintained by the Idaho department of health and welfare, may, with additional education and training as set forth in rule as established by the board, become a certified medication assistant (MA-C) permitted to administer medications as prescribed by an authorized provider within the parameters set forth in rule. A licensed nurse shall supervise the certified medication assistant.
- (2) The board shall adopt rules regarding the certification of certified medication assistants, including rules applicable to education, training and other qualifications for certification that will ensure that the certified medication assistant is competent to perform safely within the range of authorized functions.
- (3) The board shall maintain a public registry of the names and addresses of all certified medication assistants.
- (4) The board is authorized to impose and collect initial application and two (2) year renewal fees, as well as reinstatement fees, not to exceed one hundred dollars (\$ 100), as determined by board rule. Fees collected pursuant to this section shall be deposited in the state board of nursing account for the administration of examinations, evaluations and investigations of applicants, issuance of certifications, evaluation of education and training programs, duplication and verification of records, and other administrative expenses.
- (5) The board shall adopt by rule an application process.

- (a)** The application process shall include conducting a state and federal criminal background check on all applicants seeking certification pursuant to this section.
- (b)** All applicants for original certification or for certification reinstatement shall submit to a fingerprint-based criminal history check of both the Idaho central criminal database and the federal bureau of investigation criminal history database. All such applicants shall submit a full set of their fingerprints and any relevant fees directly to the Idaho board of nursing for forwarding to the appropriate law enforcement agency for processing. Criminal background reports received by the board from the Idaho state police and the federal bureau of investigation shall be used only for licensing decisions and handled and disposed of in a manner consistent with requirements imposed by the Idaho state police and the federal bureau of investigation.
- (c)** Upon meeting all requirements and upon the successful completion of additional education, training and competency assessment prescribed by rule, an applicant shall be certified as a certified medication assistant (MA-C).
- (6)** A person may not use the title "certified medication assistant" or the abbreviation "MA-C" unless such person has been duly certified pursuant to this section.
- (7)** The board shall adopt rules governing the approval of education and training programs for certified medication assistants.
- (8)** The board shall set forth in rule criteria for acceptable certified medication assistant competency evaluations.
- (9)**

  - (a)** For any one (1) or a combination of grounds for discipline as set forth in paragraph (b) of this subsection, the board shall have the authority to:

    - (i)** File a letter of concern if the board believes there is insufficient evidence to support direct action against a certified medication assistant;
    - (ii)** Deny certification or recertification, suspend, revoke, place on probation, reprimand, limit, restrict, condition or accept the voluntary surrender of a certificate issued pursuant to this section if a certified medication assistant commits an act that constitutes grounds for discipline;
    - (iii)** Refer criminal violations of this section to the appropriate law enforcement agency;
    - (iv)** Impose a civil penalty of not more than one hundred dollars (\$ 100) per violation; and
    - (v)** Recover costs of investigation and disciplinary proceedings, including attorney's fees.
  - (b)** Grounds for discipline shall include:

    - (i)** Substance abuse or dependency;
    - (ii)** Client abandonment, neglect or abuse;
    - (iii)** Fraud or deceit, which may include, but is not limited to:

      - (A)** Filing false credentials;
      - (B)** Falsely representing facts on an application for initial certification, renewal or reinstatement; and
      - (C)** Giving or receiving assistance in taking the competency evaluation;
    - (iv)** Boundary violations;
    - (v)** Performance of unsafe client care;
    - (vi)** Performing acts beyond the range of authorized functions or beyond those tasks delegated under the provisions of this section;

- (vii) Misappropriation or misuse of property;
  - (viii) Obtaining money or property of a client, resident or other person by theft, fraud, misrepresentation or duress committed during the course of employment as a certified medication assistant;
  - (ix) Criminal conviction of a misdemeanor that directly relates to or affects the functions of a certified medication assistant or conviction of any felony as set forth in rule;
  - (x) Failure to conform to the standards of a certified medication assistant;
  - (xi) Putting clients at risk of harm; and
  - (xii) Violating the privacy or failing to maintain the confidentiality of client or resident information.
- (10) The board shall comply with the provisions of the Idaho administrative procedure act, chapter 52, title 67, Idaho Code, in taking any disciplinary action against a certified medication assistant and shall maintain records of any such disciplinary action, which records shall be available for public inspection to the same extent as records regarding disciplinary proceedings against nurses and as otherwise consistent with ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (11) The board shall notify the Idaho nursing assistant registry of any disciplinary action taken against a certified medication assistant pursuant to this section.

**SECTION 138.** That Section 54-1413, Idaho Code, be, and the same is hereby amended to read as follows:

**54-1413. Disciplinary action.**

- (1) Grounds for discipline. The board shall have the power to refuse to issue, renew or reinstate a license issued pursuant to this chapter, and may revoke, suspend, place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee as it deems proper, including assessment of the costs of investigation and discipline against the licensee, upon a determination by the board that the licensee engaged in conduct constituting any one (1) of the following grounds:
- (a) Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing;
  - (b) Practiced nursing under a false or assumed name;
  - (c) Is convicted of a felony or of any offense involving moral turpitude;
  - (d) Is or has been grossly negligent or reckless in performing nursing functions;
  - (e) Habitually uses alcoholic beverages or drugs as defined by rule;
  - (f) Is physically or mentally unfit to practice nursing;
  - (g) Violates the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board;
  - (h) Otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public, which includes, but is not limited to, failing or refusing to report criminal conduct or other conduct by a licensee that endangers patients;
  - (i) Has been disciplined by a nursing regulatory authority in any jurisdiction. A certified copy of the order entered by the jurisdiction shall be prima facie evidence of such discipline;
  - (j) Failure to comply with the terms of any board order, negotiated settlement or probationary agreement of the board, or to pay fines or costs assessed in a prior disciplinary proceeding; or
  - (k) Engaging in conduct with a patient that is sexual, sexually exploitative, sexually demeaning or may reasonably be interpreted as sexual, sexually exploitative or sexually demeaning; or engaging in conduct with a former patient that is sexually exploitative or may reasonably be interpreted as

sexually exploitative. It would not be a violation under this subsection for a nurse to continue a sexual relationship with a spouse or individual of majority if a consensual sexual relationship existed prior to the establishment of the nurse-patient relationship.

(2) Separate offense. Each day an individual violates any of the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board shall constitute a separate offense.

(3) Proceedings.

(a) The executive director shall conduct such investigations and initiate such proceedings as necessary to ensure compliance with this section. The board may accept the voluntary surrender of a license from any nurse under investigation and accordingly enter an order revoking or suspending such license and/or imposing such conditions, limitations, or restrictions on the practice of any such nurse as may be appropriate in the discretion of the board. Otherwise, every person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice. All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code.

(b) Hearings shall be conducted by the board or by persons appointed by the board to conduct hearings and receive evidence. The board and any person duly appointed by the board to conduct hearings shall have all powers as are necessary and incident to orderly and effective receipt of evidence including, but not limited to, the power to administer oaths and to compel by subpoena attendance of witnesses and production of books, records and things at the hearing or at a deposition taken by a party in accordance with the Idaho rules of civil procedure. Any party shall be entitled to the use of subpoena upon application therefor.

(c) In the event any person fails to comply with a subpoena personally served upon him or refuses to testify to any matter regarding which he may be lawfully interrogated, the board shall petition the district court in the county where such failure or refusal occurred or where such person resides, to enforce such subpoena or compel such testimony. Proceedings before the district court shall be for contempt in the same nature as contempt of court for failure or refusal to comply with an order of the court and the court shall have the same powers to secure compliance with subpoena and testimony or to impose penalties as in contempt of court proceedings.

(4) Probation/Subsequent review. Any order of the board entered under this section may be withheld or suspended for a probationary period to be fixed by the board upon such terms and conditions as may be appropriate in order to regulate, monitor and/or supervise the practice of nursing by the licensee subject to such order for the prescribed probationary period. Any order of the board entered under this section may be withdrawn, reversed, modified or amended upon a showing by the person subject to the order that the grounds for discipline no longer exist or that he is rehabilitated, qualified and competent to practice nursing and that he is not likely to violate this chapter or rules adopted hereunder in the future. The board may, as a condition to withdrawal, reversal, modification or amendment of the order, require the person to pay all or part of the costs incurred by the board in proceedings upon which the order was entered.

(5) Reporting investigative information.

(a) Nothing in section ~~9-340C~~ 74-106 (8) and (9), Idaho Code, shall be construed as limiting the authority of the board to report current significant investigative information to the coordinated licensure information system for transmission to states that are parties to any multistate agreements or compacts regarding nurse licensure.

(b) The executive director of the board may, in the administration of this chapter, share information and otherwise cooperate with government regulatory and law enforcement agencies.

**SECTION 139.** That Section 54-1715, Idaho Code, be, and the same is hereby amended to read as follows:

**54-1715. Meetings of the board.**

- (1) The board of pharmacy shall meet at least once every six (6) months to transact its business. One such meeting held during each fiscal year of the state shall be designated as the annual meeting and shall be for the purpose of electing officers and for the reorganization of the board. The board shall meet at such additional times as it may determine. Such additional meetings may be called by the chairman of the board or by three (3) of the members of the board.
- (2) The board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting and shall not be changed after such notice is given without adequate subsequent notice.
- (3) Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the state's applicable statutes, rules and regulations.
- (4) A majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by the act, or by any rule or regulation of the board, all actions of the board shall be by a majority of a quorum.
- (5) All meetings and hearings of the board shall be conducted in compliance with the provisions of ~~sections 67-2340 through 67-2347~~ chapter 2, title 74 , Idaho Code.

**SECTION 140.** That Section 54-1806, Idaho Code, be, and the same is hereby amended to read as follows:

**54-1806.**

Powers and duties. The board shall have the authority to:

- (1) Hire or appoint employees, including an executive director, investigators, attorneys, consultants and independent hearing examiners.
- (2) Establish pursuant to the administrative procedure act rules for administration of this chapter, including rules governing all activities of persons employed as physician's assistants by persons licensed to practice medicine in this state. The board shall adopt rules pursuant to the administrative procedure act establishing procedures for the receipt of complaints and for the investigation and disposition thereof. Such rules shall provide for notice to a person when the board has authorized the committee to investigate that person and shall provide an opportunity for a person under investigation to meet with the committee or its staff before the initiation of formal disciplinary proceedings by the board.
- (3) Conduct investigations and examinations and hold hearings as authorized by this section and by section 54-1806A, Idaho Code.
- (4) The board shall have the power in any investigation or disciplinary proceeding pursuant to this chapter to administer oaths, take depositions of witnesses within or without the state in the manner consistent with rules adopted by the board pursuant to the administrative procedure act, and upon a determination that there is good cause the board shall have power throughout the state of Idaho to require the attendance of such witnesses and the production of such books, records, and papers as it may deem appropriate for any investigation, deposition or hearing. For that purpose the board may issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records or papers, directed to the sheriff of any county of the state of Idaho, where such witness resides, or may be found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees and mileage of the witnesses shall be the same as that allowed in the district courts in criminal cases, which fees and mileage shall be paid from any funds in the state treasury in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, it shall be the duty of the district court of any county in this state in which such disobedience, neglect or refusal occurs, or any judge thereof, on application by the board to compel compliance with the subpoena by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or for refusal to testify therein. The licensed person accused in such

formal contested case shall have the same right of subpoena upon making application to the board therefor.

- (5) Seek injunctive relief prohibiting the unlawful practice of medicine.
- (6) Make and enter into contracts.
- (7) Operate, manage, superintend and control the licensure of physicians.
- (8) Develop and submit a proposed budget setting forth the amount necessary to perform its functions.
- (9) Perform such other duties as set forth in the laws of this state.
- (10) Provide such other services and perform such other functions as are necessary to fulfill its responsibilities.
- (11) Provide for reasonable fees through rules for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee has been found to be in violation of the provisions of this chapter.
- (12) Prepare an annual report.
- (13) Share with the department of labor personal identifying information of persons licensed under the provisions of this chapter necessary for the department of labor to identify workforce shortage areas in Idaho. The information provided to the department of labor concerning any person licensed under this chapter shall remain confidential and not subject to public disclosure, as required in section ~~9-340C~~ **74-106**, Idaho Code.

**SECTION 141.** That Section 54-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

**54-1806A.**

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

- (1) Membership. The committee shall consist of five (5) members appointed by the board. Initially, it shall consist of the members of the board of professional discipline as it is constituted on the effective date of this act who shall serve on the committee on professional discipline until the expiration of their current terms. Thereafter, it shall consist of four (4) members licensed to practice medicine and surgery in the state of Idaho, two (2) of whose terms shall expire at midnight on June 30 in each of two (2) successive years, and one (1) member who is an adult Idaho citizen of good character and reputation who shall not be licensed to practice medicine and surgery in the state of Idaho, whose term shall expire at midnight on June 30 in the year in which no physician member's term shall expire. All terms of appointment shall be for three (3) years. No member of the committee on professional discipline may be appointed after the effective date of this act to serve more than two (2) terms (which shall include terms served on the board of professional discipline prior to the effective date of this act).
- (2) Chairman. The board of medicine shall designate one (1) member of the committee as its chairman who shall serve and function in that capacity for one (1) year or until a successor is duly appointed, whichever is later.
- (3) Quorum. Three (3) members shall constitute a quorum though no meeting of the committee shall be held without reasonable prior notice of at least three (3) days to all members, which notice may be given by the chairman or any three (3) members. Notice may be waived unanimously; otherwise, it shall be in writing and state the time, place and purpose of the meeting.



- (4) Compensation. Members of the committee shall be compensated as provided by section 59-509(n), Idaho Code, from the state board of medicine fund for expenses incurred in the course of serving on the committee.
- (5) Conflicts and Disqualification. Members shall disqualify themselves and, on motion of any interested party may, on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service.
- (6) Additional Powers of the Committee on Professional Discipline. In addition to its other powers, the committee shall be empowered and authorized:
- (a) To recommend to the board that it be authorized by the board to initiate or commence proceedings, studies or investigations, to investigate or inquire into misconduct or unprofessional behavior and to recommend that the board take such action with respect thereto as it deems best in the interest of the public and justice, and to obtain the assistance of staff and legal counsel hired by the board of medicine to administer, process and assist in its work.
  - (b) To recommend to the board that it be authorized by the board to appoint hearing officers or hearing committees to take evidence, conduct hearings and make recommended findings and conclusions to the committee in any matter or proceeding assigned to the committee, which hearing committees shall be of such number and size as the board directs, composed of licensed physicians resident and licensed to practice medicine and surgery in Idaho, who shall serve without pay and for such term as the board may specify, not to exceed one (1) year or during the pendency of any matters referred to it, whichever is longer. All investigations and proceedings of the committee and any hearing officers or hearing committees shall be conducted as provided by rules adopted by the board of medicine pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code.
  - (c) To recommend findings respecting matters coming before it or before any hearing committee or authorized hearing officer acting on its behalf, and to recommend conclusions and orders for the consideration of the board dispositive of such proceedings. The committee may make recommendations for the consideration of the board and the board is authorized to enter appropriate orders and take appropriate action including, without limitation, disciplinary orders as provided by Idaho Code respecting misconduct or other grounds for discipline respecting any licensed physician and surgeon licensed to practice medicine and surgery in the state of Idaho, which authority shall, for good cause shown, include the power to suspend, restrict, condition, limit or revoke the license or present or future right or privilege to practice medicine of any physician, surgeon or other person licensed or purporting to be qualified or authorized to practice medicine and surgery in the state of Idaho.
  - (d) To recommend that the board reprimand by informal admonition any licensed physician and surgeon respecting any matter it finds is minor misconduct. Such reprimand shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
  - (e) To recommend that the board accept the resignation and surrender of license of any physician and surgeon under investigation or prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interest of the public and of justice.
  - (f) To recommend that the board order, for good cause, nondisciplinary suspension or transfer to inactive status of any licensed physician and surgeon incapacitated by illness, senility, disability, or addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this subparagraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled physicians whether heretofore or hereafter enacted by the legislature of the state of Idaho but rather shall be construed as complementary thereto.

- (g) To recommend that the board provide by order for reciprocal discipline in cases involving the discipline of a licensed physician and surgeon disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled to appear and show cause why such order should not apply in his or her case.
- (h) To recommend that the board adopt rules to provide for and permit the committee to conduct informal proceedings to encourage fair and expeditious disposition of business, complaints and matters properly coming before it.
- (7) Openness. All formal hearings conducted by the board or by the committee under the board's direction and control shall be open to the public. Formal dispositions or other formal actions taken by the board under sections 54-1806 and 54-1806A, Idaho Code, also shall be public. Proceedings, studies and investigations which do not result in formal hearings, formal dispositions or other formal actions by the board shall be conducted in private and shall remain confidential.
- (8) Voluntary Restriction of Licensure. A physician may request in writing to the board or the committee a restriction of his license to practice medicine and the board is authorized to grant such request and, if it deems it appropriate to do so, to attach conditions to the licensure of the physician to practice medicine. The board is also authorized in such cases thereafter to waive the commencement of proceedings under this act or other provisions of the medical practice act if in the interest of justice it determines that such voluntary proceedings have rendered the same unnecessary. Removal of a voluntary restriction on or suspension of licensure to practice medicine shall be subject to the procedures for reinstatement elsewhere in this act, in the medical practice act or by rule of the board; provided also, such reinstatements may be subject to further conditions specially imposed in the individual case as a condition of the order entered therein.
- (9) Adjudication of Discipline or Exoneration. The board shall make a determination of the merits of all proceedings, studies and investigations and, if grounds therefor are found to exist, may issue its order:

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

If grounds for any of the foregoing are not found to exist, the board shall enter its order so stating and dismissing the proceedings and shall provide the respondent and, if there be one, the complainant or petitioner in the proceedings a true copy thereof.
- (10) Temporary Suspension or Restriction Pending Final Order. The board may temporarily suspend or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on verified petition of any person, pending further or final order, without prior hearing, simultaneously with or at any time after the institution of proceedings under this chapter, but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, or determined by it in reliance upon other reliable proof, is causing great harm to the public or to any patient or group of patients, or is imminently likely to cause such harm, for which reason he or she and his or her license to practice medicine should be immediately suspended or restricted or he or she should be specially controlled, suspended in or restricted from the practice of medicine. In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings. Thereafter the physician may, for good cause,

request dissolution or amendment of any such temporary order by petition filed with the board, which petition shall be set for prompt hearing before the board or a designated hearing officer or special committee appointed by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendations. The board, consistent with due process and the rules adopted by the board pursuant to the administrative procedure act, chapter 52, title 67, Idaho Code, shall rule on such petition for dissolution or amendment with the least amount of delay reasonably possible. Neither the record of the proceeding nor any order entered therein may be used against the respondent physician in any other legal proceeding except upon judicial review as provided elsewhere herein.

- (11) **Judicial Review.** All final decisions by the board shall be subject to judicial review pursuant to the procedures of the administrative procedure act, chapter 52, title 67, Idaho Code.
- (12) **Protected Action and Communication.** There shall be no liability on the part of and no action for damages against:
- (a) Any member of the board, the committee on professional discipline or the staff or officials thereof for any action undertaken or performed within the scope of the functions of the board or the committee under this chapter when acting without malice and in the reasonable belief that such action is warranted; or
  - (b) Any person providing information or testimony to the board, the committee, or their staff or officials without malice and in the reasonable belief that such information is accurate.

**SECTION 142.** That Section 54-1820, Idaho Code, be, and the same is hereby amended to read as follows:

**54-1820.**

Access to records. All papers, records, correspondence, communications and proceedings of the Idaho state board of medicine shall be open and public except as otherwise provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 143.** That Section 54-1837, Idaho Code, be, and the same is hereby amended to read as follows:

**54-1837. Proceedings.**

- (a) The board may proceed against a physician under this act by serving upon such physician at least fifteen (15) days' notice of a time and place fixed for a hearing, together with copies of the examining committee's report and diagnosis. Such notice and reports shall be served upon the physician either personally or by registered or certified mail with return receipt requested.
- (b) At said hearing the physician shall have the right to be present, to be represented by counsel, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the board.
- (c) At the conclusion of the hearing, the board shall make a determination of the merits and, if grounds therefor are found to exist, may issue an order imposing one or more of the following:
  - (1) Make a recommendation that the physician submit to the care, counseling, or treatment by physicians acceptable to the board; or
  - (2) Suspend or restrict the license of the physician to practice medicine for the duration of his impairment; or
  - (3) Revoke the license of the physician to practice medicine; andif grounds are not found to exist, the board shall enter its order so stating, shall dismiss the proceedings and shall provide the respondent a true copy thereof.
- (d) The board may temporarily suspend or restrict the license of any physician or enter an appropriate order of temporary probation, ex parte, on its own motion or on petition of the examining committee, pending

further or final order without prior hearing, simultaneously with or at any time after the institution of proceedings for a hearing under this section, but only if it first finds, on the basis of a responsible showing which satisfactorily demonstrates that the physician, in his capacity as such and for reasons set forth by petition, affidavit, or other verified showing, is causing great harm to the public, or to any patient or group of patients, or is likely to cause such harm and therefore should be immediately suspended, restricted or specially controlled in or from the practice of medicine.

- (1) In such cases, the board may summarily, and ex parte, order temporary conditions of probation, suspension or restriction of said physician and his or her license and authority to practice medicine in the state of Idaho, pending further or final order in the proceedings.
- (2) In cases of extreme emergency the board may enter said temporary order under this section without prior referral to or recommendation from the examining committee.
- (3) In cases in which the examining committee first determines that such temporary suspension, restriction or probation of such physician is necessary and in the public interest pending the final conclusion of proceedings or further order, it shall so recommend to the board, and the board, if it finds that the evidence in support of such determination and recommendation is clear and convincing and that the physician's continuation in the practice would constitute an imminent danger to public health and safety or pose a threat or menace of the kind hereinabove specified, may, in its discretion, enter an order in keeping with the recommendation of the examining committee or provide such modifications, conditions or orders as it deems appropriate.
- (4) The physician may, for good cause, request dissolution or amendment of any such temporary order by petition filed with the board, which petition shall be set for prompt hearing before the board or, if necessary and on request of the physician in the interest of early consideration, before a hearing officer or special committee designated by the board for that purpose, which officer or committee shall forthwith hear said matter and report to the board its report and recommendation. The board, consistent with due process, shall rule with the least amount of delay reasonably possible.
- (e) Neither the record of the proceeding nor any order entered against a physician may be used against him in any other legal proceeding except upon judicial review as provided herein, it being the intent and purpose of this act that all evidence, testimony, showings and proceedings are subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, but not to be used in criminal or civil proceedings concerning the subject physician.

**SECTION 144.** That Section 54-2080, Idaho Code, be, and the same is hereby amended to read as follows:

**54-2080.**

Records -- Disclosure to public. Records kept in the office of the commission under authority of this chapter and chapter 18, title 55, Idaho Code, shall be open to public inspection as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 145.** That Section 54-2118, Idaho Code, be, and the same is hereby amended to read as follows:

**54-2118.**

Violations of chapter -- Remedies and penalties. In addition to the disciplinary actions set forth in section 54-2115, Idaho Code:

**(1) Administrative actions.**

- (a) Any person violating the provisions of this chapter, or violating a rule promulgated by the board to implement the provisions of this chapter may be fined by the board or its duly authorized agent not more than five thousand dollars (\$ 5,000) for each offense and shall be liable for investigatory expenses and reasonable paralegal and attorney's fees, and provided that each act on each day of violation shall constitute a separate offense. Imposition of a fine may be made in conjunction with any other board administrative action. No fine may be assessed unless the person charged was

given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act. If a person fined fails to fully pay the fine, investigatory expenses or reasonable paralegal and attorney's fees, the board may recover such amount by action in the appropriate district court.

(b) Notwithstanding the provisions of subsection (1)(a) of this section, any person who has violated the recordkeeping or continuing education requirements imposed by this chapter or the rules of the board may, in lieu of disciplinary proceedings under this chapter or the Idaho administrative procedure act, elect to pay the board a civil penalty to be determined by the board, or its authorized agent, in an amount between five hundred dollars (\$ 500) and one thousand dollars (\$ 1,000), under the following terms and conditions:

- (i) The person must not have been disciplined by the board for any reason within the past five (5) years;
- (ii) The person must not have previously elected to pay a penalty under this section;
- (iii) The person is not currently on probation by the board;
- (iv) The person is not currently under investigation by the board for an offense other than the recordkeeping or continuing education violation; and
- (v) The person must fully comply with the board's instructions on remedying the recordkeeping or continuing education violation.

Upon successful completion of the above terms and conditions and payment of the civil penalty, the violation shall not be considered "discipline," shall not be reported to any national disciplinary database, and documents and records related to the violation shall be exempt from disclosure under ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

- (2) Civil court proceedings. The board, the attorney general's office, a county prosecuting attorney or any citizen of this state may bring an action in the district court of either Ada county or any county where a violation is occurring, to enjoin any person from practicing veterinary medicine or practicing as a certified veterinary technician, certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit or temporary certification. If the court finds that the person is violating the provisions of this chapter, it shall enter an injunction restraining that person from such unlawful acts.
- (3) Criminal actions. Any person who practices veterinary medicine, any person practicing as a certified veterinary technician, a certified euthanasia technician or any agency operating as a certified euthanasia agency without a currently valid, active license, certification, temporary permit or temporary certification shall be guilty of a misdemeanor and upon conviction or withheld judgment shall be fined not less than one hundred dollars (\$ 100), nor more than ten thousand dollars (\$ 10,000), or incarcerated for no more than one hundred eighty (180) days, or both fined and incarcerated, and provided that each act of such unlawful practice shall constitute a distinct and separate offense.
- (4) The remedies set forth in this section are not mutually exclusive and a successful action on any one (1) remedy does not preclude action on some or all of the other remedies.

**SECTION 146.** That Section 54-2221, Idaho Code, be, and the same is hereby amended to read as follows:

**54-2221.**

Disciplinary actions -- Penalties. The board may, upon proof that a person has violated any provision contained in this chapter, take the following disciplinary actions singly or in combination:

- (1) Issue a censure or reprimand by informal admonition for minor misconduct found by the board, which censure or reprimand shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code;

- (2) Impose restrictions and/or conditions as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served. The board may require a licensee to report regularly to the board on matters regarding the restricted license;
- (3) Suspend a license, the duration of which shall be determined by the board;
- (4) Revoke a license;
- (5) Refuse to issue or renew a license;
- (6) Impose a reasonable fine for violation of this chapter in an amount not to exceed a maximum amount as set forth in the administrative rules adopted by the board;
- (7) Accept a voluntary surrender of a license;
- (8) Assess costs and attorney's fees against a licensee for any investigation and/or administrative proceeding.

**SECTION 147.** That Section 54-2601, Idaho Code, be, and the same is hereby amended to read as follows:

**54-2601. Declaration of policy and purpose of act -- Idaho State Plumbing Code.**

- (1) The purpose of this act is to provide certain minimum standards and requirements for the use of and the design, construction, installation, improvement, extension and alteration of materials, piping, venting, fixtures, appliances and appurtenances in relation to plumbing and plumbing systems hereinafter defined, and to provide that all plumbing and plumbing systems in the state shall be designed, constructed, installed, improved, extended and altered in substantial accord with the uniform plumbing code published by the international association of plumbing and mechanical officials, and as it shall be amended, revised, compiled and published from time to time and as subsequent editions, amendments or revisions thereto shall be adopted by the Idaho plumbing board through the negotiated rulemaking process. Any amendments, revisions or modifications made to the uniform plumbing code by the board shall be made by administrative rules promulgated by the board. The uniform plumbing code together with any amendments, revisions or modifications made by the board shall collectively constitute and be named the Idaho state plumbing code. The board shall conduct a minimum of two (2) public hearings with notice of such public hearings provided in accordance with the provisions of section ~~67-2343~~ **74-204**, Idaho Code.
- (2) Cities electing to implement a plumbing code enforcement program shall do so only in compliance with the provisions of this section. Cities may elect to implement a plumbing enforcement program by passing an ordinance evidencing the intent to do so. Cities that perform plumbing code enforcement activities shall, except as provided in subsection (3) of this section, by ordinance adopt the uniform plumbing code together with any amendments thereto made by the board, which shall collectively constitute and be named the Idaho state plumbing code. The effective date of any edition of the code adopted by the board shall be January 1 of the year following its adoption.
- (3) Cities may further amend the Idaho state plumbing code adopted by the board in conformance with this section to address local concerns provided that such amendments prescribe at least an equivalent level of protection to that contained in the uniform plumbing code. Provided however, that no code other than the uniform plumbing code together with any amendments, revisions or modifications made by the board which collectively constitute the Idaho state plumbing code may serve as the minimum standard for plumbing installations in such city. A city electing to amend the Idaho state plumbing code as adopted by the board may do so only after a finding by the city that good cause exists for such an amendment and that such amendment is reasonably necessary. Prior to making a finding of good cause for such an amendment, the city shall conduct a public hearing. Notice of the time and place of the public hearing shall be published in the official newspaper or paper of general circulation within the city. Written notice of such public hearing and the text of the proposed amendment shall be given by the city to the board not less than thirty (30) days prior to such hearing.



- (4) The remaining provisions of this act shall not apply, except as hereinafter provided, to cities if such cities enact ordinances or codes prescribing the Idaho state plumbing code and amendments it may make thereto in accordance with this section for all plumbing installations which shall be considered the equal minimum standards, and requirements including the enforcement thereof as provided by this act.

**SECTION 148.** That Section 54-3204, Idaho Code, be, and the same is hereby amended to read as follows:

**54-3204.**

Board -- Powers and Duties. The board shall have the following powers and duties:

- (1) Adopt and amend rules to administer and carry out the provisions of this chapter and for the conduct of its affairs, provided that such rules shall be promulgated in accordance with the provisions of chapters 26 and 52, title 67, Idaho Code;
- (2) Maintain a list of the names and addresses of all persons licensed under this chapter;
- (3) At its discretion, contract with the bureau of occupational licenses for those services deemed necessary for the proper administration of this chapter;
- (4) To prescribe by rule the minimum amount and kind of continuing education to be required of each social worker seeking to renew a license in the state of Idaho;
- (5) To establish by rule an inactive license status;
- (6) To take such action as may be necessary to enforce the provisions of this chapter and to regulate the practice of social work;
- (7) To review the practice of a social worker licensed pursuant to this chapter who is the subject of a complaint regarding a potential violation of the provisions of this chapter. This review may include client records, notes of the license holder and other materials related to the practice. The review will remain subject to nondisclosure according to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, unless the written consent of the client is received by the board;
- (8) To establish by rule the standards and requirements for the use of communication technology in the practice of social work, including supervision.

**SECTION 149.** That Section 54-3404, Idaho Code, be, and the same is hereby amended to read as follows:

**54-3404.**

Idaho state licensing board of professional counselors and marriage and family therapists -- Powers. The board shall have the following powers:

- (1) To regulate the practice of professional counselors, clinical professional counselors, associate marriage and family therapists and marriage and family therapists in the state of Idaho.
- (2) To pass upon the qualifications and fitness of applicants for licenses and to adopt rules requiring annual continuing education as a condition for the renewal of licenses issued under this chapter.
- (3) To adopt and from time to time revise such rules as may be necessary to carry into effect the provisions of this chapter. Such rules shall include, but not be limited to, a code of ethics for professional counselors and a code of ethics for marriage and family therapists in the state, which shall be adopted in compliance with chapter 52, title 67, Idaho Code.
- (4) To review the practice of professional counselors, clinical professional counselors, associate marriage and family therapists and marriage and family therapists licensed under this chapter and charged with a violation of the provisions of this chapter. This review may include the notes of the license holder and other materials related to the practice. The review will remain subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, unless the written consent of the client is received by the board.

- (5) To establish a peer review system whereby each license holder's practice may be reviewed to ensure continuing practice in an appropriate and ethical manner.
- (6) To examine for, deny, approve, issue, revoke, suspend and renew the licenses of applicants pursuant to this chapter, and to conduct hearings in connection therewith.
- (7) To conduct hearings to suspend or revoke licenses for violations of the law and rules adopted pursuant to this chapter and cause the prosecution and enjoinder of all such violations.
- (8) In any proceeding before the board authorized by this chapter, the board or its designee may administer oaths or affirmations to witnesses appearing before it.
- (9) To authorize, by written agreement, the chief of the bureau of occupational licenses as agent to act in its interest.
- (10) To provide, by rule, licensed professional counselor, licensed clinical professional counselor, licensed associate marriage and family therapist and licensed marriage and family therapist specialty standards.
- (11) To establish by rule the standards and requirements for the use of communication technology in the practice of counseling and marriage and family therapy, including supervision.

**SECTION 150.** That Section 54-3913, Idaho Code, be, and the same is hereby amended to read as follows:

**54-3913. Board of medicine and board of athletic trainers -- Powers and duties.**

- (1) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications and fitness of applicants, and approve the applications for licensure under this chapter, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The board of athletic trainers shall evaluate all applicants for qualification and fitness for licensure and make recommendations to and consult with the board concerning issuance of licenses, revocation of licenses and rules to be promulgated under this chapter.
- (2) The board shall, upon recommendation of the board of athletic trainers, adopt rules pursuant to chapter 52, title 67, Idaho Code, relating to professional conduct to carry out the policy of this chapter including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice, disciplinary proceedings, refusal to renew license proceedings, license suspension proceedings, or license revocation proceedings for persons licensed to practice as an athletic trainer in this state.
- (3) The board of athletic trainers shall hold meetings, conduct hearings and keep records and minutes as are necessary to carry out its functions.
- (4) Every person licensed as an athletic trainer in Idaho shall be subject to discipline pursuant to the powers set forth in this chapter and the rules of the board of medicine promulgated pursuant thereto. The board of athletic trainers shall have no authority to impose sanctions or limitations or conditions on licenses issued under this chapter and shall be authorized only to make recommendations to the board with respect thereto. Members of the board of athletic trainers shall disqualify themselves and, on motion of any interested party, may on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service.
- (5) In addition to its other powers, the board of athletic trainers shall be empowered and authorized:
  - (a) To recommend that the board reprimand by informal admonition any licensed athletic trainer respecting any matter it finds is minor misconduct. Such reprimand shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.
  - (b) To recommend that the board order, for good cause, nondisciplinary suspension or transfer to inactive status of any licensed athletic trainer incapacitated by illness, senility, disability, or

addiction to drugs, intoxicants or other chemical or like substances, and to provide terms and conditions therefor, including provisions and conditions controlling reinstatement and any request therefor; provided, this paragraph shall not be construed to amend or repeal specific legislation expressly dealing with disabled athletic trainers whether heretofore or hereafter enacted by the legislature of the state of Idaho, but rather shall be construed as complementary thereto.

- (c) To recommend that the board accept the resignation and surrender of the license of any athletic trainer under investigation or prosecution who tenders the same, and to impose terms and conditions in connection therewith as it may deem appropriate in the best interests of the public and of justice.
- (d) To recommend that the board provide by order for reciprocal discipline in cases involving a licensed athletic trainer or applicant disciplined in any other jurisdiction, provided that such licensee or applicant shall be entitled to appear and show cause why such order should not apply in his or her case.
- (e) To recommend that the board provide for reasonable fees through rules for administrative costs and assess costs reasonably and necessarily incurred in the enforcement of this chapter when a licensee or applicant has been found to be in violation of this chapter.

**SECTION 151.** That Section 54-4603, Idaho Code, be, and the same is hereby amended to read as follows:

**54-4603. Patient access to provider information.**

- (1) Each person who applies for initial licensure or registration as a provider must, at the time of licensure or registration, and each provider who applies for license or registration renewal must, in conjunction with the renewal of a license or registration, and under procedures which shall be adopted by the board, and in addition to any other information that may be required from the applicant, furnish the following information to the board:
  - (a) Names and addresses of medical/professional schools or other institutions of higher learning that provider attended, including any graduate education, and dates of graduation;
  - (b) Speciality certifications that are recognized by the board;
  - (c) Appointments to faculty of any medical/professional school and indication whether provider has had a responsibility for graduate education within the most recent ten (10) years (optional);
  - (d) Location and type of practice for the most recent ten (10) years;
  - (e) Current location of provider's primary practice setting, and if more than one (1) setting, the approximate percentage of time spent at each location;
  - (f) The hospital(s) that serves as the provider's primary admitting facility and at which the provider has active clinical privileges in good standing;
  - (g) Disclosure of whether the provider participates in medicaid and medicare programs (but not necessarily accepting new patients), or has ever been barred from participation in either program;
  - (h) Disclosure of any translating services that may be available at the provider's practice location(s) (optional);
  - (i) Description of any criminal convictions for felonies or other crimes of moral turpitude within the most recent ten (10) years. For purposes of this subsection, a person shall be deemed convicted of a crime if he pled guilty or if he was found or adjudged guilty by a court of competent jurisdiction;
  - (j) Description of any final board disciplinary actions within the most recent ten (10) years that are considered to be public in accordance with the provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code;

- (k) Description of any final disciplinary actions by a board from any other state including, but not limited to, revocation or suspension of license, within the most recent ten (10) years;
- (l) Description of revocation or involuntary restriction of hospital privileges, or a reduction in credentialing for more than one hundred eighty (180) days, from any state, for reasons related to competence or character, that have been taken by a hospital's governing body or any other official of a hospital after procedural due process has been afforded; or the resignation from or nonrenewal of a medical staff membership, or the restriction of privileges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital, within the most recent ten (10) years;
- (m) Whether the provider carries professional malpractice insurance, and if not, has ever been denied malpractice insurance;
- (n) Disclosure of all malpractice court judgments and all malpractice arbitration awards in which a payment was awarded to a complaining party during the most recent ten (10) years. Pending malpractice claims shall not be disclosed by the board to patients; however, nothing herein shall be construed to prevent the board from investigating and disciplining a provider on the basis of pending malpractice claims.
- (o) Disclosure of settlements of professional malpractice claims within the most recent five (5) years of continuous practice;

  - (i) Providers need only disclose malpractice settlements if there have been five (5) or more settlements in the most recent five (5) years of continuous practice, of fifty thousand dollars (\$ 50,000), or more, per settlement, or if there have been more than ten (10) settlements within the most recent five (5) years of continuous practice of any dollar amount;
  - (ii) Settlements that result solely in an adjustment to the fee charged for a provider's services shall not be disclosed pursuant to this chapter;
  - (iii) Information concerning all settlements shall be accompanied by the following statement:  
"Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of a provider. A payment in settlement of a malpractice action or claim should not be construed as creating presumption that malpractice has occurred. Malpractice histories tend to vary by speciality. Some specialities are more likely than others to be the subject of litigation.";
  - (iv) Nothing herein shall be construed to limit or prevent the board from providing further explanatory information regarding settlements;
- (p) Percentage of ownership interest provider has in other health facilities, laboratories, equipment or therapy, except for ownership interest in the primary practice business, to which the provider's patients are, have been, or may be referred.
- (2) Each profile submitted by a provider must include a statement, signed under oath, by the provider attesting to the correctness and completeness of the information contained in the profile.
- (3) The board shall not be held liable for the correctness or completeness of the information contained in the provider profiles, and shall include a disclaimer statement on all released profiles, attesting to the self-reporting nature of the program, and that the information has not been verified by the board.
- (4) The board shall, at the time of issuing a new license or registration, or in conjunction with license or registration renewal, collect and maintain the information required in this chapter, as submitted by the provider, for the purpose of creating individual profiles on providers that shall be made available to the public as provided in this chapter.
- (5) No state law that would otherwise prohibit, limit, or penalize disclosure of information about a provider shall apply to disclosure of information required by this chapter.

- (6) If a provider fails to comply with the provisions of this chapter with full and truthful disclosure of information to the board within the time specified by the board, the board may:
- (a) Fine the provider up to fifty dollars (\$ 50.00) for each day that the provider is not in compliance with the provisions of this chapter;
  - (b) Take any other disciplinary action it deems appropriate, except the board may not revoke, suspend, refuse to issue or refuse to renew a provider's license or registration solely because the provider failed to comply with the provisions of this chapter.

**SECTION 152.** That Section 56-209j, Idaho Code, be, and the same is hereby amended to read as follows:

**56-209j. Substance abuse screening and testing programs.**

- (1) The department of health and welfare shall develop for implementation in fiscal year 2001, a program to screen each applicant who is otherwise eligible for temporary cash assistance provided under this chapter, and to subject to testing any applicant or participant who the department has reasonable suspicion to believe, based on the screening or other factors, is at risk of substance abuse.
- (2) Prior to the first regular session of the fifty-sixth Idaho legislature, the department shall promulgate the necessary rules, pursuant to chapter 52, title 67, Idaho Code, to govern substance abuse screening and testing for TAFI programs. Rules shall, at a minimum:
  - (a) Specifically address the confidentiality of the screening and test results, and provide that individual results are protected under section ~~9-340C~~ 74-106 (6), Idaho Code, and are not subject to disclosure except to an evaluating or treating substance abuse program, and cannot be released for use in any criminal investigation or proceeding;
  - (b) Provide notice of screening and testing requirements to each applicant at the time of application. The notice must, at a minimum, advise the applicant that substance abuse screening and possible testing will be conducted as a condition for receiving temporary assistance or services under this chapter. The applicant shall be advised that the required screening and possible testing may be avoided if the applicant does not apply for or receive assistance or services. The screening and testing program is not applicable in child only cases;
  - (c) Develop procedures for substance abuse screening and testing of applicants for and recipients of temporary assistance or services under the TAFI program;
  - (d) Provide a procedure to advise each person to be tested, before the test is conducted, that he or she may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication he or she is taking;
  - (e) Require each person to be tested to sign a written acknowledgment that he or she has received and understood the notice and advice provided under paragraphs (a) and (d) of this subsection;
  - (f) Provide a procedure to assure each person being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state's need to ensure the reliability of the sample;
  - (g) Specify circumstances under which a person who tests positive has the right to take one (1) or more additional tests;
  - (h) Provide a procedure for appealing the results of a test by a person who tests positive, and denial of TAFI services or benefits;
  - (i) Provide a definition for reasonable suspicion and high risk;
  - (j) Delineate the substances which will be screened;
  - (k) Establish outcome measures which can substantiate program effectiveness.

**SECTION 153.** That Section 56-221, Idaho Code, be, and the same is hereby amended to read as follows:

**56-221.**

Confidential character of public assistance records. The rule-making power of the state department shall include the power to establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state department. Wherever, under provisions of law, names and addresses of recipients of public assistance are furnished to or held by any state or county official, the names and addresses shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code; but any exemption from disclosure shall not prevent the furnishing to a state or local law enforcement officer, upon his written request, with the current address of any AFDC recipient if the officer furnishes the state department with such recipient's name and social security account number and proof that such recipient is a convicted fugitive felon or an indicted fugitive felon, or a person for whom a fugitive warrant has been issued, and that the location or apprehension of such felon or person is within the officer's official duties, and that the request is made in the proper exercise of those duties.

**SECTION 154.** That Section 56-231, Idaho Code, be, and the same is hereby amended to read as follows:

**56-231.**

Public assistance in locating and determining the financial resources of parents and other persons liable for support of dependents. To assist in locating and determining the financial resources of parents who have deserted their children and other persons liable for support of dependents, the department of health and welfare and county prosecuting attorneys may request and shall receive information from the records of all departments, boards, bureaus or other agencies of this state, and may request and may receive information from businesses and financial entities; and the same are authorized to provide such information as is necessary for this purpose, notwithstanding any provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, making the information exempt from disclosure. There shall be no legal sanctions imposed against a business or financial entity which refuses to provide requested information, unless the business or financial entity has been served with a subpoena requesting the information. Only information directly bearing on the identity, financial resources, and whereabouts of a person owing or asserted to be owing an obligation of support shall be requested and used or transmitted by the department of health and welfare and county prosecuting attorneys pursuant to the authority conferred by this act. The department of health and welfare and county prosecuting attorneys may make such information available only to public officials and agencies of this state, other states and the political subdivisions of this state and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents for the purpose of enforcing their liability for support.

**SECTION 155.** That Section 57-133B, Idaho Code, be, and the same is hereby amended to read as follows:

**57-133B.**

Unlawful disclosure of information relating to designated depositories -- Penalty. Any information obtained from any designated depository by the treasurer of a depositing unit shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, provided that federal or state examiners shall have a lawful right to examine said designated depository or to proper officials legally empowered to investigate criminal charges relating to said designated depository shall have a right to examine said depository. Any public official who violates any provision of this section by improperly disclosing information shall forfeit his office or employment and shall also be guilty of a felony. Any person who is not lawfully entitled to such information and who attempts to obtain such information illegally or who misuses such information as he may have obtained shall be guilty of a felony.

**SECTION 156.** That Section 57-911, Idaho Code, be, and the same is hereby amended to read as follows:

**57-911. Public records -- Locations.**



- (1) Records, with regard to the ownership of or security interests in registered public obligations shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
- (2) Registration records of the issuer may be maintained at such locations within or without this state as the issuer shall determine.

**SECTION 157.** That Section 58-126, Idaho Code, be, and the same is hereby amended to read as follows:

**58-126.**

Information regarding state lands. Information concerning the selection or appraisal of any state lands, or the timber thereon, or any information in regard to such land shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 158.** That Section 59-1316, Idaho Code, be, and the same is hereby amended to read as follows:

**59-1316. Member's retirement records confidential.**

- (1) Each member shall furnish the board with such information as the board shall deem necessary for the proper operation of the system. As provided in section ~~9-340C~~ 74-106 , Idaho Code, information contained in the retirement system mortgage portfolio loan documents and in each member's retirement system records is confidential and may not be divulged except as ordered by a court; or except as may be required by the employer member or by the retirement board and its staff in order to carry into effect the purposes of this chapter.
- (2) A member may by his written authorization release specific information from his own retirement system records to a stated designee. If the member is deceased, the member's contingent annuitant or beneficiary may, by written authorization, release specific information from the member's retirement system records to a stated designee.
- (3) The retirement system may disclose the identity of a deceased member's beneficiary to the member's spouse, children, and to the court-appointed administrator of the member's estate.
- (4) Should a court order direct distribution or partial distribution of a member's benefit as defined in either chapter 13, title 59, Idaho Code, or chapter 14, title 72, Idaho Code, to the member's spouse or former spouse, the system may release to the spouse, former spouse, or the court issuing the order, information pertaining to the division or segregation of the member's accounts or benefit. This information includes account balances, service accumulations, and related information and histories, but does not include current addresses and phone numbers. The system may release the same information to a member's current spouse at any time, regardless of whether a court has ordered a distribution or division of the member's account.

**SECTION 159.** That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

**63-602G. Property exempt from taxation -- Homestead.**

- (1) During the tax year 2006 and each year thereafter, subject to annual adjustment as provided herein, the first seventy-five thousand dollars (\$ 75,000) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, or fifty percent (50%) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, whichever is the lesser, shall be exempt from property taxation. Beginning for tax year 2007, the state tax commission shall publish adjustments to the maximum amount subject to property tax exemption to reflect cost-of-living fluctuations. The adjustments shall effect changes in the amount subject to tax exemption by a percentage equal as near as practicable to the annual change in the Idaho housing price index as determined by the United States office of federal housing enterprise oversight. The state tax commission shall publish the adjustments required by this subsection each and every year the office of federal housing enterprise oversight announces a change in the Idaho

housing price index. The adjustments shall be published no later than October 1 of each year and shall be effective for claims filed in and for the following property tax year. The publication of adjustments under this subsection shall be exempt from the provisions of chapter 52, title 67, Idaho Code, but shall be provided to each county and to members of the public upon request and without charge.

**(2)** The exemption allowed by this section may be granted only if:

- (a)** The homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The homestead may consist of part of a multidwelling or multipurpose building and shall include all of such dwelling or building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in a homestead, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and
  - (b)** The state tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and
  - (c)** The owner has certified to the county assessor by April 15 that:
    - (i)** He is making application for the exemption allowed by this section;
    - (ii)** The homestead is his primary dwelling place; and
    - (iii)** He has not made application in any other county for the exemption, and has not made application for the exemption on any other homestead in the county.
  - (d)** For the purpose of this section, the definition of "owner" shall be the same definition set forth in section 63-701(7), Idaho Code.  
 When an "owner," pursuant to the provisions of section 63-701(7), Idaho Code, is any person who is the beneficiary of a revocable or irrevocable trust, or who is a partner of a limited partnership, a member of a limited liability company, or shareholder of a corporation, he or she may provide proof of the trust, limited partnership, limited liability company, or corporation in the manner set forth in section 63-703(4), Idaho Code.
  - (e)** Any owner may request in writing the return of all copies of any documents submitted with the affidavit set forth in section 63-703(4), Idaho Code, that are held by a county assessor, and the copies shall be returned by the county assessor upon submission of the affidavit in proper form.
  - (f)** For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(8), Idaho Code.
  - (g)** For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(6), Idaho Code.
- (3)** An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:
- (a)** The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.
  - (b)** The owner or beneficiary, partner, member or shareholder, as appropriate, still occupies the same homestead for which the owner made application.
  - (c)** The homestead described in subsection (3)(b) of this section is owner-occupied or occupied by a beneficiary, partner, member or shareholder, as appropriate, and used as the primary dwelling place of the owner or beneficiary, partner, member or shareholder, as appropriate, as of January 1; provided however, that in the event the homestead is owner-occupied after January 1, but before April 15, the owner of the property is entitled to the exemption.

- (4) The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.
- (5) Recovery of property tax exemptions allowed by this section but improperly claimed or approved:
- (a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed or approved, the county assessor shall decide whether the exemption claimed should have been allowed, and if not, notify the taxpayer in writing, assess a recovery of property tax and notify the county treasurer of this assessment. If the county assessor determined that an exemption was improperly approved as a result of county error, the county assessor shall present the discovered evidence, facts or circumstances from the improperly approved exemption to the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.
  - (b) When information indicating that an improper claim for the exemption allowed by this section is discovered by the state tax commission, the state tax commission may disclose this information to the appropriate county assessor, board of county commissioners and county treasurer. Information disclosed to county officials by the state tax commission under this subsection may be used to decide the validity of any entitlement to the exemption provided in this section and is not otherwise subject to public disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
  - (c) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning the date the assessment notice reflecting the improperly claimed or approved exemption was required to be mailed to the taxpayer.
  - (d) The taxpayer may appeal to the county board of equalization the decision by the county assessor to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section. The board may waive the collection of all or part of any costs, late charges and interest, in order to facilitate the collection of the recovery of the property tax.
  - (e) For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to a maximum of seven (7) years. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year.
  - (f) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.
  - (g) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.
  - (h) Thirty (30) days after the taxpayer is notified, as provided in subsection (5)(a) of this section, the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in subsection (5)(i) of this section, or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days of receiving such payment or within seven (7) business days of the county board of equalization decision granting the appeal. If the real property is sold to a bona fide purchaser for value, prior to the recording of the notice of the intent to attach a lien, the county assessor and treasurer shall cease the recovery of such unpaid recovered property tax.

- (i) Any unpaid recovered property taxes shall become a lien upon the real property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section.
- (j) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.
- (6) The legislature declares that this exemption is necessary and just.
- (7) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to: the owner's, beneficiary's, partner's, member's or shareholder's absence in the current year by reason of active military service, or because the homestead has been leased because the owner, beneficiary, partner, member or shareholder is absent in the current year by reason of active military service. An owner subject to the provisions of this subsection must apply for the exemption with the county assessor every year on or before a deadline date as specified by the county assessor for the county in which the homestead is claimed. If an owner fails to apply on or before the established deadline, the county may, at its discretion, discontinue the exemption for that year.
- (8) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's, beneficiary's, partner's, member's or shareholder's death during the year of the owner's, beneficiary's, partner's, member's or shareholder's death and the tax year immediately following such death provided that the homestead continues to be a part of the owner's, beneficiary's, partner's, member's or shareholder's estate. After such time the new owner shall reapply to receive the exemption pursuant to this section and shall meet the qualification criteria contained in this section.

**SECTION 160.** That Section 63-3029B, Idaho Code, be, and the same is hereby amended to read as follows:

**63-3029B. Income tax credit for capital investment.**

- (1) 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 the sum of:
  - (a) The tax credit carryovers; and
  - (b) The tax credit for the taxable year.
- (2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.
- (3) As used in this section "qualified investment" means certain property which:
  - (a)
    - (i) Is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46(f) of the Internal Revenue Code and is not a motor vehicle under eight thousand (8,000) pounds gross weight; or
    - (ii) Is qualified broadband equipment as defined in section 63-3029I, Idaho Code; and
  - (b) Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and
  - (c) Has a situs in Idaho as determined under subsection (9) of this section.
- (4)

- (a) For qualified investments placed in service in 2003 and thereafter, a taxpayer, other than a person whose rate of charge or rate of return, or both, is regulated or limited according to federal or state law, may elect, in lieu of the credit provided by this section, a two (2) year exemption from all taxes on personal property on the qualified investment. The exemption from personal property tax shall apply to the year the election is filed as provided in this section and the immediately following year. The election provided by this paragraph is available only to a taxpayer whose Idaho taxable income, before application of net operating losses carried back or forward, in the second preceding taxable year in which the investment is placed in service is negative.
- (b) The election shall be made in the form prescribed by the state tax commission and shall include a specific description and location of all qualified investments placed into service and located in the jurisdiction of the assessing authority, a designation of the specific assets for which the exemption is claimed, and such other information as the state tax commission may require. The election must be made by including the election form with the listing of personal property required by section 63-302, Idaho Code, or, in the case of operating property assessed under chapter 4, title 63, Idaho Code, with the operator's statement required by section 63-404, Idaho Code. Once made the election is irrevocable. If no election is made, the election is not otherwise available. A copy of the election form must also be attached to the original income tax return due for the taxable year in which the claim was made.
- (c) The state tax commission and the various county assessors are authorized to exchange information as necessary to properly coordinate the exemption provided in this subsection. Information disclosed to county officials under this subsection may be used only to determine the validity or amount of a taxpayer's entitlement to the exemption provided in this section, and is not otherwise subject to public disclosure as provided in section ~~9-340D~~ 74-107, Idaho Code.
- (d) In the event that an investment in regard to which the election under this subsection was made is determined by the state tax commission:
  - (i) To not be a qualified investment, or
  - (ii) To have ceased to qualify during the recapture period, or
  - (iii) To be otherwise not qualified for the election,
 the taxpayer shall be subject to recapture of the property tax benefit.
- (e) The benefit to be recaptured in subsection (4)(d) of this section shall be computed in the manner required in subsection (7) of this section and such recapture amount shall be subject to assessment in the same manner as a deficiency in tax under this chapter. For purposes of calculating the recapture, the property tax benefit shall be:
  - (i) In the case of locally assessed property located in a single county or nonapportioned centrally assessed property, the market value of exempted property times the average property tax levy for that county in the year or years for which the exemption was claimed.
  - (ii) In the case of other centrally assessed property and property located in more than one (1) county, the market value of exempted property times the average urban property tax levy of the state as determined by the state tax commission in each of the years for which the exemption was claimed.
- (f) In the event that a recapture of the exemption is required under this subsection (4), the person claiming the exemption shall report the event to the state tax commission in the manner the state tax commission may by rule require. The report shall be due no later than the due date of that person's income tax return under this chapter for the taxable year in which the event occurs. The recapture amount is due and payable with the report. Any amount of recapture not paid is a deficiency within the meaning of section 63-3044, Idaho Code.
- (g) All moneys collected by the state tax commission pursuant to this subsection, which amounts are continuously appropriated for this purpose, shall be deposited with the state treasurer and placed

in the state refund account, as provided by section 63-3067, Idaho Code, to be remitted to the county within which the property was located that was not a qualified investment or ceased to qualify during the recapture period. The county shall distribute this remittance to all appropriate taxing districts based on the proportion each appropriate taxing district's levy is to the total of all the levies of the taxing districts for the tax code area where the property was located for each year the exemption was granted. If any taxing district is dissolved or disincorporated, the proportionate share of the remittance to be distributed to that taxing district shall be deposited in the county current expense fund.

- (h) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection shall be treated as property tax revenue by taxing districts.
- (5) Notwithstanding the provisions of subsections (1) and (2) of this section, the amount of the credit allowed shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.
- (6) If the sum of credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (5) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carryover to the fourteen (14) succeeding taxable years so long as the qualified investment property for which the unused credit was granted otherwise remains a qualified investment as determined under subsection (3) of this section in each of the taxable years during the recapture period. In the case of a group of corporations filing a combined report under section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (5) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.
- (7) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of the recapture period, shall be determined according to the applicable recapture provisions of the Internal Revenue Code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.
- (8) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the Internal Revenue Code shall be disregarded. "Qualified investment" shall not include any amount for which a deduction is allowed under section 168(k) or section 179 of the Internal Revenue Code in computing Idaho taxable income.
- (9) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. The Idaho situs of property must be established by records maintained by the taxpayer which are created reasonably contemporaneously with the use of the property.
- (10) In the case of property used both in and outside Idaho, the taxpayer, electing to claim the credit provided in this section, must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one (1), but only one (1), of the following ways:
  - (a) The amount of each qualified investment in a specific asset shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service;



provided, that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based upon the percentage of use in Idaho during the first ninety (90) days of use of the asset;

(b) The investment in qualified property used both inside and outside Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027, Idaho Code, for the same year.

(11) References to sections 46, 48 and 49 of the "Internal Revenue Code" mean those sections as they existed in the Internal Revenue Code of 1986 prior to November 5, 1990.

**SECTION 161.** That Section 63-3045B, Idaho Code, be, and the same is hereby amended to read as follows:

**63-3045B. Final decisions of the commission.**

- (1) If a taxpayer does not file a protest within the sixty-three (63) day period allowed, the notice of deficiency of the tax commission becomes final on the day following the end of the protest period.
- (2) If a taxpayer files a protest, but does not perfect the protest, request a hearing, or does not submit additional evidence or documentation, or does not request additional time in which to respond, the notice of deficiency of the tax commission becomes final on the twenty-ninth day following the date the tax commission notified the taxpayer that the protest was not perfected, except that the tax commission may reduce the amount of the deficiency during the twenty-nine (29) day period.
- (3) When a perfected protest has been filed, the state tax commission shall, within fourteen (14) days thereof, provide the taxpayer with a written acknowledgement of the protest. After the acknowledgement, a final decision of the tax commission must be rendered within one hundred eighty (180) days from either:
  - (a) A request in writing, in a form prescribed by rules of the tax commission, from the taxpayer for a final decision on that issue; if the taxpayer requests such a decision, the tax commission may refuse to accept additional evidence or documentation or refuse to allow an appearance at any proceeding with the commission or any representative of the commission during such one hundred eighty (180) day period.
  - (b) The conclusion of any hearing pursuant to section 63-3045(2), Idaho Code, and the taxpayer has not requested or received any extension of time to present additional evidence or testimony.
- (4) A final decision may be held in abeyance, notwithstanding the requirements of subsection (3) of this section, with the prior approval in writing of the taxpayer.
- (5) If a final decision of the tax commission is not rendered or the protest is not resolved by compromise, consent or withdrawal of the notice of deficiency determination within the time limits established by subsection (3) of this section, the notice of deficiency shall be null and void ab initio, with prejudice.
- (6) A final decision of the tax commission shall be issued in writing and mailed or served upon the taxpayer within the time limits set forth herein. The final written decision of the tax commission shall, one hundred twenty (120) days after the date of the final written decision, be available for public inspection and copying pursuant to the provisions of section ~~9-338~~ 74-102, Idaho Code, except:
  - (a) The taxpayer's name, address, taxpayer identification number, social security number, permit number, or other identifying information shall be removed from the final written decision of the tax commission that is made available to the public; and
  - (b) Any proprietary or other identifying information contained in the written decision that the taxpayer requests be excised shall be excised by the tax commission in the final written decision made

available to the public. The taxpayer must make such request in writing before ninety-one (91) days have elapsed after the date of the final decision.

- (7) The tax commission shall label each written decision with a unique identification number and shall keep a list containing each decision number and the date of issuance, as excised in accordance with the provisions of this section. A decision shall serve as precedent for the tax commission in future protest determinations unless information excised, court decisions, changes in the Idaho Code, or changes in applicable administrative rules overrule, supersede, modify, distinguish, or otherwise make inapplicable the written decision of the tax commission.

**SECTION 162.** That Section 63-3077, Idaho Code, be, and the same is hereby amended to read as follows:

**63-3077. Information furnished to certain officials.**

- (1) The state tax commission, under such rules as it may prescribe, may disclose tax returns or tax information to:
  - (a) The commissioner of internal revenue of the United States or his delegate or the financial management services of the department of the treasury of the United States; or
  - (b) The proper officer of any state imposing a tax similar to a tax to which this section applies or the multistate tax commission or its delegate or the governing entity of the international fuels tax agreement or its delegate;
 

of any taxpayer making or who may be required to make returns, with the state tax commission or may furnish to such officer or his authorized representative an abstract or copy of any tax return or tax information or any information disclosed by the report of any audit or investigation relating to any taxpayer; but such permission shall be granted or information furnished to such officer or his representatives only if the statutes of the United States or such other state, as the case may be, grant substantially similar privileges to the state tax commission.
- (2) Notwithstanding the provisions of this chapter as to secrecy, any duly constituted committee of either branch of the state legislature shall have the right to inspect returns upon request.
- (3) Nothing in this chapter shall prohibit a taxpayer, or his authorized representative, upon proper identification, from inspecting or obtaining a copy of his own tax returns or tax information or authorizing, in writing, the disclosure of information to a third party.
- (4) Any resident or part-year resident individual taxpayer making an income tax return, shall furnish the state tax commission with the location of any residential property owned by the taxpayer and occupied by the taxpayer as his primary dwelling place on the first day of January of the year following the year to which the tax return relates. The state tax commission is hereby authorized and empowered to deliver to the county assessor of any county of the state of Idaho information relating to a taxpayer's place of residence or domicile. The information may be used by county assessors and boards of equalization to assist in determining the validity of any homeowner's entitlement to the exemption provided in section 63-602G, Idaho Code. Information disclosed to county officials under this subsection may be used only to determine the validity of any homeowner's entitlement to the exemption provided in section 63-602G, Idaho Code, and is not otherwise subject to public disclosure.
- (5) The state tax commission additionally is authorized to utilize any centralized state computer facility.
- (6) Nothing in this section or section 63-3076, Idaho Code, shall require the state tax commission to disclose information not required to be disclosed under the provisions of ~~sections 9-335 through 9-348~~ chapter 1, title 74, Idaho Code, or prevent the state tax commission from disclosing the current validity of any permit or license issued by the state tax commission or information that is otherwise publicly available.

**SECTION 163.** That Section 65-301, Idaho Code, be, and the same is hereby amended to read as follows:

**65-301. Performance without fee -- Services enumerated.**

- (1) Any state, county, city or public officer, or board, or body, acting in his or her or its official capacity on behalf of the state, county, or city, including notaries public, shall not collect, demand or receive any fee or compensation for recording or indexing the discharge papers of any male or female veteran who had active service in any war or conflict officially engaged in by the government of the United States; or for issuing certified copies thereof, or for any service whatever rendered by any such officer or officers, in the matter of a pension claim, application, affidavit, voucher, or in the matter of any claim to be presented to the United States department of veterans affairs or for the purposes of securing any benefits under acts of congress providing pension benefits for honorably discharged veterans of any war, and all acts or parts of acts amendatory thereto, or for furnishing a certified copy of the public record of a marriage, death, birth, divorce, deed of trust, mortgage, or property assessment, or making a reasonable search for the same, wherein the same is to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise provided for by any and all legislation by congress providing pension benefits for honorably discharged veterans of any war.
- (2) Any veteran wishing to record his or her discharge papers may do so with personal identifying information such as date of birth, social security number, home address(es), blood type and other personal identifying information redacted from the document. The name of the veteran may not be redacted from the document.
- (3) Any veteran or surviving spouse of any veteran of the United States armed forces or his or her surviving spouse, attorney, personal representative, executor or court appointed guardian has the right to request that a county recorder remove from the official records any of the following forms recorded before, on or after July 1, 2003, by or on behalf of the requesting veteran: DD-214; DD-215; WD AGO 53; WD AGO 55; WD AGO 53-55; NAVMC 78-PD; and NAVPERS 553. The request must specify the identification page number of the form to be removed. The request shall be made in person and with appropriate identification to allow determination of identity. The county recorder has no duty to inquire beyond the requestor to verify the identity of the person requesting removal. No fee shall be charged for the removal. Any paper and reasonably retrievable electronic likeness, the removal of which will not affect other recorded documents, shall be removed from the record.
- (4) No DD-214, DD-215, WD AGO 53, WD AGO 55, WD AGO 53-55, NAVMC 78-PD, and NAVPERS 553, which is recorded at the request of any veteran of the United States armed forces or his or her surviving spouse, attorney, personal representative, executor or court appointed guardian shall be a public record subject to release by the provisions of ~~sections 9-337 through 9-352~~ chapter 1, title 74, Idaho Code, without the express written consent of one (1) of the above enumerated individuals.
- (5) Nothing in this section shall create or permit any cause of action against a county, county employee or the state of Idaho based upon harm caused by information released from the records of the county.

**SECTION 164.** That Section 66-348, Idaho Code, be, and the same is hereby amended to read as follows:

**66-348.**

Disclosure of information. All certificates, applications, records, and reports made for the purpose of this act and directly or indirectly identifying a patient or former patient or an individual whose involuntary assessment, detention or commitment is being sought under this act shall be kept subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; provided that such records may also be disclosed to any person:

- (1) If the individual identified, his attorney in fact for mental health care, or his legal guardian, if any, shall consent; or
- (2) If disclosure may be necessary to carry out any of the provisions of this act; or

- (3) If a court directs upon its determination that disclosure is necessary and that failure to make disclosure would be contrary to the public interest.

**SECTION 165.** That Section 67-455A, Idaho Code, be, and the same is hereby amended to read as follows:

**67-455A. Committee may acquire and dispose of property.**

- (1) The governor's housing committee may accept grants, gifts or donations of any kind from any private or public source related to the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence.
- (2) The governor's housing committee may acquire real property for purposes related to a governor's residence. Any real property acquired by the governor's housing committee shall be titled in the name of the state of Idaho for the benefit of the governor's housing committee and shall be administered by the department of administration on behalf of and for the benefit of the governor's housing committee. The governor's housing committee may sell such real property by public, private or negotiated sale, exchange, donation or by any other means and may rent a governor's residence and any furnishings and equipment related thereto, as the committee may deem appropriate and prudent. Any real property acquired hereunder shall not be subject to sections 58-331 through 58-335, Idaho Code, relating to surplus real property as the same may now exist or as the same may be amended from time to time. Any sale or disposal of such real property shall not require the reservation to the state of mineral or other rights in the real property.
- (3) The governor's housing committee may acquire personal property for the purpose of remodeling, furnishing, equipping or maintaining a governor's residence. Any personal property acquired by the governor's housing committee shall be the property of the state of Idaho held for the benefit of the governor's housing committee and shall be administered on behalf of the governor's housing committee by the department of administration. The governor's housing committee may dispose of any personal property acquired hereunder by any means as the committee may deem appropriate and prudent and such disposal shall not be subject to section 67-5732A, Idaho Code, relating to surplus personal property, as the same exists or may be amended from time to time.
- (4) The governor's housing committee may acquire and contract for services related to the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence. Notwithstanding any other law to the contrary, the acquisition, construction, remodel, furnishing, equipping or maintenance of a governor's residence shall not be considered public works and shall not be subject to any laws related to public works of the state of Idaho. Notwithstanding any other law to the contrary, the governor's housing committee shall not be subject to the purchasing laws for state agencies provided in chapter 57, title 67, Idaho Code.
- (5) Notwithstanding the provisions of sections 18-1359(1)(d), 18-2705, 58-112, ~~59-201~~ 74-501, ~~59-202~~ 74-503 and 67-5726, Idaho Code, or any other provision of law, an incumbent governor shall not be deemed prohibited from purchasing real or personal property acquired hereunder, and any such purchase shall be valid for all purposes. Insofar as the provisions of this section are inconsistent with the provisions of any other law, general, specific or local, the provisions of this section shall be controlling.
- (6) This section shall apply to all real and personal property acquired pursuant to this section or section 67-455, Idaho Code, before or after the effective date of this section.

**SECTION 166.** That Section 67-461, Idaho Code, be, and the same is hereby amended to read as follows:

**67-461. Conduct of and issuance of performance evaluation reports.**

- (1) In conducting a performance evaluation, the director of legislative performance evaluations shall obtain an overview of the operations of the agency or program.

- (a) The survey phase will develop background information, including roles and identities of key personnel, identify actual and potential financial, managerial and operational problem areas and determine whether and to what extent detailed audit tests may be required in each specific area.
  - (b) In consultation with the agency or program, the director of legislative performance evaluations will develop a performance evaluation work plan.
- (2) Prior to the presentation of any performance evaluation to the committee, the evaluated agency and the governor shall have an opportunity to review the performance evaluation report and issue a response.
  - (a) The response of the agency and the governor to the performance evaluation report shall be included in the final report when it is presented to the committee.
  - (b) All documents, writings and information transmitted pursuant to this subsection shall be deemed confidential and shall not be released to the public prior to the time the committee issues its performance evaluation report pursuant to subsection (3) of this section.
  - (c) Any person violating the provisions of this subsection regarding confidentiality shall be guilty of a misdemeanor.
- (3) The committee shall issue performance evaluation reports, favorable or unfavorable, of any state agency, and such reports shall be a public record except that:
  - (a) Prior to the release of a performance evaluation report or the point at which a performance evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the work papers in the possession of the director of legislative performance evaluations or other entity charged with the preparation of a performance evaluation report shall be confidential and exempt from disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
  - (b) All other records or materials in the possession of the director of legislative performance evaluations or other entity charged with the preparation of a performance evaluation report that would otherwise be confidential or exempt from disclosure shall be exempt from disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.
  - (c) Nothing herein shall be construed to prohibit or prevent public access to state agency records in the possession of the director of legislative performance evaluations that would otherwise be subject to disclosure pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code. The director of legislative performance evaluations shall refer requests for access to those records directly to the state agency that is the official custodian of the requested records, which shall be responsible for responding to the request for public records.
- (4) If data supplied by an individual are needed to initiate, continue or complete a performance evaluation, the director of legislative performance evaluations may by written memorandum to the file provide that the individual's identity will remain confidential and exempt from disclosure under ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, and this written memorandum will protect the identity of the person from disclosure under ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, notwithstanding any other provision of law to the contrary.
- (5) A final copy of the report, including recommendations, the evaluated agency's response, and the governor's response, shall be submitted to the governor and to the official, officer or person in charge of the state agency examined at least one (1) day prior to its release, and shall be made available to each member of the legislature no later than one (1) day following the report's receipt by the joint legislative oversight committee.
- (6) The committee may meet in executive session to consider whether to direct the director of legislative performance evaluations to initiate or continue a performance evaluation or to receive or consider materials exempt from disclosure under subsection (2), (3) or (4) of this section.

**SECTION 167.** That Section 67-1903, Idaho Code, be, and the same is hereby amended to read as follows:

**67-1903. Strategic planning.**

- (1) Each state agency shall develop and submit to the division of financial management in an electronic format a comprehensive strategic plan for the major divisions and core functions of that agency. The plan shall be based upon the agency's statutory authority and, at a minimum, shall contain:
  - (a) A comprehensive outcome-based vision or mission statement covering major divisions and core functions of the agency;
  - (b) Goals for the major divisions and core functions of the agency;
  - (c) Objectives and/or tasks that indicate how the goals are to be achieved;
  - (d) Performance measures, developed in accordance with section 67-1904, Idaho Code, that assess the progress of the agency in meeting its goals in the strategic plan, along with an indication of how the performance measures are related to the goals in the strategic plan;
  - (e) Benchmarks or performance targets for each performance measure for, at a minimum, the next fiscal year, along with an explanation of the manner in which the benchmark or target level was established; and
  - (f) An identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the strategic plan goals and objectives.
- (2) The strategic plan shall cover a period of not less than four (4) years forward including the fiscal year in which it is submitted, and shall be updated annually.
- (3) The strategic plan shall serve as the foundation for developing the annual performance information required by section 67-1904, Idaho Code.
- (4) When developing a strategic plan, an agency shall consult with the appropriate members of the legislature, and shall solicit and consider the views and suggestions of those persons and entities potentially affected by the plan. Consultation with legislators may occur when meeting the requirement of section 67-1904(7), Idaho Code.
- (5) Strategic plans are public records and are available to the public as provided in section ~~9-338~~ 74-102, Idaho Code.
- (6) Each agency, department and commission shall seek to minimize the number of printed copies of strategic plans and annual reports by using electronic versions whenever possible, and by printing only a limited number sufficient for internal needs or anticipated requests for copies for which electronic versions are otherwise inadequate.

**SECTION 168.** That Section 67-2726, Idaho Code, be, and the same is hereby amended to read as follows:

**67-2726.**

Banks to which officials secretly indebted ineligible. No bank is eligible to become or remain a state depository, to which the state treasurer, state controller, or the chief deputy of either of them is directly indebted, unless the fact of such indebtedness is made known to the department of finance, but the amount and character of such indebtedness shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and said department of finance shall treat such information in strict confidence. Any member of the department violating this provision shall be guilty of a misdemeanor, and punished therefor as provided by law.

In case of a violation by a state depository of this provision, the department of finance shall immediately cause all funds therein to be withdrawn and such bank shall be ineligible again to become a state depository during the incumbency of the official so indebted to said bank.



**SECTION 169.** That Section 67-2743E, Idaho Code, be, and the same is hereby amended to read as follows:

**67-2743E.**

Disclosure or use of information relating to depositories -- Penalty. Information regarding the solvency of the bank obtained by the board, the department of finance, or office of state treasurer, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, except that such disclosure is subject to the privilege set out in subsection (3) of section 26-1111, Idaho Code, and provided further, that the board, the department of finance and the office of state treasurer may disclose such information to federal or state bank examiners having a lawful right to examine said bank or to proper officials legally empowered to investigate criminal charges relating to said bank or to any of its directors or employees, provided that the provisions of this section shall not apply to information included as part of the daily, monthly, biennial or other official reports of the state treasurer's office. Any public official who violates any provision of this section shall forfeit his office or employment and shall also be guilty of a felony. Any person who is not lawfully entitled to such information and who attempts to obtain such information illegally or who misuses such information as he may have obtained shall be guilty of a felony.

**SECTION 170.** That Section 67-2915, Idaho Code, be, and the same is hereby amended to read as follows:

**67-2915.**

Statistical report of malicious harassment crimes. The director of the Idaho state police shall annually submit to the governor and the chairman of the judiciary and rules committee in the senate and the chairman of the judiciary, rules and administration committee in the house of representatives a report on malicious harassment crimes, as that crime is defined in section 18-7902, Idaho Code. Report content shall be limited to statistical data and shall be presented in conformance with the provisions of section ~~9-335~~ 74-124, Idaho Code.

All city, county and state law enforcement units shall be required to report to the director all incidences of, complaints on, and arrests for malicious harassment crimes within their respective jurisdictions. The director shall develop a standard procedure and shall prescribe and provide a standard form for complete and uniform reporting.

**SECTION 171.** That Section 67-3008, Idaho Code, be, and the same is hereby amended to read as follows:

**67-3008. Release of criminal history record information.**

- (1) All units of state, city and local governments, as well as any agency of the state created by the legislature which require by statute, rule, or local or county ordinance, fingerprinting of applicants or licensees, are authorized to submit fingerprints to the bureau for examination and further submission, if necessary, to the federal bureau of investigation. The bureau shall be the state's sole source of fingerprint submissions for criminal justice and applicant or licensing purposes to the federal bureau of investigation.
- (2) The department shall provide copies of or communicate information from criminal history records to the following:
  - (a) Criminal justice agencies and the court;
  - (b) A person or public or private agency, upon written application on a form approved by the director and provided by the department, subject to the following restrictions:
    - (i) A request for criminal history records must be submitted in writing or as provided by rule. However, the department shall accept a request presented in person by the subject of the record; and
    - (ii) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required to establish positive identification; and

- (iii) Responding to the request does not interfere with the secure and orderly conduct of the department and would not substantially prejudice or prevent the carrying out of the functions of the department; and
  - (iv) A record of an arrest that does not contain a disposition after twelve (12) months from the date of arrest may only be disseminated by the department to criminal justice agencies, to the subject of the record, or to a person requesting the criminal history information with a signed release from the subject of the record; and
  - (v) Any release of criminal history data by the department shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."
- (3) Judicial review of the department's denial of a request for records shall be in accordance with the provisions of section ~~9-343~~ 74-115 , Idaho Code.
- (4) A request for a criminal history record by a criminal justice agency or a court shall take precedence over all other requests. The department shall adopt rules to set forth the manner by which criminal justice agencies and courts without direct access to the public safety and security information system established by section 19-5202, Idaho Code, may request Idaho criminal history record information.
- (5) Unless otherwise provided by law, access authorized under this section to criminal history records does not create a duty upon a person, employer, private agency, or public agency to examine the criminal history record of an applicant, employee or volunteer.
- (6) A person or private agency, or public agency, other than the department, shall not disseminate criminal history record information obtained from the department to a person or agency that is not a criminal justice agency or a court without a signed release of the subject of record or unless otherwise provided by law.
- (7) Direct access to criminal history record information is regulated by chapter 52, title 19, Idaho Code, and the rules adopted pursuant to that chapter.

**SECTION 172.** That Section 67-4126, Idaho Code, be, and the same is hereby amended to read as follows:

**67-4126.**

Powers and duties of board. The board of trustees of the society shall have powers and duties as follows:

1. To appoint a director of the society as provided herein and advise him in the performance of his duties and formulate general policies affecting the society.
2. To encourage and promote interest in the history of Idaho and encourage membership in the society.
3. To collect for preservation and display artifacts and information illustrative of Idaho history, culture and society.
4. To print such publications and reports as may be deemed necessary.
5. To encourage creation of county historical societies and museums in the counties of Idaho.
6. To facilitate the use of Idaho records for official reference and historical research.
7. To be responsible for records management services for state government. Records management services include the management, storage and retrieval of all state created records under retention. State created records shall mean any document, book, paper photograph, sound recording or other material, regardless of physical form or characteristic, made or received pursuant to law or in connection with the transaction of official state business. The board may charge reasonable amounts for records management services. The records managed pursuant to this subsection will not be subject to the exemption in public records law provided in section ~~9-337~~ 74-101 (15), Idaho Code.
8. To accept from any state, county, or city, or any public official, any official books, records, documents, original papers, newspaper files, printed books, or portraits, not in current use. When such documents

are so accepted, copies thereof shall be made and certified under the seal of the society upon application of any person, which person shall pay for such copies reasonable fees established by the society.

9. To require that any state, county, or city, or any public official, deposit official books, records, documents, or original papers, not in current use, which are of definite historical importance, in the society for preservation and to provide methods whereby such materials, which have no significance, may be destroyed.
10. To establish such rules as may be necessary to discharge the duties of the society.
11. To employ such personnel as may be necessary for the administration of its duties in accordance with the rules of the administrator of the division of human resources promulgated pursuant to chapter 52, title 67, Idaho Code.
12. To have and use an official seal.
13. To delegate and provide subdelegation of any such authority.
14. To identify historic, architectural, archaeological, and cultural sites, buildings, or districts, and to coordinate activities of local historic preservation commissions.
15. To serve as the geographic names board of the state of Idaho.

**SECTION 173.** That Section 67-4708, Idaho Code, be, and the same is hereby amended to read as follows:

**67-4708.**

Business records. Business records and information submitted to the department by business clients shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records and information shall include financial statements, employment/employee records, loan agreements, the method of financing, the source and terms of financing, business and individual tax returns, insurance policies, bank statements, financial institution letters and documents, sales records, inventory lists, collateral agreements, and other documents or information the business declares to be, and marked "confidential -- proprietary information."

The exemption from disclosure as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, shall also be extended to and be consistent with the requirements for confidentiality for business information included in any application for the various federal grant, loan or loan guarantee programs, various federal procurement contracting programs, and other similar federal business assistance programs in which the department is a participant.

This exemption from disclosure shall also apply to business information and records associated with industrial revenue bonds, department efforts to assist businesses with international marketing, industrial relocation projects, and other business development projects in which the department extends assistance.

**SECTION 174.** That Section 67-5009, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5009.**

Office of ombudsman for the elderly. The office of ombudsman for the elderly is hereby created within the commission. The ombudsman shall be responsible for receiving, investigating and resolving or closing complaints made by or on behalf of residents of long-term care facilities or persons aged sixty (60) years or older living in the community. No representative of the office shall be liable for the good faith performance of official duties, and willful interference with representatives of the office is unlawful. Long-term care facilities are prohibited from reprisals or retaliation against a resident or employee filing a complaint with, or furnishing information to, the office.

For the purposes of implementing the provisions of this section, the commission is hereby authorized as follows:

The administrator shall hire the state ombudsman for the elderly who shall be a person with the necessary educational background commensurate with the duties and responsibilities of the office of ombudsman and shall be a classified employee subject to the provisions of chapter 53, title 67, Idaho Code.

The ombudsman may delegate to designated local ombudsmen any duties deemed necessary to carry out the purposes of the provisions of this section.

The ombudsman shall establish procedures for receiving and processing complaints, conducting investigations and reporting his findings. He shall have jurisdiction to investigate administrative acts or omissions of long-term care facilities or state or county departments or agencies providing services to older people. An administrative act of a long-term care facility or state or county department or agency may become an appropriate subject for the ombudsman to investigate under certain circumstances. For example, the ombudsman may investigate such an act if it might be contrary to law, unreasonable, unfair, oppressive, capricious or discriminatory. The ombudsman may make a finding for an appropriate resolution to the subject matter of the investigation.

The ombudsman shall investigate any complaint which he determines to be an appropriate subject for investigation under this section.

When the ombudsman investigates a complaint, he shall notify the complainant, if any, of the investigation and shall also notify the long-term care facility or the state or county department or agency affected by the investigation of his intent to investigate. However, if no investigation takes place, he shall inform the complainant of the reasons therefor. Records obtained by the ombudsman shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

In an investigation of any complaint or administrative act of any long-term care facility or state or county department or agency providing services to older people, the ombudsman may undertake, but not be limited to, any of the following actions:

- (a)** Make the necessary inquiries and obtain such information he deems necessary.
- (b)** Hold private hearings.
- (c)** Enter during regular business hours, a long-term care facility or state or county department or agency's premises.

Following the investigation and upon his determination that particular subject matter should be further considered by the long-term care facility or state or county department or agency, an administrative act should be modified or canceled, a statute or regulation on which an administrative act is based should be altered, reasons should be given for an administrative act, or some other action should be taken by a long-term care facility or state or county department or agency, he shall report his opinions and recommendations to the respective parties. The ombudsman may request the parties affected by such opinions or recommendations to notify him within the specified time of any action taken by such parties on his recommendation. Following an investigation, the ombudsman shall consult with the particular parties before issuing any opinion or recommendation that is critical to such parties.

The ombudsman shall notify the complainant in writing within a reasonable time from the date the investigation is terminated of any actions taken by him and the long-term care facility, or state or county department or agency to resolve any issues raised by the complaint.

The ombudsman, on December 1 of each year, shall submit to the governor, the speaker of the house, president of the senate, the department of health and welfare bureau of licensing and certification, the president of the Idaho hospital association and the president of the Idaho health care association a report of the activities of the ombudsman for the elderly during the prior fiscal year. This report shall include, but not be limited to, the number and general patterns of complaints received by the ombudsman, the action taken on such complaints, the results of such action, and any opinions or recommendations which further the state's capability in providing for statutory resolution of complaints.

Nothing in this section shall be construed to be a limitation of the powers and responsibilities assigned by law to other state or county departments or agencies.

Records obtained by the ombudsman shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code.

**SECTION 175.** That Section 67-5220, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5220. Notice of intent to promulgate rules -- Negotiated rulemaking.**

- (1) Prior to the adoption, amendment or repeal of a rule, an agency shall determine whether negotiated rulemaking is feasible. The agency's determination of whether negotiated rulemaking is feasible is not subject to judicial review. If the agency determines that negotiated rulemaking is feasible, it shall publish in the bulletin a notice of intent to promulgate a rule. The notice shall contain a brief, nontechnical statement of the subject matter to be addressed in the proposed rulemaking, and shall include the purpose of the rule, the statutory authority for the rulemaking, citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking, and the principal issues involved. The notice shall also state that interested persons have the opportunity to participate with the agency in negotiated rulemaking as provided in this section and shall identify an individual to whom comments on the proposal may be sent. If the agency determines that negotiated rulemaking is not feasible, it shall explain why negotiated rulemaking is not feasible in a notice of proposed rulemaking published pursuant to section 67-5221, Idaho Code, and shall proceed with rulemaking as provided pursuant to this chapter. Each agency that has a website shall cause the notice of intent to promulgate rules to be placed onto or accessible from the home page of the agency's website.
- (2) The notice of intent to promulgate a rule is intended to facilitate negotiated rulemaking, a process in which all interested persons and the agency seek consensus on the content of a rule. Agencies shall proceed through such informal rulemaking whenever it is feasible to do so in order to improve the substance of proposed rules by drawing upon shared information, knowledge, expertise and technical abilities possessed by interested persons and to expedite formal rulemaking.
- (3) To facilitate the achievement of the purposes of this section, agencies shall, at a minimum:
  - (a) Provide a reasonable period of time for interested persons to respond to the notice of intent to promulgate rules;
  - (b) Provide notice of meetings to interested persons who responded to the notice of intent to promulgate rules;
  - (c) Upon request, make available to persons attending the meetings all information that is considered by the agency in connection with the formulation of the proposed rule and that is not exempt from disclosure pursuant to ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code;
  - (d) Consider the recommendations of interested persons concerning the subject of the proposed rule;
  - (e) Establish, maintain and timely update the negotiated rulemaking schedule and a list of written comments and other documents and information pertinent to the proposed rule and make that information available to persons attending the negotiated rulemaking meeting;
  - (f) Prepare a written summary of unresolved issues, key information considered and conclusions reached during and as a result of the negotiated rulemaking and make that summary available to persons who attended the negotiated rulemaking meetings.

**SECTION 176.** That Section 67-5241, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5241. Informal disposition.**

- (1) Unless prohibited by other provisions of law:
  - (a) an agency or a presiding officer may decline to initiate a contested case;
  - (b) any part of the evidence in a contested case may be received in written form if doing so will expedite the case without substantially prejudicing the interests of any party;

- (c) informal disposition may be made of any contested case by negotiation, stipulation, agreed settlement, or consent order. Informal settlement of matters is to be encouraged;
  - (d) the parties may stipulate as to the facts, reserving the right to appeal to a court of competent jurisdiction on issues of law.
- (2) An agency or a presiding officer may request such additional information as required to decide whether to initiate or to decide a contested case as provided in subsection (1) of this section.
  - (3) If an agency or a presiding officer declines to initiate or decide a contested case under the provisions of this section, the agency or the officer shall furnish a brief statement of the reasons for the decision to all persons involved. This subsection does not apply to investigations or inquiries directed to or performed by law enforcement agencies defined in section ~~9-337~~ 74-101 (7), Idaho Code.
  - (4) The agency may not abdicate its responsibility for any informal disposition of a contested case. Disposition of a contested case as provided in this section is a final agency action.

**SECTION 177.** That Section 67-5252, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5252. Presiding officer -- Disqualification.**

- (1) Except as provided in subsection (4) of this section, any party shall have the right to one (1) disqualification without cause of any person serving or designated to serve as presiding officer, and any party shall have a right to move to disqualify for bias, prejudice, interest, substantial prior involvement in the matter other than as a presiding officer, status as an employee of the agency hearing the contested case, lack of professional knowledge in the subject matter of the contested case, or any other cause provided in this chapter or any cause for which a judge is or may be disqualified.
- (2) Any party may petition for the disqualification of a person serving or designated to serve as presiding officer:
  - (a) within fourteen (14) days after receipt of notice indicating that the person will preside at the contested case; or
  - (b) promptly upon discovering facts establishing grounds for disqualification, whichever is later.Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting designation of a presiding officer.
- (3) A person whose disqualification for cause is requested shall determine in writing whether to grant the petition, stating facts and reasons for the determination.
- (4) Where disqualification of the agency head or a member of the agency head would result in an inability to decide a contested case, the actions of the agency head shall be treated as a conflict of interest under the provisions of section ~~59-704~~ 74-404 , Idaho Code.
- (5) Where a decision is required to be rendered within fourteen (14) weeks of the date of a request for a hearing by state or federal statutes or rules and regulations, no party shall have the right to a disqualification without cause.

**SECTION 178.** 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 contractor'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~~ chapter 1, title 74, and section 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 179.** That Section 67-5711D, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5711D. Energy savings performance contracts.**

**(1) Definitions.** As used in this section:

- (a)** "Cost-savings measure" means any facility improvement, repair or alteration to an existing facility, or any equipment, fixture or furnishing to be added or used in any existing facility that is designed to reduce energy consumption and energy operating costs or increase the energy efficiency of facilities for their appointed functions that are cost effective. "Cost-savings measure" includes, but is not limited to, one (1) or more of the following:
  - (i)** Procurement of low-cost energy supplies of all types, including electricity, natural gas and water;
  - (ii)** Insulating the building structure or systems in the building;
  - (iii)** Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, heat-absorbing or heat-reflective glazed and coated window and door systems, additional glazing, reductions in glass area or other window and door system modifications that reduce energy consumption;
  - (iv)** Automated or computerized energy control systems;
  - (v)** Heating, ventilation or air conditioning system modifications or replacements;
  - (vi)** Replacing or modifying lighting fixtures to increase the energy efficiency of the lighting system;
  - (vii)** Energy recovery systems;
  - (viii)** Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
  - (ix)** Installing new or modifying existing day lighting systems;
  - (x)** Installing or modifying renewable energy and alternate energy technologies;
  - (xi)** Building operation programs that reduce energy costs including, but not limited to, computerized programs, training and other similar activities;
  - (xii)** Steam trap improvement programs that reduce energy costs;
  - (xiii)** Devices that reduce water consumption; and
  - (xiv)** Any additional building infrastructure improvements that produce energy cost savings, significantly reduce energy consumption or increase the energy efficiency of the facilities for their appointed functions and are in compliance with all applicable state building codes.
- (b)** "Director" means the director of the department of administration or the director's designee.
- (c)** "Energy cost savings" means any expenses that are eliminated or avoided on a long-term basis as a result of equipment installed or modified, or services performed by a qualified energy service company or a qualified provider, but does not include merely shifting personnel costs or similar short-term cost savings.
- (d)** "Financial grade energy audit" means a comprehensive building energy systems audit performed by a professional engineer licensed in the state of Idaho for the purpose of identifying and documenting feasible energy and resource conservation measures and cost-savings factors.
- (e)** "Performance contract" means a contract between the director or the public entity and a qualified provider or a qualified energy service company for evaluation, recommendation and implementation of one (1) or more cost-savings measures. A performance contract may be structured as either:
  - (i)** A guaranteed energy savings performance contract, which shall include, at a minimum, the design and installation of equipment and, if applicable, operation and maintenance of any of the measures implemented. Guaranteed annual savings must meet or exceed the total annual

contract payments made by the director or the user agency or the public entity for such contract, including financing charges to be incurred over the life of the contract; or

- (ii) A shared savings contract, which shall include provisions mutually agreed upon by the director and the qualified provider or qualified energy service company as to the rate of payments based upon energy cost savings and a stipulated maximum energy consumption level over the life of the contract.
  - (f) "Person" means an individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entity as recognized by the state of Idaho.
  - (g) "Public entity" means the cities, counties and school districts or any political subdivision within the state of Idaho.
  - (h) "Qualified energy service company" means a person with a record of established projects or with demonstrated technical, operational, financial and managerial capabilities to implement performance contracts and who currently holds an Idaho public works contractor license appropriate for the work being performed.
  - (i) "Qualified provider" means a person who is experienced in the design, implementation and installation of energy efficiency and facility improvement measures, who has the ability to secure necessary financial measures to support energy savings guarantees and the technical capabilities to ensure such measures generate energy cost savings, and who currently holds an Idaho public works contractor license appropriate for the work being performed.
- (2) Performance contracts. The director of the department of administration, subject to the approval of the permanent building fund advisory council, or any Idaho public entity may enter into a performance contract with a qualified provider or qualified energy service company to reduce energy consumption or energy operating costs. Cost-savings measures implemented under such contracts shall comply with all applicable state and local building codes.
- (3) Requests for qualifications. The director of the department of administration or the public entity shall request qualifications from qualified providers and qualified energy service companies inviting them to submit information describing their capabilities in the areas of:
- (a) Design, engineering, installation, maintenance and repairs associated with performance contracts;
  - (b) Experience in conversions to a different energy or fuel source, so long as it is associated with a comprehensive energy efficiency retrofit;
  - (c) Postinstallation project monitoring, data collection and reporting of savings;
  - (d) Overall project experience and qualifications;
  - (e) Management capability;
  - (f) Ability to assess the availability of long-term financing;
  - (g) Experience with projects of similar size and scope; and
  - (h) Other factors determined by the director or the public entity to be relevant and appropriate relating to the ability of the qualified provider or qualified energy service company to perform the project.
- (4) Notice. Adequate public notice of the request for qualifications shall be given at least fourteen (14) days prior to the date set forth therein for the opening of the responses to the request for qualifications. Such notice may be provided electronically or by publication in a newspaper of general circulation in the area where the work is located.
- (5) Public inspection. All records of the department or an agency or the public entity relating to the award of a performance contract shall be open to public inspection in accordance with the provisions of ~~sections 9-337 through 9-347~~ chapter 1, title 74, and section 67-5725, Idaho Code.
- (6) Award of performance contract.

- (a) The director or public entity shall select up to three (3) qualified providers or qualified energy service companies who have responded to the request for qualifications. Factors to be considered in selecting the successful qualified provider or qualified energy service company shall include, but not be limited to:

    - (i) Fee structure;
    - (ii) Contract terms;
    - (iii) Comprehensiveness of the proposal and cost-savings measures;
    - (iv) Experience of the qualified provider or qualified energy service company;
    - (v) Quality of the technical approach of the qualified provider or qualified energy service company; and
    - (vi) Overall benefits to the state or the public entity.
  - (b) Notwithstanding the provisions of section 67-5711C, Idaho Code, the director or the public entity may, following the request for qualifications and the expiration of the specified notice period, award the performance contract to the qualified provider or qualified energy service company which best meets the needs of the project and whose proposal may or may not represent the lowest cost among the proposals submitted pursuant to this section.
  - (c) Upon award of the performance contract, the successful qualified provider or qualified energy service company shall prepare a financial grade energy audit which, upon acceptance by the director or the public entity, shall become a part of the final performance contract.
- (7) Installment payment and lease-purchase agreements. Pursuant to this section, the director or the public entity may enter into a performance contract, payments for which shall be made by the user agency or public entity. Such performance contracts may be financed as installment payment contracts or lease-purchase agreements for the purchase and installation of cost-savings measures. Financing implemented through another person other than the qualified provider or qualified energy service company is authorized.
- (8) Terms of performance contract.

  - (a) Each performance contract shall provide that all payments between parties, except obligations upon termination of the contract before its expiration, shall be made over time and that the objective of such performance contract is the implementation of cost-savings measures and energy cost savings.
  - (b) A performance contract, and payments provided thereunder, may extend beyond the fiscal year in which the performance contract becomes effective, subject to appropriation by the legislature or by the public entity, for costs incurred in future fiscal years. The performance contract may extend for a term not to exceed twenty-five (25) years. The permissible length of the contract may also reflect the useful life of the cost-savings measures.
  - (c) Performance contracts may provide for payments over a period of time not to exceed deadlines specified in the performance contract from the date of the final installation of the cost-savings measures.
  - (d) Performance contracts entered pursuant to this section may be amended or modified, upon agreement by the director or the public entity and the qualified provider or qualified energy service company, on an annual basis.
- (9) Monitoring and reports. During the term of each performance contract, the qualified provider or qualified energy service company shall monitor the reductions in energy consumption and cost savings attributable to the cost-savings measures installed pursuant to the performance contract and shall annually prepare and provide a report to the director or the public entity documenting the performance of the cost-savings measures.

**SECTION 180.** That Section 67-5725, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5725.**

Preservation of records -- Written contracts -- Void contracts.

The administrator shall preserve all records of bids and acquisitions in his office, and information with respect thereto, in such form as he shall prescribe for a period of three (3) years after the date of final action, or for a period of time as may be proscribed by the record retention guideline schedule approved by the director of the department of administration. The records shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Notwithstanding the foregoing, when an invitation to bid or a request for proposals is canceled prior to award of a purchase order or contract, the administrator shall immediately return all bids or proposals to the submitting vendor and those bids or proposals shall not be subject to disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

Every contract made by the administrator in behalf of the state shall be reduced to writing and signed by the contracting parties with their names at the end thereof and filed in the office of the administrator, together with all bids, specifications, and all other documents and records associated with the acquisition or intended acquisition.

All contracts or agreements made in violation of the provisions of this chapter shall be void and any sum of money advanced by the state of Idaho in consideration of any such contract or agreement shall be repaid forthwith. In the event of refusal or delay when repayment is demanded by the proper officer of the state of Idaho, under whose authority such contract or agreement shall have been made or entered into, every person so refusing or delaying, together with his surety or sureties, shall be forthwith prosecuted at law for the recovery of such sum of money so advanced.

**SECTION 181.** That Section 67-5768, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5768. Nominal policyholder -- No obligation to state.**

- (1) In policies and contracts procured by the director of the department of administration under this act and covering personnel of any state office, department, division, board, commission, institution, agency and operation, the director of the department of administration shall be designated as the nominal policyholder or contract holder.
- (2) No policy or contract shall create, or be deemed to constitute, any financial obligation on the part of the state of Idaho beyond the obligation, to contribute for or upon current premiums or prepayments thereof.
- (3) Except as hereinafter provided, information obtained from any employee, dependent or retiree insured under this act shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code; provided however, that if the affected employee, dependent or retiree waives in writing the right to hold such information confidential, said information may be disclosed.

**SECTION 182.** That Section 67-5781, Idaho Code, be, and the same is hereby amended to read as follows:

**67-5781. Agencies to provide records and data.**

- (1) Every state agency shall, no later than January 15, 2009, provide records, in an electronic format acceptable to the department of administration, of all interests in any real property owned, used or granted by it including, without limitation, records of ownership, leases, encumbrances, easements,

rights-of-way leases or any other interest in real property, and on a regular and continuous basis, update such records and provide any new records to the department of administration. Metadata will accompany all state agency records.

- (2) For the purposes of this section, the Idaho transportation department shall provide highway right-of-way records from January 1, 2002, forward, augmented thereafter each time real property owned by the state of Idaho is affected as part of the Idaho transportation department's regular course of business.
- (3) For purposes of this section, state agencies shall provide only records and geographic information that are subject to disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or that the agency has determined to disclose as a public record.

**SECTION 183.** That Section 67-7410, Idaho Code, be, and the same is hereby amended to read as follows:

**67-7410.**

Director of lottery security. The director shall hire a security director who shall manage the lottery's security division. The security division shall be responsible for the performance of background investigations of employees, lottery retailers, bingo and raffle operators, vendors and major procurement contractors and for the enforcement of the criminal provisions of this chapter. In addition, the security division shall develop a security plan to be implemented by the lottery. The lottery's security division is herein designated as an Idaho law enforcement agency. The director of security has the authority to:

- (1) Issue administrative subpoenas during the conduct of investigations in accordance with commission rules and this chapter;
- (2) Require fingerprint-based criminal history check of the Idaho central database and the federal bureau of investigation's criminal history database on prospective employees, vendors, contractors, lottery retailers and bingo and raffle operators; and
- (3) Access criminal offender record information from the Idaho state police for the purpose of background or other investigations performed in accordance with this chapter.

Such information obtained and kept by the security director shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. Nothing herein shall prohibit the lottery from disclosing information obtained by it to law enforcement agencies or other lottery organizations for security or enforcement purposes.

**SECTION 184.** That Section 67-7421, Idaho Code, be, and the same is hereby amended to read as follows:

**67-7421.**

Lottery vendor disclosures for major procurements. This section is provided to allow the commission to evaluate the competence, integrity, background, character and the nature of the true ownership and control of lottery vendors. The commission may require any person, as a part of a major procurement, to disclose at the time of submitting such bid, proposal or offer to the commission the following information:

- (1) If the vendor is a partnership or joint venture, the names and addresses of all of the general and limited partners or joint venturers; if such general and limited partners or joint venturers are themselves a partnership, joint venture, trust, association, corporation, subsidiary, or intermediary corporation, the same information required by this section shall be supplied for such entities also;
- (2) If the vendor is a trust, the names and addresses of the trustee and all persons entitled to receive income or benefit of the trust;
- (3) If the vendor is an association, the names and addresses of the members, officers and directors;
- (4) If the vendor is a corporation, the names and addresses of the officers, directors and each owner or holder, directly or indirectly, of any equity security or other evidence of ownership of any interest in such corporation; except that, in the case of owners or holders of publicly held securities of an



intermediary company, holding company, or parent company that is a publicly traded corporation, only the names and addresses of those owning or holding five percent (5%) or more of such publicly held securities need be disclosed;

- (5) If the vendor intends to or does subcontract to another person or entity any integral or substantial portion of the work to be performed in supplying such materials, equipment or services, then the vendor shall supply the information required by subparagraphs in this section for all such persons or entities;
- (6) If the vendor is a corporation, the names of all the states in which the vendor is incorporated to do business, and the nature of that business;
- (7) The names of other jurisdictions in which the vendor has contracts to supply gaming materials, equipment or services and the types of gaming materials, equipment or services involved therewith;
- (8) The details of any felony conviction of a criminal offense, state or federal, of the vendor or any person whose name and address are required by the disclosure requirements of this section;
- (9) The details of any disciplinary action of a judicial nature taken by any state against the vendor or any person whose name and address are required by this section regarding any matter related to the selling, leasing, offering for sale or lease, buying, or servicing of gaming materials or equipment;
- (10) Audited financial statements for the most recent five (5) years and a statement of the gross receipts realized in the preceding year from the sale, lease or distribution of gaming materials, equipment or services. This information shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code;
- (11) The name and address of any source of game materials, equipment or services for the vendor; and
- (12) Such other information, accompanied by such documents, as the commission, by rule, regulation or contract procurement documents, may require as being necessary or appropriate in the public interest to accomplish the purposes of this section.

A major procurement contractor shall report immediately any changes in the information required in this section.

**SECTION 185.** That Section 67-7436, Idaho Code, be, and the same is hereby amended to read as follows:

**67-7436.**

Audits. A certified public accounting firm appointed by the commission shall conduct audits of all accounts and transactions of the state lottery. The director and his agents conducting an audit under this chapter shall have access and authority to examine any and all lottery-related records of lottery vendors and retailers. Such records shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 186.** That Section 67-7437, Idaho Code, be, and the same is hereby amended to read as follows:

**67-7437.**

Prizes. Except as otherwise provided in this section, any prize won under this chapter is not assignable. If the prize winner dies before the prize is paid, the prize shall be paid to the estate of the prize winner. A prize is subject to garnishment and recovery for unpaid taxes, child or spousal support or public assistance benefits paid and recoverable by the state or any county, or by a person pursuant to a judgment and execution under an order of the court. A prize shall also be subject to immediate withholding and set-off to collect any support delinquency or state taxes owed upon notification from the department of health and welfare pursuant to section 56-203E, Idaho Code, or the state tax commission pursuant to section 63-3060, Idaho Code. The state lottery shall not pay a prize claim until the lottery ticket or share has passed the validation tests established by the state lottery.

No prize shall be paid arising from claimed tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the state lottery by applicable deadlines, lacking in captions that confirm and agree with the state lottery play symbols as appropriate to the game involved, or not in compliance with such additional specific rules and regulations and public or confidential validation and security tests of the state lottery appropriate to the particular lottery game involved. Confidential validation or security tests shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

No particular prize in any lottery game may be paid more than once, and in the event of a binding determination that more than one (1) claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them an equal share in the prize.

**SECTION 187.** That Section 67-7441, Idaho Code, be, and the same is hereby amended to read as follows:

**67-7441.**

Records. All papers, records, correspondence, communications and proceedings of the Idaho state lottery and the commission shall be open to the public except as otherwise provided by statute; provided, however, that business records and information provided to the state lottery pursuant to sections 67-7412(8) and (9) and 67-7420(8) and (9), Idaho Code, shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

No lottery employee shall divulge or make known to any person in any manner any information which is exempt from disclosure, whatsoever, obtained directly or indirectly by him in the discharge of his duties, or permit any copy thereof to be seen. Any employee violating provisions of this section shall be guilty of a misdemeanor.

**SECTION 188.** That Section 67-7445, Idaho Code, be, and the same is hereby amended to read as follows:

**67-7445.**

Conditions of purchase. By purchasing a ticket or share in a lottery game, a player agrees to abide by, and be bound by, the commission's rules and regulations and by lottery game rules developed by the commission to apply to any particular lottery game involved. In particular, and without limitation, the player acknowledges, that the determination of whether the player is a valid winner is subject to winner validation procedures and confidential validation and security tests established by the state lottery for the particular lottery game. Confidential validation and security tests shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 189.** That Section 67-8906, Idaho Code, be, and the same is hereby amended to read as follows:

**67-8906. Quorum -- Mode of action -- Compensation.**

**(1)** Four (4) directors

of the authority shall constitute a quorum for the purpose of conducting business and exercising its powers.

**(2)** Action may be taken by the authority upon the affirmative vote of at least four (4) directors. No vacancy on the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

**(3)** Notice of meetings shall be given as provided in ~~sections 67-2341 through 67-2347~~ chapter 2, title 74, Idaho Code, and the bylaws of the authority.

**(4)** The board may hold any of its meetings by telephone, teleconference or other electronic means, as and to the extent provided in its bylaws.

(5) The board shall act by resolution or order which shall be recorded in its official minutes but need not be published or posted.

(6) Directors shall be compensated for services as provided by section 59-509(o), Idaho Code.

**SECTION 190.** That Section 69-250, Idaho Code, be, and the same is hereby amended to read as follows:

**69-250.**

Confidential and protected records. Records required by the department including, but not limited to, production summaries, receiving records, conditioning reports, records relating to the payment of agricultural commodities, commodity indemnity fund and seed indemnity fund reporting forms of a warehouseman, and financial records that are required pursuant to section 69-206(6), Idaho Code, shall be held confidential and will be protected as production records according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records shall not be subject to disclosure unless specifically authorized in writing by the licensee or as otherwise authorized pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 191.** That Section 69-515, Idaho Code, be, and the same is hereby amended to read as follows:

**69-515.**

Confidential and protected records. Records required by the department including, but not limited to, production summaries, receiving records, conditioning reports, records relating to the payment of agricultural commodities, commodity indemnity fund and seed indemnity fund reporting forms of a commodity dealer, and financial records that are required pursuant to sections 69-503(6) and 69-521, Idaho Code, shall be held confidential and will be protected as production records according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code. These records shall not be subject to disclosure unless specifically authorized in writing by the licensee or as otherwise authorized pursuant to the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 192.** That Section 72-603, Idaho Code, be, and the same is hereby amended to read as follows:

**72-603.**

Employers' report of employees. Requirement to keep records and to report. Subject to the provisions of this law, every employer shall keep an accurate record of the number and job classification of his employees and the wages paid, and upon demand of the commission shall furnish the commission a sworn statement of the same. Such records shall not be open to inspection except on request of the commission. The commission shall have the right, at any time and as often as it requires, to verify the number of employees and the amount of the payroll, and to inspect or cause to be inspected such records.

Information received from employers shall be subject to disclosure as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code.

**SECTION 193.** That Section 72-926, Idaho Code, be, and the same is hereby amended to read as follows:

**72-926.**

Disclosures prohibited. Information acquired by the manager from employers or employees pursuant to this chapter shall be subject to disclosure according to ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, and any officer or employee of the manager or of the state insurance fund who, without authority of the manager or pursuant to his rules, or as otherwise required by law, shall disclose the same, shall be guilty of a misdemeanor.

**SECTION 194.** That Section 72-1007, Idaho Code, be, and the same is hereby amended to read as follows:

**72-1007.**

Public inspection and disclosure of commission's records. The information and records the commission maintains in its possession in the administration of this chapter shall be kept confidential and are exempt from public disclosure under ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, provided however:

- (1) During the commission's regular office hours any claimant, or his attorney or authorized representative, may examine all files maintained by the commission in connection with his application for compensation;
- (2) Upon an adequate showing to the court in a separate civil or criminal action that the specific information or records are not obtainable through diligent effort from any independent source, the court may inspect such records in camera to determine whether the public interest in disclosing the records outweighs the public or private interest in maintaining the confidentiality of such records;
- (3) Information and records maintained by the commission may be disclosed to public employees and officials in the performance of their official duties; and
- (4) Information and records maintained by the commission may be disclosed to health care providers who are:
  - (a) Treating or examining victims claiming benefits under this chapter; or
  - (b) Giving medical advice to the commission regarding any claim.

**SECTION 195.** That Section 72-1342, Idaho Code, be, and the same is hereby amended to read as follows:

**72-1342.**

Disclosure of information. Employment security information, as defined in section ~~9-340C~~ 74-106 (7), Idaho Code, shall be exempt from disclosure as provided in ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, except that such information may be disclosed as is necessary for the proper administration of programs under this chapter or may be made available to public officials for use in the performance of official duties subject to such restrictions and fees as the director may by rule prescribe. The director may by rule prescribe the form of written, informed consent by a person that is adequate for disclosure of employment security information pertaining to that person to a third party, as provided in section ~~9-340C~~ 74-106 (7), Idaho Code, and the security requirements and cost provisions that apply to such disclosures.

**SECTION 196.** That Section 72-1372, Idaho Code, be, and the same is hereby amended to read as follows:

**72-1372. Civil penalties.**

- (1) The following civil penalties shall be assessed by the director:
  - (a) If a determination is made finding that an employer willfully filed a false report, a monetary penalty equal to one hundred percent (100%) of the amount that would be due if the employer had filed a correct report or two hundred fifty dollars (\$ 250), whichever is greater, shall be added to the liability of the employer for each quarter for which the employer willfully filed a false report. For the purposes of this section, a false report includes, but is not limited to, a report for a period wherein an employer pays remuneration for personal services which meets the definition of "wages" under section 72-1328, Idaho Code, and the payment is concealed, hidden, or otherwise not reported to the department.
  - (b) If a determination is made finding that an employer willfully failed to file the employer's quarterly unemployment insurance tax report when due, the director shall assess a monetary penalty equal to:
    - (i) Seventy-five dollars (\$ 75.00) or twenty-five percent (25%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had not been found in any previous determination to have willfully failed to file a timely quarterly report for any of the sixteen (16) preceding consecutive calendar quarters; or

- (ii) One hundred fifty dollars (\$ 150) or fifty percent (50%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had been found in any previous determination to have willfully failed to file a timely quarterly report for no more than one (1) of the sixteen (16) preceding consecutive calendar quarters; or
  - (iii) Two hundred fifty dollars (\$ 250) or one hundred percent (100%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had been found in any previous determination or determinations to have willfully failed to file a timely quarterly report for two (2) or more of the sixteen (16) preceding consecutive calendar quarters.
- (c) If a determination is made finding that an employer, or any officer or agent or employee of the employer with the employer's knowledge, willfully made a false statement or representation or willfully failed to report a material fact when submitting facts to the department concerning a claimant's separation from the employer, a penalty in an amount equal to ten (10) times the weekly benefit amount of such claimant shall be added to the liability of the employer.
- (d) If a determination is made finding that an employer has induced, solicited, coerced or colluded with an employee or former employee to file a false or fraudulent claim for benefits under this chapter, a penalty in an amount equal to ten (10) times the weekly benefit amount of such employee or former employee shall be added to the liability of the employer.
- (e) If a determination is made finding that an employer failed to complete and submit an Idaho business registration form when due, as required by section 72-1337(1), Idaho Code, a penalty of five hundred dollars (\$ 500) shall be assessed against the employer.
- (f) For purposes of paragraphs (c) and (d) of this subsection (1), the term "weekly benefit amount" means the amount calculated pursuant to section 72-1367(2), Idaho Code.
- (g) If a determination is made finding that a person has made any unauthorized disclosure of employment security information in violation of the provisions of ~~chapter 3, title 9~~ chapter 1, title 74, Idaho Code, or section 72-1342, Idaho Code, or rules promulgated thereunder, a penalty of five hundred dollars (\$ 500) for each act of unauthorized disclosure shall be assessed against the person.
- (h) If a determination is made finding that a professional employer failed to submit a separate quarterly wage report for each client as required in section 72-1349B(4), Idaho Code, the director shall assess a monetary penalty equal to one hundred dollars (\$ 100) for each client not separately reported by the professional employer; provided that the maximum penalty for any quarter shall not exceed five thousand dollars (\$ 5,000).
- (2) At the discretion of the director, the department may waive all or any part of the penalties imposed pursuant to subsection (1) of this section if the employer shows to the satisfaction of the director that it had good cause for failing to comply with the requirements of this chapter and rules promulgated thereunder.
- (3) Determinations imposing civil penalties pursuant to this section shall be served in accordance with section 72-1368(5), Idaho Code. Penalties imposed pursuant to this section shall be due and payable twenty (20) days after the date the determination was served unless an appeal is filed in accordance with section 72-1368, Idaho Code, and rules promulgated thereunder. Such appeals shall be conducted in accordance with section 72-1368, Idaho Code, and rules promulgated thereunder.
- (4) Civil penalties imposed by this section shall be in addition to any other penalties authorized by this chapter. The provisions of this chapter that apply to the collection of contributions, and the rules promulgated thereunder, shall also apply to the collection of penalties imposed pursuant to this section. Amounts collected pursuant to this section shall be paid into the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code.

**SECTION 197.** That Section 72-1374, Idaho Code, be, and the same is hereby amended to read as follows:

**72-1374.**

Unauthorized disclosure of information. If any of the following persons, in violation of the provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, or section 72-1342, Idaho Code, or rules promulgated thereunder, makes any unauthorized disclosure of employment security information, each act of unauthorized disclosure shall constitute a separate misdemeanor:

- (1) Any employee of the department;
- (2) Any employee or member of the commission;
- (3) Any third party or employee thereof who has obtained employment security information pertaining to a person with the written, informed consent of that person;
- (4) Any public official who has obtained employment security information for use in the performance of official duties; or
- (5) Any person who has obtained employment security information through means that violate the provisions of ~~chapter 3, title 9~~ chapter 1, title 74 , Idaho Code, or this chapter, or rules promulgated thereunder.

**SECTION 198.** The provisions of Section 71 of this act shall be in full force and effect on and after July 1, 2018.

## History

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Approved by the Governor March 26, 2015

Effective July 01, 2018 Section 71;

July 01, 2015 All other sections

## Sponsor

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BY STATE AFFAIRS COMMITTEE

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