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INTRODUCTION

This is a new edition of the Idaho Library Laws with changes through the 2016 legislative session. The compilation contains Idaho Code sections which legally affect city, school-community or district libraries, or the Idaho Commission for Libraries. These sections include the basic library laws in the Idaho Code Title 33, Chapters 25, 26, and 27, additional sections of the law referred to in the basic chapters, and other select code sections of general applicability to Idaho libraries. The text of the laws in this compilation is presented in numerical order by code section. The complete Idaho Code is available online at <http://legislature.idaho.gov/idstat/TOC/IDStatutesTOC.htm>. Official copies of the *Idaho Code* are published for the Idaho Code Commission by LEXIS Publishing.

The Idaho Library Laws should be used as both an orientation tool for trustees and librarians, and as a starting point for investigating legal questions that arise in the management of the library. Legal interpretation of the law should be left to a qualified attorney.

To help the user, this edition has two (2) appendices. Appendix A is a list of the 2016-2017 Idaho Board of Commissioners and a list of the Idaho Commission for Libraries contact information. Appendix B is a subject index to “Libraries” contained in the official print edition of Idaho Code. The statutes reprinted or quoted verbatim in the following pages are taken from the Idaho Code Copyright 2016 by the State of Idaho and are reprinted with permission. All rights reserved.

**IDAHO CONSTITUTION
ARTICLE VII
FINANCE AND REVENUE**

Section 3. Property to be defined and classified. The word "property" as herein used shall be defined and classified by law.

Section 4. Public property exempt from taxation. The property of the United States, except when taxation thereof is authorized by the United States, the state, counties, towns, cities, villages, school districts, and other municipal corporations and public libraries shall be exempt from taxation; provided, however, that unimproved real property owned or held by the department of fish and game may be subject to a fee in lieu of taxes if the fees are authorized by statute but not to exceed the property tax for the property at the time of acquisition by the department of fish and game, unless the tax for that class of property shall have been increased.

Section 5. Taxes to be uniform -- exemptions. All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

**ARTICLE VIII
PUBLIC INDEBTEDNESS AND SUBSIDIES**

Section 3. Limitations on county and municipal indebtedness. No county, city, board of education, or school district, or other subdivision of the state, shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provisions shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within thirty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void: Provided, that this section shall not be construed to apply to the ordinary and necessary expenses authorized by the general laws of the state and provided further that any city may own, purchase, construct, extend, or equip, within and without the corporate limits of such city, off street parking facilities, public recreation facilities, and air navigation facilities, and for the purpose of paying the cost thereof may, without regard to any limitation herein imposed, with the assent of two-thirds of the qualified electors voting at an election to be held for that purpose, issue revenue bonds therefor, the principal and interest of which to be paid solely from revenue derived from rates and charges for the use of, and the service rendered by, such facilities as may be prescribed by law, and provided further, that any city or other political subdivision of the state may own, purchase, construct, extend, or equip, within and without the corporate limits of such city or political subdivision, water systems, sewage collection systems, water treatment plants, sewage treatment plants, and may rehabilitate existing electrical generating facilities, and for the purpose of paying the cost thereof, may, without regard to any limitation herein imposed, with the assent of a majority of the qualified electors voting at an election to be held for that purpose, issue revenue bonds therefor, the principal and interest of which to be paid solely from revenue derived from rates and charges for the use of, and the service rendered by such systems, plants and facilities, as may be prescribed by law; and provided further that any port district, for the purpose of carrying into effect all or any of the powers now or hereafter granted to port districts by the laws of this state, may contract indebtedness and issue revenue bonds evidencing such indebtedness, without the necessity of the voters of the port district authorizing the same, such revenue bonds to be payable solely from all or such part of the revenues of the port district derived from any source whatsoever excepting only those revenues derived from ad valorem taxes, as the port commission thereof may determine, and such revenue bonds not to be in any manner or to any extent a general obligation of the port district issuing the same, nor a charge upon the ad valorem tax revenue of such port district.

**TITLE 6, CHAPTER 9
TORT CLAIMS AGAINST GOVERNMENTAL ENTITIES**

6-902. DEFINITIONS. As used in this act:

1. "State" means the state of Idaho or any office, department, agency, authority, commission, board, institution, hospital, college, university or other instrumentality thereof.

2. "Political subdivision" means any county, city, municipal corporation, health district, school district, irrigation district, an operating agent of irrigation districts whose board consists of directors of its member districts, special improvement or taxing district, or any other political subdivision or public corporation. As used in this act, the terms "county" and "city" also mean state licensed hospitals and attached nursing homes established by counties pursuant to [chapter 36, title 31](#), Idaho Code, or jointly by cities and counties pursuant to [chapter 37, title 31](#), Idaho Code.

3. "Governmental entity" means and includes the state and political subdivisions as herein defined.

4. "Employee" means an officer, board member, commissioner, executive, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity, temporarily or permanently in the service of the governmental entity, whether with or without compensation, but the term employee shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the governmental entity to which this act applies in the event of a claim.

5. "Bodily injury" means any bodily injury, sickness, disease or death sustained by any person and caused by an occurrence.

6. "Property damage" means injury or destruction to tangible property caused by an occurrence.

7. "Claim" means any written demand to recover money damages from a governmental entity or its employee which any person is legally entitled to recover under this act as compensation for the negligent or otherwise wrongful act or omission of a governmental entity or its employee when acting within the course or scope of his employment.

6-903. LIABILITY OF GOVERNMENTAL ENTITIES -- DEFENSE OF EMPLOYEES.

(1) Except as otherwise provided in this act, every governmental entity is subject to liability for money damages arising out of its negligent or otherwise wrongful acts or omissions and those of its employees acting within the course and scope of their employment or duties, whether arising out of a governmental or proprietary function, where the governmental entity if a private person or entity would be liable for money damages under the laws of the state of Idaho, provided that the governmental entity is subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the negligent or otherwise wrongful acts or omissions of the governmental entity or its employees. When the claim for damages arises from construction, operation or maintenance of an impoundment, canal, lateral, drain or associated facilities that are under the supervision or control of the operating agency of irrigation districts

whose board consists of directors of its member districts, then such board and its member districts shall be considered a single governmental unit and the claim may be brought and pursued only against the operating unit.

(2) (i) A governmental entity shall provide a defense to its employee, including a defense and indemnification against any claims brought against the employee in the employee's individual capacity when the claims are related to the course and scope of employment, and be responsible for the payment of any judgment on any claim or civil lawsuit against an employee for money damages arising out of any act or omission within the course and scope of his employment; provided that the governmental entity and its employee shall be subject to liability only for the pro rata share of the total damages awarded in favor of a claimant which is attributable to the act or omission of the employee; (ii) provided further, that to the extent there is valid and collectible, applicable insurance or any other right to defense or indemnification legally available to and for the protection of an employee, while operating or using an automobile, aircraft or other vehicle not owned or leased by the governmental entity and while acting within the course and scope of his/her employment or duties, the governmental entity's duty hereunder to indemnify the employee and/or defend any such claim or lawsuit arising out of the operation or use of such personal automobile, aircraft or vehicle, shall be secondary to the obligation of the insurer or indemnitor of such automobile, aircraft or vehicle, whose obligation shall be primary; and (iii) provided further, this subsection shall not be construed to alter or relieve any such indemnitor or insurer of any legal obligation to such employee or to any governmental entity vicariously liable on account of or legally responsible for damages due to the allegedly wrongful error, omissions, conduct, act or deed of such employee.

(3) The defense of its employee by the governmental entity shall be undertaken whether the claim and civil lawsuit is brought in Idaho district court under Idaho law or is brought in a United States court under federal law. The governmental entity may refuse a defense or disavow and refuse to pay any judgment for its employee if it is determined that the act or omission of the employee was not within the course and scope of his employment or included malice or criminal intent.

(4) A governmental entity shall not be entitled to contribution or indemnification or reimbursement for legal fees and expenses from its employee unless a court shall find that the act or omission of the employee was outside the course and scope of his employment or included malice or criminal intent. Any action by a governmental entity against its employee and any action by an employee against the governmental entity for contribution, indemnification or necessary legal fees and expenses shall be tried to the court in the same civil lawsuit brought on the claim against the governmental entity or its employee.

(5) For the purposes of this act and not otherwise, it shall be a rebuttable presumption that any act or omission of an employee within the time and at the place of his employment is within the course and scope of his employment and without malice or criminal intent.

(6) Nothing in this act shall enlarge or otherwise adversely affect the liability of an employee or a governmental entity. Any immunity or other bar to a civil lawsuit under Idaho or

federal law shall remain in effect. The fact that a governmental entity may relieve an employee from all necessary legal fees and expenses and any judgment arising from the civil lawsuit shall not under any circumstances be communicated to the trier of fact in the civil lawsuit.

(7) When a claim asserted against an employee in the employee's individual capacity is dismissed by the court, the dismissed party shall have the right to a hearing pursuant to the provisions of section [12-123](#), Idaho Code.

6-904. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent shall not be liable for any claim which:

1. Arises out of any act or omission of an employee of the governmental entity exercising ordinary care, in reliance upon or the execution or performance of a statutory or regulatory function, whether or not the statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused.

2. Arises out of the imposition or establishment of a quarantine by a governmental entity, whether such quarantine relates to persons or property.

3. Arises out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

4. Arises out of the activities of the Idaho national guard when engaged in training or duty under sections [316](#), [502](#), [503](#), [504](#), [505](#) or [709](#), [title 32](#), United States Code.

5. Arises out of the activities of the Idaho national guard when engaged in combatant activities during a time of war.

6. Arises out of or results from riots, unlawful assemblies, public demonstrations, mob violence or civil disturbances.

7. Arises out of a plan or design for construction or improvement to the highways, roads, streets, bridges, or other public property where such plan or design is prepared in substantial conformance with engineering or design standards in effect at the time of preparation of the plan or design or approved in advance of the construction by the legislative body of the governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval.

6-904A. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent and without reckless, willful and wanton conduct as defined in section [6-904C](#), Idaho Code, shall not be liable for any claim which:

1. Arises out of the assessment or collection of any tax or fee.

2. Arises out of injury to a person or property by a person under supervision, custody or care of a governmental entity or by or to a person who is on probation, or parole, or who is being

supervised as part of a court imposed drug court program, or any work-release program, or by or to a person receiving services from a mental health center, hospital or similar facility.

6-904B. EXCEPTIONS TO GOVERNMENTAL LIABILITY. A governmental entity and its employees while acting within the course and scope of their employment and without malice or criminal intent and without gross negligence or reckless, willful and wanton conduct as defined in section [6-904C](#), Idaho Code, shall not be liable for any claim which:

1. Arises out of the detention of any goods or merchandise by any law enforcement officer.
2. Arises out of the cancellation or rescission, or the failure to cancel or rescind, any motor vehicle registration and license plates for failure of the owner to verify or maintain motor vehicle liability insurance coverage.
3. Arises out of the issuance, denial, suspension or revocation of, or failure or refusal to issue, deny, suspend, or revoke a permit, license, certificate, approval, order or similar authorization.
4. Arises out of the failure to make an inspection, or the making of an inadequate inspection of any property, real or personal, other than the property of the governmental entity performing the inspection.
5. Arises out of any act or omission providing or failing to provide medical care to a prisoner or person in the custody of any city, county or state jail, detention center or correctional facility.
6. Arises out of a decision of the state commission of pardons and parole or its executive director when carrying out the business of the commission.
7. Arises out of a decision, act or omission of a city, county, the Idaho board of correction or Idaho department of correction when carrying out duties and responsibilities as set forth in [chapter 8, title 20](#), Idaho Code.
8. Arises out of the operation of a sport shooting range as defined in section [6-2701](#), Idaho Code.

6-904C. DEFINITIONS. For the purposes of this chapter, and this chapter only, the following words and phrases shall be defined as follows:

1. "Gross negligence" is the doing or failing to do an act which a reasonable person in a similar situation and of similar responsibility would, with a minimum of contemplation, be inescapably drawn to recognize his or her duty to do or not do such act and that failing that duty shows deliberate indifference to the harmful consequences to others.
2. "Reckless, willful and wanton conduct" is present only when a person intentionally and knowingly does or fails to do an act creating unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result.

6-923. AUTHORITY OF POLITICAL SUBDIVISIONS TO PURCHASE INSURANCE. All political subdivisions of the state shall have the authority to purchase the necessary liability insurance for themselves and their employees.

6-924. POLICY LIMITS -- MINIMUM REQUIREMENTS. Every policy or contract of insurance or comprehensive liability plan of a governmental entity as permitted under the provisions of this chapter shall provide that the insurance carrier pay on behalf of the insured governmental entity or its employee to a limit of not less than five hundred thousand dollars (\$500,000) for bodily or personal injury, death, or property damage or loss as the result of any one (1) occurrence or accident, regardless of the number of persons injured or the number of claimants.

6-927. TAX LEVY TO PAY COMPREHENSIVE LIABILITY PLAN. Notwithstanding any provisions of law to the contrary, all political subdivisions shall have authority to levy an annual property tax in the amount necessary to provide for a comprehensive liability plan whether by the purchase of insurance or otherwise as herein authorized; provided, that the revenues derived therefrom may not be used for any other purpose.

6-928. TAX LEVY TO PAY CLAIM OR JUDGMENT. Notwithstanding any provisions of law to the contrary and in the event there are no funds available, the political subdivision shall levy and collect a property tax, at the earliest time possible, in an amount necessary to pay a claim or judgment arising under the provisions of this act where the political subdivision has failed to purchase insurance or otherwise provide a comprehensive liability plan to cover a risk created under the provisions of this act.

**TITLE 16, CHAPTER 16
CHILD PROTECTIVE ACT**

16-1605. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT.

(1) Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the department. The department shall be informed by law enforcement of any report made directly to it. When the attendance of a physician, resident, intern, nurse, day care worker, or social worker is pursuant to the performance of services as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall make the necessary reports.

(2) For purposes of subsection (3) of this section the term "duly ordained minister of religion" means a person who has been ordained or set apart, in accordance with the ceremonial, ritual or discipline of a church or religious organization which has been established on the basis of a community of religious faith, belief, doctrines and practices, to hear confessions and confidential communications in accordance with the bona fide doctrines or discipline of that church or religious organization.

(3) The notification requirements of subsection (1) of this section do not apply to a duly ordained minister of religion, with regard to any confession or confidential communication made to him in his ecclesiastical capacity in the course of discipline enjoined by the church to which he belongs if:

- (a) The church qualifies as tax-exempt under [26 U.S.C. section 501\(c\)\(3\)](#);
- (b) The confession or confidential communication was made directly to the duly ordained minister of religion; and
- (c) The confession or confidential communication was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. A confession or confidential communication made under any other circumstances does not fall under this exemption.

(4) Failure to report as required in this section shall be a misdemeanor.

**TITLE 18, CHAPTER 13
BRIBERY AND CORRUPTION**

18-1351. BRIBERY AND CORRUPT PRACTICES -- DEFINITIONS. Unless a different meaning plainly is required in this chapter:

(1) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he is interested, but not an advantage promised generally to a group or class of voters as a consequence of public measures which a candidate engages to support or oppose. "Benefit" does not include an award with economic significance of five hundred dollars (\$500) or less given to a nonelected public servant by a nonprofit organization whose membership is limited to public servants as part of a public servant recognition program that is designed to recognize innovation and achievement in the workplace, provided that the organization discloses in advance on its website the nature of the program, the amount of the award, the names of any persons or entities that contributed to the award and the recipient of the award.

(2) "Confidential information" means knowledge gained through a public office, official duty or employment by a governmental entity which is not subject to disclosure to the general public and which, if utilized in financial transactions would provide the user with an advantage over those not having such information or result in harm to the governmental entity from which it was obtained.

(3) "Government" includes any branch, subdivision or agency of the government of the state or any locality within it and other political subdivisions including, but not limited to, highway districts, planning and zoning commissions and cemetery districts, and all other governmental districts, commissions or governmental bodies not specifically mentioned in this chapter.

(4) "Harm" means loss, disadvantage or injury, including loss, disadvantage or injury to any other person or entity in whose welfare he is interested.

(5) "Official proceeding" means a proceeding heard or which may be heard before any legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

(6) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which he directs or conducts, or participates in directing or conducting party affairs at any level of responsibility.

(7) "Pecuniary benefit" is any benefit to a public official or member of his household in the form of money, property or commercial interests, the primary significance of which is economic gain.

(8) "Public servant" means any officer or employee of government, including legislators and judges, and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function; but the term does not include witnesses.

(9) "Administrative proceeding" means any proceeding, other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law, or in which law or regulation is particularized in application to individuals.

18-1356. GIFTS TO PUBLIC SERVANTS BY PERSONS SUBJECT TO THEIR JURISDICTION.

(1) Regulatory and law enforcement officials. No public servant in any department or agency exercising regulatory functions, or conducting inspections or investigations, or carrying on civil or criminal litigation on behalf of the government, or having custody of prisoners, shall solicit, accept or agree to accept any pecuniary benefit from a person known to be subject to such regulation, inspection, investigation or custody, or against whom such litigation is known to be pending or contemplated.

(2) Officials concerned with government contracts and pecuniary transactions. No public servant having any discretionary function to perform in connection with contracts, purchases, payments, claims or other pecuniary transactions of the government shall solicit, accept or agree to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any such contract, purchase, payment, claim or transaction.

(3) Judicial and administrative officials. No public servant having judicial or administrative authority and no public servant employed by or in a court or other tribunal having such authority, or participating in the enforcement of its decisions, shall solicit, accept or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before such public servant or a tribunal with which he is associated.

(4) Legislative and executive officials. No legislator or public servant shall solicit, accept or agree to accept any pecuniary benefit in return for action on a bill, legislation, proceeding or official transaction from any person known to be interested in a bill, legislation, official transaction or proceeding.

(5) Exceptions. This section shall not apply to:

(a) fees prescribed by law to be received by a public servant, or any other benefit for which the recipient gives legitimate consideration or to which he is otherwise legally entitled; or

(b) gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the receiver; or

(c) 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; or

(d) benefits received as a result of lobbying activities that are disclosed in reports required by [chapter 66, title 67](#), Idaho Code. This exception shall not apply to any activities prohibited by subsections (1) through (4) of this section.

(6) Offering benefits prohibited. No person shall knowingly confer, or offer or agree to confer, any benefit prohibited by the foregoing subsections.

(7) Grade of offense. An offense under this section is a misdemeanor and shall be punished as provided in this chapter.

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 anybody 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 [67-9230](#), Idaho Code, violations of which are subject to penalties as provided in section [67-9231](#), 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 [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.

18-1360. PENALTIES. Any public servant who violates the provisions of this chapter, unless otherwise provided, shall be guilty of a misdemeanor and may be punished by a fine not exceeding one thousand dollars (\$1,000), or by incarceration in the county jail for a period not exceeding one (1) year, or by both such fine and incarceration. In addition to any penalty imposed in this chapter, any person who violates the provisions of this chapter may be required to forfeit his office and may be ordered to make restitution of any benefit received by him to the governmental entity from which it was obtained.

18-1361. SELF-INTERESTED CONTRACTS -- EXCEPTION. Where there are less than three (3) suppliers of a good or a service within a fifteen (15) mile radius of where the good or service is to be provided, it shall not constitute a violation of the provisions of subsection (1) (d) or (e) of section [18-1359](#), Idaho Code, for a public servant or for his relative to contract with the public body of which the public servant is a member if the contract is reasonably necessary to respond to a disaster as defined in [chapter 10, title 46](#), Idaho Code, or if the procedures listed below are strictly observed. For purposes of this section, "relative" shall mean any person related to the public servant by blood or marriage within the second degree.

(1) The contract is competitively bid and the public servant or his relative submits the low bid; and

(2) Neither the public servant nor his relative takes any part in the preparation of the contract or bid specifications, and the public servant takes no part in voting on or approving the contract or bid specifications; and

(3) The public servant makes full disclosure, in writing, to all members of the governing body, council or board of said public body of his interest or that of his relative and of his or his relative's intention to bid on the contract; and

(4) Neither the public servant nor his relative has violated any provision of Idaho law pertaining to competitive bidding or improper solicitation of business.

18-1361A. NONCOMPENSATED APPOINTED PUBLIC SERVANT -- RELATIVES OF PUBLIC SERVANT -- EXCEPTION. When a person is a public servant by reason of his appointment to a governmental entity board for which the person receives no salary or fees for his service on said board, it shall not constitute a violation of the provisions of subsection (1)(d) or (e) of section [18-1359](#), Idaho Code, for a public servant or for his relative to contract with the public body of which the public servant is a member if the procedures listed below are strictly observed. For purposes of this section, "relative" shall mean any person related to the public servant by blood or marriage within the second degree.

(1) The contract is competitively bid and the public servant or his relative submits the low bid; and

(2) Neither the public servant nor his relative takes any part in the preparation of the contract or bid specifications, and the public servant takes no part in voting on or approving the contract or bid specifications; and

(3) The public servant makes full disclosure, in writing, to all members of the governing body, council or board of said public body of his interest or that of his relative and of his or his relative's intention to bid on the contract; and

(4) Neither the public servant nor his relative has violated any provision of Idaho law pertaining to competitive bidding or improper solicitation of business.

18-1362. CAUSE OF ACTION. A prosecuting attorney or the attorney general may bring an action in the district court of the county in which a public servant resides to enjoin a violation of the provisions of this chapter and to require the public servant to make restitution to the government of any pecuniary gain obtained. The prevailing party shall be awarded his costs and reasonable attorney fees.

**TITLE 18, CHAPTER 15
CHILDREN AND VULNERABLE ADULTS**

18-1517. DISSEMINATING MATERIAL HARMFUL TO MINORS -- DEFENSES.

1. In any prosecution for disseminating material harmful to minors, it is an affirmative defense that:

(a) The defendant had reasonable cause to believe that the minor involved was eighteen (18) years old or more, or such minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or apparently official document purporting to establish that the minor was eighteen (18) years of age or older.

(b) The minor involved was accompanied by his parent or legal guardian, or by an adult and the adult represented that he was the minor's parent or guardian or an adult and signed a written statement to that effect.

(c) The defendant was the parent or guardian of the minor involved.

(d) The defendant was a bona fide school, college, university, museum or public library, or was acting in his capacity as an employee of such an organization or a retail outlet affiliated with and serving the educational purposes of such an organization.

**TITLE 18, CHAPTER 22
COMPUTER CRIME**

18-2201. DEFINITIONS. As use [used] in this chapter:

(1) To "access" means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system, or computer network.

(2) "Computer" means, but is not limited to, an electronic device which performs logical, arithmetic, or memory functions by the manipulations of electronic or magnetic impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a system or network.

(3) "Computer network" means, but is not limited to, the interconnection of communication lines (including microwave or other means of electronic communication) with a computer through remote terminals, or a complex consisting of two (2) or more interconnected computers.

(4) "Computer program" means, but is not limited to, a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.

(5) "Computer software" means, but is not limited to, computer programs, procedures, and associated documentation concerned with the operation of a computer system.

(6) "Computer system" means, but is not limited to, a set of related, connected or unconnected, computer equipment, devices, and software.

(7) "Property" includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value.

(8) "Services" include, but are not limited to, computer time, data processing, and storage functions.

18-2202. COMPUTER CRIME.

(1) Any person who knowingly accesses, attempts to access or uses, or attempts to use any computer, computer system, computer network, or any part thereof for the purpose of: devising or executing any scheme or artifice to defraud; obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises; or committing theft; commits computer crime.

(2) Any person who knowingly and without authorization alters, damages, or destroys any computer, computer system, or computer network described in section [18-2201](#), Idaho Code, or any computer software, program, documentation, or data contained in such computer, computer system, or computer network commits computer crime.

(3) Any person who knowingly and without authorization uses, accesses, or attempts to access any computer, computer system, or computer network described in section [18-2201](#), Idaho

Code, or any computer software, program, documentation or data contained in such computer, computer system, or computer network, commits computer crime.

(4) A violation of the provisions of subsections (1) or (2) of this section shall be a felony. A violation of the provisions of subsection (3) of this section shall be a misdemeanor.

TITLE 18, CHAPTER 33
FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS

18-3302J. PREEMPTION OF FIREARMS REGULATION.

(1) The legislature finds that uniform laws regulating firearms are necessary to protect the individual citizen's right to bear arms guaranteed by amendment 2 of the United States Constitution and section 11, article I of the constitution of the state of Idaho. It is the legislature's intent to wholly occupy the field of firearms regulation within this state.

(2) Except as expressly authorized by state statute, no county, city, agency, board or any other political subdivision of this state may adopt or enforce any law, rule, regulation, or ordinance which regulates in any manner the sale, acquisition, transfer, ownership, possession, transportation, carrying or storage of firearms or any element relating to firearms and components thereof, including ammunition.

(3) A county may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within its boundaries. Ordinances adopted under this subsection may not apply to or affect:

- (a) A person discharging a firearm in the lawful defense of person or persons or property;
- (b) A person discharging a firearm in the course of lawful hunting;
- (c) A landowner and guests of the landowner discharging a firearm, when the discharge will not endanger persons or property;
- (d) A person lawfully discharging a firearm on a sport shooting range as defined in section [55-2604](#), Idaho Code; or
- (e) A person discharging a firearm in the course of target shooting on public land if the discharge will not endanger persons or property.

(4) A city may adopt ordinances to regulate, restrict or prohibit the discharge of firearms within its boundaries. Ordinances adopted under this subsection may not apply to or affect:

- (a) A person discharging a firearm in the lawful defense of person or persons or property;
- or
- (b) A person lawfully discharging a firearm on a sport shooting range as defined in section [55-2604](#), Idaho Code.

(5) This section shall not be construed to affect:

(a) The authority of the department of fish and game to make rules or regulations concerning the management of any wildlife of this state, as set forth in section [36-104](#), Idaho Code; and

(b) The authority of counties and cities to regulate the location and construction of sport shooting ranges, subject to the limitations contained in [chapter 26, title 55](#), Idaho Code.

(6) The provisions of this section are hereby declared to be severable. And if any provision is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.

**TITLE 18, CHAPTER 41
INDECENCY AND OBSCENITY**

18-4101. DEFINITIONS. The following definitions are applicable to this act:

(A) "Obscene" material means any matter:

- (1) which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
- (2) which depicts or describes patently offensive representations or descriptions of:
 - (a) ultimate sexual acts, normal or perverted, actual or simulated; or
 - (b) masturbation, excretory functions, or lewd exhibition of the genitals or genital area.

Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value.

In prosecutions under this act, where circumstances of production, presentation, sale, dissemination, or publicity indicate that the matter is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political, or scientific value.

(B) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience or clearly defined deviant sexual group, the appeal of the subject matter shall be judged with reference to such audience or group.

(C) "Matter" or "material" means any book, magazine, newspaper, or other printed or written material; or any picture, drawing, photograph, motion picture, or other pictorial representation; or any statue or other figure; or any recording, transcription, or mechanical, chemical, or electrical reproduction; or any other articles, equipment, machines, or materials.

(D) "Person" means any individual, partnership, firm, association, corporation, or other legal entity; or any agent or servant thereof.

(E) "Distribute" means to transfer possession of, whether with or without consideration, by any means.

(F) "Knowingly" means having actual or constructive knowledge of the character of the subject matter or live conduct. A person shall be deemed to have constructive knowledge of the character of the subject matter or live conduct if he has knowledge of facts which would put a reasonable and prudent man on notice as to the suspect nature of the matter, and the failure to inspect the contents is either for the purpose of avoiding such disclosure or is due to reckless conduct.

(G) "Reckless conduct" is conduct which consciously disregards a substantial and unjustifiable risk that matter may be obscene. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that an average law-abiding person would observe in the actor's situation under like circumstances.

(H) "Exhibit" means to show or display.

(I) "Obscene live conduct" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, where:

(1) the average person, applying contemporary community standards, would find such conduct, when considered as a whole, appeals to the prurient interest; and

(2) the conduct is patently offensive because it consists of:

(a) ultimate sexual acts, normal or perverted, actual or simulated; or

(b) masturbation, excretory functions, or lewd exhibition of the genitals or genital area. Nothing herein contained is intended to include or proscribe any conduct which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value. In prosecutions under this act, where circumstances of production, presentation, advertising, or exhibition indicate that live conduct is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the conduct and can justify the conclusion that, in the context in which it is used, the matter has no serious literary, artistic, political or scientific value.

18-4102. AFFIRMATIVE DEFENSE. It is not innocent but calculated purveyance which is prohibited. This act shall not apply to any persons who may possess or distribute obscene matter or participate in conduct otherwise proscribed by this act when such possession, distribution, or conduct occurs:

(A) within the scope of employment of law enforcement and judicial activities; or

(B) within the scope of employment of bona fide school, college, university, museum or public library activities or within the scope of employment of such an organization or a retail outlet affiliated with and serving the educational purposes of such an organization; or

(C) within the scope of employment as a moving picture machine operator, assistant operator, usher, or ticket taker in a motion picture theater in connection with a motion picture film or show exhibited in such theater, if such operator or assistant operator has no financial interest in the motion picture theater wherein he is so employed other than his wages received or owed, and such person consents to give testimony regarding such employment in all judicial proceedings brought under this act, when granted immunity by the trial judge; or

(D) under like circumstances of justification where the possession, distribution or conduct possesses serious literary, artistic, political or scientific value.

If this issue is not presented by the prosecution's evidence, the defendant may raise the same as an affirmative defense by presenting some evidence thereon. Where raised, the

prosecution must sustain the burden of proving the defendant guilty beyond a reasonable doubt as to that issue.

**TITLE 18, CHAPTER 70
TRESPASS AND MALICIOUS INJURIES TO PROPERTY**

18-7029. PLACING POSTERS OR PROMOTIONAL MATERIAL ON PUBLIC OR PRIVATE PROPERTY WITHOUT PERMISSION. It shall be unlawful for any person to erect, install, attach or paint, or cause to be erected, installed, attached or painted, election posters or signs upon public or private property, real or personal, in the state of Idaho, without permission from the owner or occupant of such property, and it shall be unlawful for any person to place or leave any literature or other political, promotional or sales materials upon public or private property, real or personal, in the state of Idaho when the owner or occupant of such property, by a sign conspicuously posted on the property, or by other written or audio communication to such person, has forbidden the placing or leaving of literature or other political, promotional or sales material upon that property. Provided, however, that the granting of such permission by any public utility company on behalf of any candidate for public office shall constitute the granting of like permission by such public utility company to all other candidates for the same public office. Any violation of this section shall be a misdemeanor.

**TITLE 18, CHAPTER 73
CIVIL RIGHTS**

18-7301. FREEDOM FROM DISCRIMINATION CONSTITUTES A CIVIL RIGHT. The right to be free from discrimination because of race, creed, color, sex, or national origin is recognized as and declared to be a civil right. This right shall include, but not be limited to:

- (1) The right to obtain and hold employment without discrimination.
- (2) The right to the full enjoyment of any of the accommodations, facilities or privileges of any place of public resort, accommodation, assemblage or amusement.

18-7302. DEFINITIONS. Terms used in this chapter shall have the following definitions:

(a) "Every person" shall be construed to include any owner, lessee, proprietor, manager, agent or employee whether one or more natural persons, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees, receivers, of this state and its political subdivisions, boards and commissions, engaged in or exercising control over the operation of any place of public resort, accommodation, assemblage or amusement.

(b) "Deny" is hereby defined to include any act which directly or indirectly, or by subterfuge, by a person or his agent or employee, results or is intended or calculated to result in whole or in part in any discrimination, distinction, restriction, or unequal treatment or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement except for conditions and limitations established by law and applicable alike to all persons, regardless of race, creed or color.

(c) "Full enjoyment of" shall be construed to include the right to purchase any service, commodity or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage or amusement, without acts directly or indirectly causing persons of any particular race, creed or color, to be treated as not welcome, accepted, desired or solicited.

(d) "National origin" includes "ancestry."

(e) "Any place of public resort, accommodation, assemblage or amusement" is hereby defined to include, but not to be limited to any public place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the sale of goods and merchandise, or for the rendering of personal services, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the

premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation or public purposes, or public halls, public elevators and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or any educational institution wholly or partially supported by public funds, or schools of special instruction, or nursery schools, or day care centers or children's camps; nothing herein contained shall be construed to include, or apply to, any institute, bona fide club, or place of accommodation, which is by its nature distinctly private provided that where public use is permitted that use shall be covered by this section; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution; and the right of a natural parent in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed.

18-7303. DENIAL OF RIGHT TO WORK OR ACCOMMODATIONS A MISDEMEANOR. Every person shall be guilty of a misdemeanor who denies to any other person because of race, creed, color, sex, or national origin the right to work: (a) by refusing to hire, (b) by discharging, (c) by barring from employment, or (d) by discriminating against such person in compensation or in other terms or conditions of employment; or who denies to any other person because of race, creed, color, sex, or national origin, the full enjoyment of any of the accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage, or amusement, provided, however, that denial of the right to work on the basis of sex shall be permissible in situations where sex is a bona fide occupational qualification reasonably necessary to the normal operation of the business.

**TITLE 31, CHAPTER 8
POWERS AND DUTIES OF BOARD OF COMMISSIONERS**

31-857. SCHOOL, ROAD, HERD AND OTHER DISTRICTS -- PRESUMPTION OF VALIDITY OF CREATION OR DISSOLUTION. Whenever any school district, road district, herd district, or other district has heretofore been, or shall hereafter be, declared to be created, established, disestablished, dissolved, or modified, by an order of the board of county commissioners in any county of the state of Idaho, a legal prima facie presumption is hereby declared to exist, after a lapse of two (2) years from the date of such order, that all proceedings and jurisdictional steps preceding the making of such order have been properly and regularly taken so as to warrant said board in making said order, and the burden of proof shall rest upon the party who shall deny, dispute, or question the validity of said order to show that any of such preceding proceedings or jurisdictional steps were not properly or regularly taken; and such prima facie presumption shall be a rule of evidence in all courts in the state of Idaho. No challenge to the proceedings or jurisdictional steps preceding such an order, shall be heard or considered after seven (7) years has lapsed from the date of the order.

**TITLE 33, CHAPTER 1
STATE BOARD OF EDUCATION**

33-125A. IDAHO EDUCATION NETWORK -- DUTIES OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE STATE DEPARTMENT OF EDUCATION. Under the direction of the state superintendent of public instruction, the state department of education shall:

(1) Coordinate with the Idaho digital learning academy as provided for in [chapter 55, title 33](#), Idaho Code, the state board of education and school districts to distribute telecourses, teleconferences and other instructional and training services to and between public schools;

(2) Coordinate with the Idaho digital learning academy, the state board of education and institutions of higher education to distribute college credit telecourses, teleconferences and other instructional and training services; and

(3) Act as a clearinghouse for the materials, courses, publications and other applicable information related to the requirements of this section.

**TITLE 33, CHAPTER 8
BUDGET AND TAX LEVY**

33-804. SCHOOL PLANT FACILITIES RESERVE FUND LEVY. In any school district in which a school plant facilities reserve fund has been created, either by resolution of the board of trustees or by apportionment to new districts according to the provisions of section [33-901](#), Idaho Code, to provide funds therefor the board of trustees shall submit to the qualified school electors of the district the question of a levy not to exceed four-tenths of one percent (.4%) of market value for assessment purposes in each year, as such valuation existed on December 31 of the previous year, for a period not to exceed ten (10) years.

The question of a levy to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is proposed to be made, the percentage of votes in favor of the proposal which are needed to approve the proposed dollar amount to be collected, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be held subject to the provisions of section [34-106](#), Idaho Code, and conducted and the returns canvassed as provided in [title 34](#), Idaho Code; and the dollar amount to be collected shall be approved only if:

1. Fifty-five percent (55%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of less than two-tenths of one percent (.2%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election;

2. Sixty percent (60%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of two-tenths of one percent (.2%) or more and less than three-tenths of one percent (.3%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election; or

3. Two-thirds (2/3) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of three-tenths of one percent (.3%) or more of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election.

If the question be approved, the board of trustees may make a levy, not to exceed four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, in each year for which the collection was approved, sufficient to collect the dollar amount approved and may again submit the question at the expiration of the period of such levy, for the dollar amount to be collected during each year, and the number of years which the board may at that time determine. Or, during the period approved at any such election, if such period be less than ten (10) years or the levy be less than four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, the board of trustees may submit to the qualified school electors in the same manner as before, the question whether the number of years, or the levy, or both, be increased, but not to

exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

Any bonded indebtedness incurred in accordance with the provisions of section [33-1103](#), Idaho Code, subsequent to the approval of a plant facilities reserve fund levy shall not affect the terms of that levy for any time during which such levy is in effect.

4. In any fiscal year in which the state department of education certifies that the statewide per support unit funding for salary-based apportionment and discretionary funds has decreased, in the aggregate, from the prior fiscal year, the board of trustees of any school district with a previously approved plant facilities levy may submit to the qualified electors of the school district the question of converting a previously approved plant facilities levy to a supplemental levy, subject to the following:

(a) The term of the supplemental levy shall not exceed the lesser of two (2) years or the remaining term on the previously approved plant facilities levy; and

(b) The first tax year of conversion shall be the one in which the revenues collected will accrue to the fiscal year in which the state department of education certifies that the condition stated in subsection 4. of this section exists; and

(c) Up to one hundred percent (100%) of the previously approved plant facilities levy amount may be converted; and

(d) Conversion of a plant facilities levy to a supplemental levy shall not affect any other supplemental levy; and

(e) The question to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be converted each year, the number of years to be converted, the percentage of the plant facilities levy that is proposed for conversion, and the purposes for which such funds shall be used; and

(f) Prior to January 1, 2011, the election notice shall be given, the election shall be conducted and the returns canvassed as provided in [chapter 4, title 33](#), Idaho Code. On and after January 1, 2011, the election notice shall be given, the election shall be held subject to the provisions of section [34-106](#), Idaho Code, and conducted and the returns canvassed as provided in [title 34](#), Idaho Code; and

(g) The dollar amount to be converted and collected shall be approved only if a majority of the electors voting in the election are in favor; and

(h) Upon expiration of the term of conversion, the supplemental levy shall revert to the previously approved plant facilities levy for any approved years remaining on the balance of its term; and

(i) Any years in which a previously approved plant facilities levy is converted to a supplemental levy pursuant to this subsection shall count against the years for which the plant facilities levy was approved; and

(j) If a majority of the electors voting in the election fail to vote in favor, the previously approved plant facilities levy shall not be affected.

**TITLE 33, CHAPTER 9
SCHOOL FUNDS**

33-901. SCHOOL PLANT FACILITIES RESERVE FUND. The board of trustees of any school district may create and establish a school plant facilities reserve fund by resolution adopted at any regular or special meeting of the board. All moneys for said fund accruing from taxes levied under section [33-804](#), Idaho Code, together with interest accruing from the investment of any moneys in the fund and any moneys allowed for depreciation of school plant facilities as are appropriated from the general fund of the district, shall be credited by the treasurer to the school plant facilities reserve fund.

Disbursements from said fund may be made from time to time as the board of trustees may determine, for purposes authorized in section [33-1102](#), Idaho Code, and for lease and lease purchase agreements for such purposes and to repay loans from commercial lending institutions extended to pay for the construction of school plant facilities, but no expenditure for remodeling existing buildings shall be authorized and made unless the estimated cost thereof shall exceed five thousand dollars (\$5,000). Lease purchase agreements shall not extend beyond the period designated for any existing school plant facilities reserve fund levy. Expenditures may also be made from this fund for participation by the school district in any local improvement district in which the school district may be situate, but any such participation shall not create a lien upon any of the property owned by the school district.

Should any school district having a balance in its school plant facilities reserve fund be consolidated with one or more school districts to form a new school district, the moneys in such fund shall be used to retire any bonds issued by it and outstanding at the time of the consolidation. If there are no bonds outstanding, any balance in its school plant facilities reserve fund shall accrue to the new district to be added to or to create and establish a school plant facilities reserve fund.

Should any school district having a balance in its school plant facilities reserve fund be divided so as to create two (2) or more new districts the said fund may be used to retire any bonds issued by it and outstanding at the time of the division, or the said fund may be divided among the new school districts, as may be approved by the electors at the time of the division. If the fund is divided among the new districts, a school plant facilities reserve fund is thereby created and established for each district.

The board of trustees of any school district having a school plant facilities reserve fund created and established under any of the provisions of this section, may discontinue the same by resolution adopted at any regular meeting of the board. Upon such discontinuance, any balance in the fund shall be used to retire any outstanding bonds, if any; otherwise, the balance may be transferred to the general fund of the district.

Moneys in the school plant facilities reserve fund being held for future use may be invested in the manner of section [57-127](#), Idaho Code.

A detailed financial report of the operations in and the condition of the school plant facilities reserve fund shall be included in the annual report of each district. Forms for such

reporting shall be provided by the state board of education. Such report shall be published as provided by law for the publication of annual reports of school districts.

33-910. BROADBAND INFRASTRUCTURE IMPROVEMENT GRANT FUND --
RULEMAKING -- DEFINITIONS.

(1) There is hereby created in the state treasury a fund to be known as the broadband infrastructure improvement grant fund. The fund shall consist of moneys made available through legislative transfers or appropriations, and from any other governmental source. Interest earned from the investment of moneys in the fund shall be retained in the fund. Subject to appropriation, moneys in the fund shall be expended by the state department of education to invest in special construction projects for high-speed broadband connections to E-rate eligible entities that receive E-rate funding.

(2) The state department of education shall create and make available a grant application form for moneys in the fund. The state department may determine eligibility qualifications and applicant priority. Any E-rate eligible entity may apply to the state department for a grant from the fund for up to ten percent (10%) of the cost of an eligible special construction project. In order to receive moneys from the fund, the contract for such construction project must contain a provision that the constructing provider of the project will make any dark fiber laid pursuant to the contract available for use by any other provider.

(3) The state board of education shall promulgate rules to implement the provisions of this section. Such rules shall be consistent with the federal communications commission's second E-rate modernization order that provides for additional category one funding up to ten percent (10%) to match state funding for special construction charges for high-speed broadband connections.

(4) For the purposes of this section, "E-rate eligible entity" means Idaho public schools grades K through 12, the Idaho digital learning academy, the Idaho department of juvenile corrections education programs, the school for the deaf and blind and the Idaho public libraries.

**TITLE 33, CHAPTER 11
SCHOOL BONDS**

33-1102. PURPOSES FOR WHICH BONDS MAYBE ISSUED. The purposes for which bonds may be issued shall be: To acquire, purchase or improve a school site or school sites; to build a schoolhouse or schoolhouses or other building or buildings; to demolish or remove school buildings; to add to, remodel or repair any existing building; to furnish and equip any building or buildings, including all lighting, heating, ventilation and sanitation facilities and appliances necessary to maintain and operate the buildings of the district; to purchase school buses and to acquire, develop or renovate school facilities to establish, create and develop renewable energy systems as described in section [33-604](#), Idaho Code. The provisions of section [33-906](#), Idaho Code, shall not apply to bonds or portions of bonds issued to acquire, develop or renovate school energy systems as authorized in section [33-604](#), Idaho Code, when the school district begins to sell thermal energy for revenue as authorized in section [33-605](#), Idaho Code.

33-1103. DEFINITIONS -- BONDS – LIMITATIONS ON AMOUNT – ELECTIONS
TO AUTHORIZE ISSUANCE.

(1) For the purposes of this chapter the following definitions shall have the meanings specified: "Market value for assessment purposes" means the amount of the last preceding equalized assessment of all taxable property and all property exempt from taxation pursuant to section [63-602G](#), Idaho Code, within the school district on the tax rolls completed and available as of the date of approval by the electorate in the school bond election. "Aggregate outstanding indebtedness" means the total sum of unredeemed outstanding bonds, minus all moneys in the bond interest and redemption fund or funds accumulated for the redemption of such outstanding bonds, and minus the sum of all taxes levied for the redemption of such bonds, with the exception of that portion of such tax levies required for the payment of interest on bonds, which taxes remain uncollected. "Issue," "issued," or "issuance" means a formal delivery of bonds to any purchaser thereof and payment therefor to the school district.

(2) The board of trustees of any school district, upon approval of a majority thereof, may submit to the qualified school district electors of the district the question as to whether the board shall be empowered to issue negotiable coupon bonds of the district in an amount and for a period of time to be named in the notice of election.

(3) An elementary school district which employs not less than six (6) teachers, or a school district operating an elementary school or schools, and a secondary school or schools, or issuing bonds for the acquisition of a secondary school or schools, may issue bonds in an amount not to exceed five percent (5%) of the market value for assessment purposes thereof, less the aggregate outstanding indebtedness; and no other school district shall issue bonds in an amount to exceed at any time two percent (2%) of the market value for assessment purposes thereof less the aggregate

outstanding indebtedness. The market value for assessment purposes, the aggregate outstanding indebtedness and the unexhausted debt-incurring power of the district shall each be determined as of the date of approval by the electors in the school bond election.

(4) Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed, and the qualifications of electors voting or offering to vote shall be, as provided in [title 34](#), Idaho Code.

(5) The question shall be approved only if the percentage of votes cast at such election were cast in favor thereof is that which now, or may hereafter be, set by the constitution of the state of Idaho. Upon such approval of the issuance of bonds, the same may be issued at any time after the date of such election.

33-1111. SALE OF BONDS. School bonds may be sold at private sale, as provided in section [57-232](#), Idaho Code, after notice as hereinafter provided, or may be sold at public sale as hereinafter provided.

Notice of the intention to sell such bonds at public or private sale shall be published once in the name of the issuer in a newspaper of general circulation within the issuer's boundaries at least three (3) days prior to the time scheduled by the issuer for approving the sale of such bonds. Failure to comply with this requirement shall not invalidate the sale of the bonds, so long as the issuer has made a good faith effort to comply.

If the bonds are sold at public sale, the notice shall describe the issue of bonds; shall state that the board of trustees will receive sealed bids or electronic bids pursuant to the provisions of section [57-233](#), Idaho Code, until a specified day and hour; and that said bids will be accepted or rejected at a regular or special meeting of the board at a time and place to be named in the notice. Said notice may require such deposits of forfeits as the board may deem necessary.

At the meeting held at the time and place named in the notice, the board of trustees shall open the bids, and may sell the same to whomever shall make the bid most advantageous to the school district, and the deposits of the unsuccessful bidders shall thereupon be returned to them. Should the successful bidder fail or refuse to tender payment of the amount required for the purchase of the issue within ten (10) days after tender to him of the executed bonds and a certified copy of the bond proceedings, his deposit shall be forfeited; and the board may in its judgment accept the bid next most advantageous, readvertise the issue as before, or sell the bonds at private sale.

The board of trustees may reject any or all bids, and sell the bonds at private sale when this is found to be in the best interest of the district

TITLE 33, CHAPTER 25
COMMISSION FOR LIBRARIES

33-2501. COMMISSION FOR LIBRARIES ESTABLISHED. The state of Idaho recognizes that libraries are uniquely suited to making the benefits of information and information technologies available to the citizens of the state of Idaho. Therefore, the Idaho commission for libraries is hereby established for the purpose of assisting libraries to build the capacity to better serve their clientele.

33-2502. BOARD OF LIBRARY COMMISSIONERS -- APPOINTMENT, REMOVAL AND TERMS -- OFFICERS -- MEETINGS -- COMPENSATION. The board of library commissioners shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be maintained within the department of self-governing agencies and shall consist of five (5) commissioners appointed by the governor. The board shall nominate to the governor qualified candidates to fill any board vacancy. The governor shall consider geographic representation when selecting board commissioners by appointing one (1) board commissioner from the northern part of the state, one (1) board commissioner from the eastern part of the state, one (1) board commissioner from the southwestern part of the state and one (1) board commissioner from each of the two (2) congressional districts. Appointments are for five (5) year terms and commissioners may serve more than one (1) term. At the end of a term, the commissioner shall continue to serve until a successor is appointed and qualifies. A vacancy on the board of library commissioners shall be filled in the same manner as regular appointments and shall be for the unexpired portion of the term. The governor may remove board commissioners for cause including, but not limited to, frequent absences from board meetings. The board of library commissioners shall annually elect a chairman, vice chairman and other officers as it deems reasonably necessary. The board of library commissioners shall meet at least twice each year. Commissioners shall be compensated as provided by section [59-509\(n\)](#), Idaho Code.

33-2503. BOARD OF LIBRARY COMMISSIONERS -- POWERS AND DUTIES. The board of library commissioners is designated as the policymaking body for the Idaho commission for libraries. The board of library commissioners shall have the following powers and duties:

- (1) To foster and promote library service in the state of Idaho.
- (2) To promulgate all rules and make policies as necessary for the proper conduct of its business.
- (3) To receive donations of money, materials and other real and personal property, for the benefit of the Idaho commission for libraries. Title to donations in any form shall vest in the state of Idaho. Donations shall be held and controlled by the board of library commissioners.
- (4) To promote and facilitate the establishment, use, and cooperation of libraries throughout the state so all Idahoans have access to the resources of those libraries.
- (5) To support or deliver statewide library programs and services.
- (6) To accept, receive, administer and expend, in accordance with the terms thereof, any moneys, materials or other aid granted, appropriated, or made available to Idaho by the United

States, or any of its agencies, or by any other public or private source, for library purposes. The board of library commissioners is authorized to file any accounts required with reference to receiving and administering all such moneys, materials and other aid.

(7) To assist in the establishment of financing of a statewide program of cooperative library services, which may be in cooperation with any taxing unit, or public or private agency.

(8) To contract with other libraries or agencies, within or without the state of Idaho, to render library services to people of the state of Idaho. The board of library commissioners shall have authority to reasonably compensate other library units or agencies for the cost of the services provided by the other library unit or agency under any such contract. Such contracts and compensation shall be exempt from the provisions of [chapter 92, title 67](#), Idaho Code.

33-2504. STATE LIBRARIAN APPOINTED BY BOARD OF LIBRARY COMMISSIONERS -- QUALIFICATIONS -- POWERS. The board of library commissioners shall employ a qualified state librarian to serve as its chief executive officer. The state librarian shall be a graduate of an accredited library school.

The state librarian shall, subject to the provisions of [chapter 53, title 67](#), Idaho Code, employ and fix the compensation of all other employees of the commission who shall be directly responsible to the state librarian.

33-2505. DIGITAL REPOSITORY FOR STATE PUBLICATIONS. Recognizing that an informed citizenry is a cornerstone for an effective democracy, and in order to provide free and continuous access to state publications, it shall be the duty of the state librarian to establish and maintain a publicly accessible digital repository of state publications prepared by state agencies. The digital repository is intended to collect state publications and make them readily available to all Idaho citizens.

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 [chapter 1, title 74](#), Idaho Code, or other information excluded or exempted by rule promulgated by the board of library commissioners.

33-2505B. SUBMISSION BY STATE AGENCIES.

(1) The head of every state agency or their designee shall promptly submit to the commission for libraries copies of published information that are state publications.

(a) For state publications available only in print format, each state agency shall submit two (2) copies of each printed publication to the commission for libraries.

(b) For state publications available only in electronic format, each state agency shall submit one (1) digital copy of each electronic publication to the commission for libraries.

(c) For state publications available in both print and electronic format, each state agency shall submit two (2) print copies and one (1) digital copy of the publication to the commission for libraries.

(d) Of the two (2) print copies of state publications, one (1) copy shall be sent to the Idaho state historical society and one (1) copy shall be sent to the university of Idaho library for archival purposes.

(2) The commission for libraries shall promulgate such rules as are necessary and appropriate to accomplish the purpose of a digital repository for state publications.

33-2505C. EXEMPTIONS. In the interest of economy and efficiency, the board of library commissioners may exempt a given state publication or class of publications from the requirements of sections [33-2505](#), [33-2505A](#) and [33-2505B](#), Idaho Code, in full or in part, and shall promulgate rules in compliance with [chapter 52, title 67](#), Idaho Code, and make policies to implement this section.

33-2506. LIBRARY SERVICES IMPROVEMENT FUND -- ESTABLISHED.

(1) Policy. The state of Idaho recognizes its responsibility to provide library services to people in all areas of the state. The state acknowledges that the ability of each Idahoan to access information has a critical impact on the state's economic development, educational success, provision for an informed electorate, and overall quality of life. Realizing that libraries of all types and in all parts of the state must be able to interact and cooperate in order to respond to these informational needs, the state of Idaho hereby creates and establishes in the state treasury the library services improvement fund.

(2) Purpose. The purpose of the library services improvement fund is to further the development of library services for all the people of Idaho. Moneys in the library services improvement fund are appropriated to and may be expended by the board of library commissioners at any time for the purposes provided in this section.

(3) Appropriations and revenues. The library services improvement fund shall have paid into it such appropriations as may be provided or other moneys and donations described in section [33-2503](#), Idaho Code.

(4) Payments.

(a) All payments from the library services improvement fund shall be paid out in warrants drawn by the state controller upon presentation of proper vouchers from the commission

for libraries. Pending payments out of the library services improvement fund, the moneys in the fund shall be invested by the state treasurer in the same manner as provided under section [67-1210](#), Idaho Code, with respect to idle moneys in the state treasury. Interest earned on the investments shall be returned to the library services improvement fund.

(b) No library entity is automatically entitled to receive any payments from the library services improvement fund. The board of library commissioners shall establish the criteria upon which actual need is to be determined in accordance with the purposes set forth in this section.

(c) Payments from the library services improvement fund may be used only for the purposes approved by the board of library commissioners. Funding decisions shall be solely within the discretion of the board of library commissioners.

33-2507. STATE TREASURER TRUSTEE OF LIBRARY FUNDS WHEN REQUIRED. When the conditions of the grant or appropriation so require, the state treasurer shall serve as trustee of funds appropriated to the state from any appropriation made by the federal government, the state, or any other agency for providing and equalizing library service in Idaho.

**TITLE 33, CHAPTER 26
PUBLIC LIBRARIES**

33-2601. POLICY. It is hereby declared to be the policy of the state of Idaho, as a part of the provisions for public education, to promote the establishment and development of free library service for all the people in Idaho. It is the purpose of this act to assure an informed electorate by enabling the provision of free local library service, in the present and in the future, to children in their formative years and to adults for their continuing education. To carry out the purpose of this act, an independent, nonpartisan board shall govern the library.

Every library established in this chapter shall be forever free for the use of the residents of the city, always subject to such reasonable rules and regulations as the library board may find necessary to adopt.

33-2602. DEFINITIONS. Unless a different meaning plainly is required in this chapter:

- (1) "Nonpartisan" means not controlled or influenced by any single political party.
- (2) "Board" means the group of trustees who manage the library.
- (3) "Mayor" means the elected chief municipal officer of a city.
- (4) "City manager" means a person appointed as chief municipal administrator by a city council.
- (5) "City council" means the legislative body of a city.

33-2603. CITIES MAY ESTABLISH TAX SUPPORTED LIBRARIES. The city council of every city shall have power to establish a public library, and for such purpose may annually levy and cause to be collected a tax up to but not exceeding one-tenth percent (.10%) of market value for assessment purposes or fund a library out of allocations from the city's general fund. All such moneys shall be kept by the city treasurer separate and apart from other moneys of the city and be used exclusively for library purposes, provided that every city shall have power to contract for specified library service from an existing library, or become part of an existing library district, following the procedure outlined in section [33-2709](#), Idaho Code.

33-2604. BOARD OF TRUSTEES -- APPOINTMENT -- TERM OF OFFICE -- COMPENSATION. For the government of such library there shall be a board of five (5) library trustees appointed by the mayor and council pursuant to section [50-210](#), Idaho Code, from among city residents. If the city government is organized pursuant to sections [50-801 through 50-813](#), Idaho Code, the city manager and the council shall appoint the board of trustees.

Appointment to the board shall be made solely upon consideration of the ability of such appointees to serve the interests of the people, without regard to sex, age, race, nationality, religion, disability or political affiliation. A member of the city council shall not be one (1) of the five (5) appointed trustees of the library board, but each year the council shall appoint one (1) of its members to be a liaison to the board, without voting rights.

The initial appointment of trustees shall be for terms of one (1), two (2), three (3), four (4) and five (5) years respectively. Subsequent appointments shall be made for five (5) years from the date of appointment, and until their successors are appointed.

Members of the board shall serve without salary but may receive their actual and necessary budgeted expenses while engaged in authorized business of the library.

33-2605. BOARD OF TRUSTEES -- VACANCIES -- REMOVAL. The board shall report all vacancies to the council within five (5) working days. All such appointments shall be made in the same manner as appointments are originally made. Appointments to complete an unexpired term shall be for the remainder of the term only.

Any trustee may be removed by the city council by the unanimous vote of all of its members.

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, [chapter 2, title 74](#), Idaho Code.

33-2607. POWERS AND DUTIES OF TRUSTEES. In addition to the powers elsewhere contained in this chapter and notwithstanding the provisions of [title 50](#), Idaho Code, the board of trustees of each city library shall have the following powers and duties:

- (1) To establish bylaws for its own governance;
- (2) To establish policies and rules of use for the governance of the library or libraries under its control; to exclude from the use of the library any and all persons who violate such rules;
- (3) To establish, locate, maintain and have custody of libraries to serve the city, and to provide suitable rooms, structures, facilities, furniture, apparatus and appliances necessary for library service;
- (4) With the approval of the city:
 - (a) To acquire real property by purchase, gift, devise, lease or otherwise;
 - (b) To own and hold real and personal property and to construct buildings for the use and purposes of the library;
 - (c) To sell, exchange or otherwise dispose of real or personal property when no longer required by the library; and
 - (d) To insure the real and personal property of the library;
- (5) To prepare and adopt a budget for review and approval by the city council;

- (6) To control the expenditures of money budgeted for the library;
- (7) To accept or decline gifts of money or personal property, in accordance with library policy, and under such terms as may be a condition of the gift;
- (8) To hire, supervise and evaluate the library director;
- (9) To establish policies for the purchase and distribution of library materials;
- (10) To attend all meetings of the board of trustees;
- (11) To maintain legal records of all board business;
- (12) To exercise such other powers, not inconsistent with law, necessary for the orderly and efficient management of the library.

33-2608. LIBRARY DIRECTOR -- DUTIES -- OTHER EMPLOYEES. The board of trustees of each city library shall appoint the library director, who shall serve at the pleasure of the board. The library director shall advise the board, implement policy set by the board, supervise all library staff and shall acquire library materials, equipment and supplies. The library director shall attend all board meetings but shall not vote.

With the recommendation of the library director, the board shall hire other employees as may be necessary for the operation of the library in accordance with city policies and procedures. These employees shall be employees of the city and subject to the city's personnel policies and classifications unless otherwise provided by city ordinance.

33-2609. ANNUAL APPROPRIATIONS -- CONTROL OF EXPENDITURES. The board shall prepare and adopt an annual budget, stating anticipated revenues and expenditures, indicating what support and maintenance of the library will be required for review and approval by the city council for the ensuing year.

All funds for the library shall be in the custody of the city treasurer unless otherwise provided by city ordinance, and shall be used only for library purposes. The board shall have control of library expenditures. Money shall be paid for library purposes, only upon properly authenticated vouchers of the board of trustees. The board shall not make expenditures or incur indebtedness in any year in excess of the amount of money appropriated for library purposes. The board may hold a separate checking account to be used to pay petty expenses of the library. This account shall be audited along with other library funds.

33-2610. DONATIONS. Donations or gifts for the benefit of the library shall be budgeted along with other library accounts and shall be used only for library purposes. Money or other funds which are donated or given to the library may be expended by the board of trustees only in accordance with the city budget process.

33-2611. REPORTS OF TRUSTEES. The board of trustees shall annually, not later than the first day of January, file with the board of library commissioners a report of the operations of the library for the fiscal year just ended. The report shall be of such form and contain such

information as the board of library commissioners may require, but in all cases must include a complete accounting of all financial transactions for the fiscal year being reported. The board shall also report to the city council and mayor as required in section [50-210](#), Idaho Code.

33-2612. REGIONAL LIBRARY SYSTEMS -- PURPOSE -- BOUNDARIES. It is the purpose of this act to provide a method by which the library boards which govern Idaho's libraries, now or hereafter established in accordance with the Idaho Code, may contract to form regional library systems, in order to provide improved library and information services for residents of a multi-county region. The boundaries for library regions in Idaho shall be established by the Idaho board of library commissioners.

33-2613. DEFINITIONS. As used in this act, unless the context otherwise requires:

(1) "Library board" means the five (5) citizens appointed, or elected, to govern a public library, a school community library, or a library district, in accordance with chapters [26](#) and [27](#), [title 33](#), Idaho Code.

(2) "Participating board" or "participating library" means a board or library or district which is cooperating and participating in a regional library system.

(3) "Region" means that geographic area, with boundaries established by the board of library commissioners, wherein library units are encouraged to work together.

(4) "Regional system" means two (2) or more library boards formally contracting a system approved by the board of library commissioners, officially designated as a regional library system under this act, and therein working together in specific efforts to extend and improve library services to their resident constituents.

(5) "System board" means the governing board comprised of representatives of library boards in a regional system, and which is authorized to direct and plan library service for a regional system to the extent and in the manner provided by this act.

33-2614. PETITION FOR ESTABLISHMENT. Any two (2) or more library boards may petition the board of library commissioners for the establishment of a regional system. Such petition shall be prepared in cooperation with the state librarian, on forms provided by the commission for libraries, and shall include but shall not be limited to the following information:

(1) A statement of purpose and an outline of the proposed program of the regional system.

(2) A list of the participating libraries, with a listing of the current tax levy and budget of each such participant; the names and addresses of the members of each library board, and a letter or resolution from each such board regarding participation in the regional system.

(3) A list of the counties in the geographic region as a whole, the number of persons who are within taxing districts supporting existing libraries, and the number of persons outside such districts but within a county in the region, and thus potentially eligible for service from the regional system being established.

(4) Proposed number of persons to be on the initial system board of directors.

(5) Proposed headquarters for the regional system, accompanied by a copy of a resolution by the governing authority for that library approving its designation as headquarters and, if a member of the staff of the headquarters is to be the administrator of the system, including approval of such designation.

The board of library commissioners shall consider any petition presented to it as provided in this act, and if it approves such petition it shall adopt a resolution officially designating such particular regional library system, describing the territory thereof, and designating the headquarters and the initial number of directors for the system board.

33-2615. SYSTEM BOARD OF DIRECTORS. Each regional system shall be governed by a board of directors, to be selected by and from the governing boards of the participating libraries.

Initially, as the system is formed, each participating library shall be entitled to one (1) representative on the system board, and those libraries legally serving a population base of more than ten thousand (10,000) shall also be entitled to a second representative.

Within two (2) weeks after receiving notice of approval of a petition for establishment, as provided for under this act, the board of each participating library shall select its representative or representatives, and certify the names and addresses of such representatives to the state librarian.

As additional libraries, now or hereafter established, petition to join the system, the board shall not exceed twenty-five (25) in number. When the board members total twenty-five (25), or earlier with the unanimous agreement of the participating boards, the system board shall develop a plan for equitable rotation of trustees, while retaining representation from a library in each county. The designated headquarters for the system shall always have representation on the board.

At their first meeting the members of the system board shall divide themselves by lot into terms of one (1) to five (5) years. Thereafter, all vacancies shall be filled in the same manner as the original appointments, and appointments to complete an unexpired term shall be for the residue of the term only.

No member of any system board shall serve on the system board for more than five (5) consecutive years, and in no event shall service on the system board exceed the term of office of the incumbent on the governing board of the participating library which he represents.

The system board shall annually elect from its membership a chairman and such other officers as it may deem necessary to conduct the affairs of the system.

Members of the system board may receive from the regional system their actual and necessary expenses while engaged in business of said system.

33-2616. POWERS AND DUTIES OF THE SYSTEM BOARD. The system board shall serve as a liaison agency between the participating libraries and their governing bodies and library boards. The system board shall make such bylaws, rules and regulations as may be necessary for its own government and that of the regional system, none of which shall deprive any participating library board of any of its powers or property.

The system board shall have the following powers and responsibilities, all of which relate to the functioning of the regional system and the management and control of its funds and property;

(1) To develop a long-range plan of service for the regional system, and annually to submit to the board of library commissioners any changes in said long-range plan, and a detailed plan of proposed system development and service for the following year.

(2) To provide improved library service for residents of the regional system, in cooperation with participating libraries, and to this end to purchase books and other library materials, supplies and equipment, for the system services, and to employ such personnel as the system board finds necessary.

(3) To set the administrator's hours and rate of compensation for regional system duties, and to delegate such administrative powers as the board deems in the best interest of the system.

(4) To enter into contracts to receive service from or to give service to other libraries, or agencies, within the state or interstate, and to file copies of such contracts with the board of library commissioners.

(5) To be a public corporation, as is provided for library districts, and to contract in the name of the "Board of directors of the regional library system, Idaho" and in that name to sue and be sued and to take any action authorized by law.

(6) To acquire by purchase, lease, or otherwise, and to own and hold real and personal property and to construct buildings for the use of the regional system, and to sell, exchange or otherwise dispose of property real or personal when no longer required by the system, and to insure the real and personal property of the system.

(7) To have control of the expenditure of all funds of the regional system, to accept by gift or donation any funds and real or personal property under such terms as may be a condition of the gift.

(8) To exercise such other powers, not inconsistent with law, necessary for the effective use and management of the regional system.

33-2617. FINANCE OF REGIONAL SYSTEMS -- BUDGETS -- PARTICIPATING AND NONPARTICIPATING UNITS. Each regional system may be financed by any combination of available funds, federal, state, local, public and/or private. Counties, cities and library districts are hereby authorized and empowered to join in the creation, development, operation and maintenance of regional systems, and to appropriate and allocate funds for the support of such systems. All funds collected or contributed for the support of each regional system shall be controlled and administered under the direction of the system board, following procedures outlined in the library district statutes, and as directed by the board of library commissioners.

(1) Participating Units. Participating boards shall continue to control the funds appropriated or contributed for the support of the participating libraries, but may expend all or any part thereof for library services to be furnished by the regional system. Each participating board shall prepare its own annual budget as required by the Idaho Code, and said budget may include

anticipated revenues or expenditures for regional system services. Tax levies made pursuant to each such budget shall be certified as provided by law.

(2) System Budget. Each system board shall prepare a preliminary budget for the system for the coming year, and shall by the last day of April forward said budget to the boards of participating libraries. This budget shall be published, and a hearing held thereon before the last day of May.

(3) Nonparticipating Areas. The system board shall also prepare a list of those areas within each county of the library region wherein public libraries, library districts, school-community libraries, or association libraries are not maintained as authorized in the Idaho Code. Such lists shall be forwarded to the board of library commissioners and to the board of county commissioners of each affected county. The system board shall include in its preliminary budget an estimate of the kinds of services which the system could provide to those areas without established libraries, and the cost of such services, and shall forward this to the appropriate boards of county commissioners.

33-2618. ADDITION TO OR WITHDRAWAL FROM A REGIONAL SYSTEM.

(1) After the establishment of a regional system as provided in this act, the board of any library which is not a part of the system, and which is within the boundaries of a library region as established by the Idaho board of library commissioners, may petition the board of library commissioners for addition to the regional system.

Petitions for addition shall be prepared and processed as provided in this act for initial petitions, except that prior approval in writing shall be obtained by the petitioning board from the regional system board, and shall be attached to the petition when it is submitted to the board of library commissioners.

(2) After the establishment of a regional system as provided in this act, a participating library board may petition the board of library commissioners for withdrawal from the system. A petition for withdrawal must be received by the board of library commissioners at least sixty (60) days before the end of the fiscal year of the system.

All assets of a participating library remain the property of that library, and if a unit withdraws from a system the disposal of the joint assets of the system shall be determined by the board of library commissioners, who shall give consideration to such items as the amount of funds raised from each unit of the system, and the ability of the units to make further use of such property or equipment for library purposes.

33-2619. ADMINISTRATION OF ACT BY BOARD OF LIBRARY COMMISSIONERS.

The Idaho board of library commissioners shall administer the provisions of this act, and shall adopt such rules as are necessary for approval of regional system petitions, review and amendment of regional system plans and contracts, and such other matters as the board of library commissioners may deem advisable.

33-2620. FAILURE TO RETURN BORROWED MATERIAL. Any person who borrows from a publicly funded lending facility any book, newspaper, magazine, manuscript, pamphlet, publication, microform, recording, film, artifact, specimen, device, exhibit or other article belonging to, or in the care of, the facility, under any agreement to return the same within a specified time, and thereafter fails to return the book, newspaper, magazine, manuscript, pamphlet, publication, microform, recording, film, artifact, specimen, device, exhibit or other article, shall be given written notice, which shall bear upon its face a copy of this statute, mailed by a registered or certified letter with return receipt, or delivered in person to such person at his last known address, to return the borrowed article within fifteen (15) days; and in the event that the person shall thereafter willfully and knowingly fail to return the borrowed article within thirty (30) days, or shall fail to reimburse the facility for the value of the borrowed article plus overdue fines and costs incurred, the person shall be guilty of a petit theft and punishable as provided in [chapter 24, title 18](#), Idaho Code. For purposes of this section, a "publicly funded lending facility" includes any library, gallery, museum, collection or exhibit supported by public funds.

TITLE 33, CHAPTER 27
PUBLIC LIBRARY DISTRICT

33-2701. PURPOSE AND POLICY. It is hereby declared to be the policy of the state of Idaho, as a part of the provisions for public education, to promote the establishment and development of public library service for all the people of Idaho. By so declaring, the state acknowledges that the ability of its citizens to access information has a critical impact on the state's educational success, economic development, provision for an informed electorate, and overall quality of life. It is the purpose of this chapter to integrate, extend and add to existing library services and resources so that public library service may be available to all residents of the state from infancy through adulthood, beginning in the formative years and continuing for lifelong learning.

33-2702. DEFINITIONS. As used in this chapter:

(1) "Administrative only district" is a library district that does not serve the public directly and has no direct service outlets or collections, but which contracts with other library entities to provide various public library services.

(2) "City library" means a library established by a city ordinance and operating under the provisions of [chapter 26, title 33](#), Idaho Code.

(3) "Home county" means the county where the designated district headquarters is located when a public library district's boundaries include territory located in more than one (1) county.

(4) "Library director" or "library director team" means an employee or group of employees of a public library district charged with the administration and management of library services for that district.

(5) "Public library district trustee" means a qualified elector living within the boundaries of a public library district who is elected or appointed temporarily to fulfill the duties described in this chapter related to the governance of a public library district.

(6) "Public library service" means the provision of planned collections of materials and information services provided by a library established under the provisions of [chapter 26](#) or [27, title 33](#), Idaho Code, and paid for primarily through tax support provided under these statutes. These services shall be provided at a facility, accessible to the public at regularly scheduled hours and set aside for this purpose. The services shall be governed by a citizen board appointed or elected for this purpose and shall be administered and operated by paid staff who have received appropriate training in library skills and management. The services shall meet standards established by the board of library commissioners.

(7) "Qualified elector" means any person voting, or offering to vote, at an election to create a library district, add territory thereto, or elect trustees thereof. A qualified elector must be, at the time of the election, a resident of the area involved for thirty (30) days prior to the date of the election, registered and an elector within the meaning of section 2, article VI, of the Constitution of the state of Idaho.

33-2703. LIBRARY DISTRICTS -- TERRITORY -- ESTABLISHMENT -- LIMITATIONS. A library district may be established by vote of the qualified electors of the proposed district in an election called and held as provided by this chapter, with the following limitations:

(1) The district may include incorporated or unincorporated territory or both in one (1) or more counties and may include any of the area thereof except as may be excluded by this section, and as finally fixed and determined by the board of county commissioners.

(2) The territory of the district shall be continuous, and no territory of an incorporated municipality shall be divided.

(3) In the initial establishment of a library district the following may be excluded:

(a) A municipality which is already providing library service as established according to section [33-2603](#), Idaho Code; or

(b) A library district which is already providing library service as established in accordance with the provisions of this chapter.

(4) If, subsequent to the establishment of a library district, any area thereof is annexed to a municipality which maintains a tax-supported library, this area shall cease to be a part of the library district and the city council of the municipality shall so notify the board of county commissioners.

(5) Any proposed library district shall have a population of more than one thousand five hundred (1,500) and an annual budget of not less than twenty-five thousand dollars (\$25,000) from ad valorem revenues. Any proposed library district not meeting the above criteria may apply to the board of library commissioners for an exemption.

33-2704. PETITION -- VERIFICATION -- NOTICE AND HEARING.

(1) A petition or petitions, signed by fifty (50) or more qualified electors residing in the proposed library district, giving the name of the proposed district, describing the boundaries thereof including a map prepared in a draftsman like manner, and praying for the establishment of the territory therein described as a public library district, shall be filed with the clerk or clerks of the boards of county commissioners of the counties in which the proposed district is situated.

The petition or petitions shall be verified by at least one (1) qualified elector, which verification shall state that the affiant knows that all of the parties whose names are signed to the petition are qualified electors of the proposed district, and that their signatures to the petition were made in his presence. The verification may be made before any notary public.

(2) When the petition or petitions are presented to the board of county commissioners and filed in the office of the clerk of the board, the board shall set the time for a hearing, which time shall be not less than three (3) nor more than six (6) weeks from the date of the presentation and filing of the petition. Notice of the time of hearing shall be published by the board at least once a week for two (2) weeks prior to the time set for the hearing, in a newspaper of general circulation within the county in which the proposed district is situated.

(3) The notice shall state that a library district is proposed to be established, giving the proposed boundaries and name thereof, and that any resident elector within the proposed boundaries of the proposed district may appear and be heard in regard to:

- (a) The form of the petition;
- (b) The genuineness of the signatures;
- (c) The legality of the proceedings; and
- (d) Any other matters in regard to the creation of the library district.

(4) Concurrently with the notice of hearing, the board of county commissioners shall notify, in writing, the governing body of any tax supported library within the boundaries of the proposed library district. If any governing body decides that it is not in the best interest of library services to be included within the proposed library district, they shall present a resolution stating this to the county commissioners, not less than one (1) week prior to the date of hearing.

(5) No later than ten (10) days after the hearing, the board of county commissioners shall make an order thereon with or without modification, based upon the public hearing and their determination of whether the proposed library district would be in keeping with the declared public policy of the state of Idaho in regard to library districts as more particularly set forth in section [33-2701](#), Idaho Code, and, shall accordingly fix the boundaries and certify the name of the proposed district in the order granting the petition. The boundaries so fixed shall be the boundaries of the district after its establishment is completed as provided in this chapter.

33-2705. CONDUCT OF ELECTION. Upon the county commissioners having made the order referred to in subsection (5) of section [33-2704](#), Idaho Code, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held for the purpose of determining whether or not the proposed library district shall be established under the provisions of this chapter. The date of this election shall be the next uniform election date as provided for in section [34-106](#), Idaho Code. Whenever more than one (1) petition is presented to the county commissioners calling for an election to create library districts, the first presented shall take precedence. Notice of the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided for in [chapter 14, title 34](#), Idaho Code, and under the general election laws of the state of Idaho. The ballot shall contain the words "(Name) Library District--Yes" and "(Name) Library District--No," each followed by a box wherein the voter may express his choice by marking a cross "X." The board or boards of election shall make returns and certify the results to the boards of county commissioners within three (3) days after the election, and the board of county commissioners shall, within seven (7) days after the election, canvass the returns. If a majority of all votes cast be in the affirmative, the board of county commissioners shall, within seven (7) days after the returns have been canvassed, enter an order declaring the library district established, designating its name and boundaries including a map prepared in a draftsmanlike manner. The board of county commissioners shall transmit a copy of the order to the county recorder, county assessor, and the state tax commission in a timely manner, but no later than

December 15, in the calendar year in which the election was held. A copy of the order shall also be transmitted to the board of library commissioners.

33-2706. ESTABLISHMENT OF LIBRARY DISTRICT EMBRACING MORE THAN ONE COUNTY. When the proposed library district embraces more than one (1) county, the petition and procedure for praying for the establishment of the district shall be carried forward in each county as though that county were the only county affected. Each petition shall designate the same home county for the proposed district.

The board of county commissioners of the home county shall advise with the board of county commissioners in any other county affected to the end that the election shall be held in each county on the same day. The board of county commissioners in each county shall proceed in the conduct of the election as though the election were being held only in that county as set forth in section [33-2705](#), Idaho Code. After the canvass of the returns, the results in each other county shall be certified to the board of county commissioners of the home county, together with all ballots and tally sheets. The board of county commissioners of the home county shall canvass all returns and certify the results of the election to the board of county commissioners of any other county affected. The proposal shall be deemed approved only if a majority of all votes cast in each county were cast in the affirmative. If this is the case, the board of county commissioners of the home county shall enter an order declaring the library district to be created, designating its name and boundaries, including a map prepared in a draftsmanlike manner. A certified copy of the order shall be transmitted by the board of county commissioners to the county recorder, the county assessor and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held. A copy of this order shall also be transmitted to the board(s) of county commissioners of any other county affected, which shall enter the order in its minutes. A copy of this order shall also be transmitted to the board of library commissioners.

33-2707. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT -- PETITIONS AND SIGNATURES -- ELECTION.

(1) Any area which does not have a tax supported library and which is contiguous to an existing library district may become a part of the district by petition and election.

(2) A petition may arise as set forth in section [33-2704](#), Idaho Code, in the area seeking to become a part of the library district. A true copy of the petition shall be transmitted to the board of trustees of the district, and to the board of county commissioners in each county affected. The board of trustees of the library district may approve or disapprove the petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When the notice carries the approval of the board of trustees of the district, the board of county commissioners in the county in which the petition arose shall enter its order calling for an election on the question. The election shall be held in the area described in the petition. Notice of the election shall be given, the election shall be conducted on the next uniform election date as provided in section [34-106](#), Idaho Code, and the returns thereof canvassed as provided in section

[33-2705](#), Idaho Code. The ballot shall bear the question: "Shall become a part of the (Name) Library District Yes" and "Shall become a part of the (Name) Library District No," each followed by a box in which the voter may express his choice by marking a cross "X." The proposal shall be deemed approved only if the majority of the votes cast in the area seeking to become a part thereof is in the affirmative.

(4) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map prepared in a draftsmanlike manner. A copy of this order shall be transmitted to the board of trustees of the library district, to each board of county commissioners of the county in which the district lies, and to the board of library commissioners.

(5) The board of trustees of the library shall transmit a certified copy of this order to the county recorder, the county assessor of the home county and to the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held.

(6) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs appointment shall be made as provided in section [33-2716](#), Idaho Code.

33-2708. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT -- ALTERNATE METHOD.

(1) An alternate method of adding territory to a library district may be initiated by a petition or petitions as set forth in section [33-2704](#), Idaho Code, except that the petitions must be signed by sixty percent (60%) of the qualified electors in the area to be annexed.

(2) A true copy of the petitions shall be transmitted to the board of trustees of the library district and to the board of county commissioners in each county affected. The board of trustees may approve or disapprove the petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When the notice carries the approval of the board of trustees of the district, the board of county commissioners of the county in which the petition arose shall proceed with the required hearing and resolution as outlined in section [33-2704](#), Idaho Code.

(4) When the proposal has the approval of the board of county commissioners, the board of trustees of the district and the board of county commissioners shall follow these procedures:

(a) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map drawn in a draftsman like manner, and transmit a copy of the order to the board of county commissioners in the county in which the petition arose. A copy of this order shall also be sent to the board of library commissioners.

(b) The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county, and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the order was granted.

(c) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section [33-2716](#), Idaho Code.

33-2709. EXISTING TAX SUPPORTED CITY LIBRARIES MAY JOIN LIBRARY DISTRICTS. Any tax supported city library may join an established library district by majority vote of the qualified electors of the city according to procedure set forth in section [33-2707](#), Idaho Code. A true copy of the petition and the district library board's notice of approval or disapproval shall be sent to the city council. When the notice carries the approval of the district library board, the city clerk shall order the election and give notice to the county clerk who shall conduct the election in a manner consistent with [chapter 14, title 34](#), Idaho Code, and at such time as prescribed in section [34-106](#), Idaho Code. After receiving the certification of results of the election from the county clerk, the city council shall give notice of those results to the library district board and the board of county commissioners.

If the proposal has been approved by the majority required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map drawn in a draftsmanlike manner, and a copy shall be transmitted to the board of trustees of the library district, to the board of county commissioners of the county in which the petition arose, and to the board of library commissioners.

The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county and the state tax commission in a timely manner, but no later than December 15, in the year in which the election was held.

Addition of new territory to an existing library district shall not be considered an initial establishment. The existing district board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section [33-2716](#), Idaho Code.

33-2710. DETERMINATION OF THE PROPERTY PORTION OF THE BUDGET FOR CONSOLIDATED LIBRARIES -- DISTRICT AND DISTRICT -- DISTRICT AND CITY.

(1) When two (2) district libraries have agreed to consolidate, the property tax portion of the new consolidated district's first budget will be determined in the following manner.

The property tax portion of each district's most recent annual certified budget will be added together. The resulting figure will be considered the dollar amount of property taxes on which to base the first annual budget for the new consolidated district. The provisions of section [63-802](#), Idaho Code, shall be applied to this dollar amount.

(2) When a tax supported city library has voted to consolidate with a district library, the property tax portion of the new consolidated district's first annual budget will be determined in the following manner.

The city library budget figure will be defined as the budget for library services, whether from the general fund and/or the library fund, in the city's annual certified budget in effect on the date the election was held, less fines, fees, and any other identifiable revenues from nontax sources, and any grants made directly to the city library board. The city library budget figure will be added to the property tax portion of the public library district's annual certified budget in effect on the date the election was held. The resulting figure will be considered the dollar amount of property taxes on which to base the first annual budget for the new consolidated district. The provisions of section [63-802](#), Idaho Code, shall be applied to this dollar amount.

If the city has established a dedicated library fund in effect on the date the election was held, those dollars will be removed from the city budget in the fiscal year in which the newly consolidated district begins to levy to provide library services.

(3) In any consolidation, the dollar amount of property taxes for the new consolidated district's budget shall not exceed six hundredths percent (.06%) of the market value for assessment purposes of all taxable property within the district.

(4) In any consolidation, the existing bonded debt of any district or districts shall not become the obligation of the proposed consolidated library district. The debt shall remain an obligation of the property which incurred the indebtedness.

33-2711. CONSOLIDATION OF LIBRARY DISTRICTS. When there are two (2) or more library districts, which have at least one (1) common boundary, the boards of trustees of the library districts, meeting together, may determine that it is in the best interest of library service that the districts be consolidated, as herein provided.

The boards of trustees shall jointly prepare a petition describing the boundaries of the existing library districts, the names of the existing library districts, and praying for the reorganization of the territory therein described as one (1) or more library districts to be known as the "... (Name) Library District" and with boundaries as set forth in the petition.

The petition shall be signed by the chairpersons of the library boards upon majority approval of the respective boards involved in the consolidation.

The petition shall be forwarded to the clerk of the board of county commissioners in all counties affected, who shall verify the signatures, and shall file the petition. Thereupon, the board of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section [33-2704](#), Idaho Code. Upon completion of the hearing, the board of county commissioners shall issue an order granting the petition.

In the order granting the petition of consolidation, the board of county commissioners in all counties affected shall certify the new boundaries and the name of the district.

A copy of the order shall be transmitted to the board of trustees of the library districts involved, and to the board of library commissioners.

Other notices required by law shall be filed by the board of trustees of the district, including a legal description and map of altered boundaries prepared in a draftsmanlike manner to be filed with the board(s) of county commissioners, the county recorder, the county assessor of the home

county, the board of library commissioners, and the state tax commission in a timely manner, but no later than December 15, of the year in which consolidation takes place.

The board of county commissioners of the home county of the consolidated public library district shall within ten (10) days take action to reaffirm members of the board of trustees, or to appoint members of the board, who shall be chosen from the members of the boards initiating the consolidation. These trustees shall serve until the next annual election of trustees or until their successors are elected and qualified as in section [33-2715](#), Idaho Code. The board of trustees shall take the oath of office as outlined in section [33-2715](#), Idaho Code.

33-2711A. ADJUSTMENT OF BOUNDARY LINES BETWEEN EXISTING PUBLIC LIBRARY DISTRICTS. When the boards of two (2) public library districts having a common boundary determine that it is in the best interest of public library service that an adjustment of library district boundaries be made, this adjustment may be made using the following procedure.

The board of trustees shall jointly prepare a petition describing the boundaries of both the existing and proposed public library district, including maps prepared in a draftsmanlike manner, and the names of the public library districts, praying for the reorganization of the territory therein described.

The petition shall be signed by the chairperson of the library boards upon majority approval of the respective boards involved in the boundary adjustment.

The petition shall be forwarded to the clerk of the board(s) of county commissioners in all counties affected, who shall verify the signatures, and shall file the petition. Thereupon, the boards of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section [33-2711](#), Idaho Code. Upon the completion of the hearing, the board of county commissioners shall issue an order granting the petition.

33-2713. DISSOLUTION OF LIBRARY DISTRICT. A library district may be dissolved according to procedures followed in its original organization, but not earlier than four (4) years after the date of its establishment. The ballot shall contain the words "Shall (Name) Public Library District be dissolved--Yes" and "Shall (Name) Public Library District be dissolved--No," each followed by a box wherein a voter may express his choice by marking a cross "X". If the library district embraces territory in more than one (1) county, an election for its dissolution shall be deemed approved only if a majority of the votes cast in each such county were cast in the affirmative. If, upon the canvass of ballots, it is determined that the proposition has been approved, the board of county commissioners of the home county shall enter its order to that effect and transmit a copy of said order to the board of county commissioners in any other county affected, and said order shall by them be made a matter of record. When any library district is dissolved, all property and assets of the library district shall be disposed of by the board of county commissioners of the home county. Receipts from the sale of assets and all unpaid taxes, when collected, shall be first used to retire any indebtedness of the district. Any remainder shall be apportioned to the counties embraced in the library district in proportion to the assessed valuation of each which was

included in the library district, and placed in the respective county general expense fund. If, after the application of the tax monies and sale proceeds, indebtedness remains, the board of county commissioners of the home county shall provide for the payment of the remaining indebtedness from special levies certified to each county in proportion to the assessed valuation of each which was included in the district. The tax shall be collected by each county and remitted to the home county for payment of the remaining indebtedness.

33-2714. LIBRARY DISTRICTS -- PUBLIC CORPORATIONS. Each library district shall be a public corporation, may sue and be sued in its corporate name and may contract and be contracted with.

33-2715. BOARD OF TRUSTEES -- SELECTION -- NUMBER -- QUALIFICATIONS -- TERM -- OATH -- APPOINTMENT OF FIRST BOARD.

(1) Each library district shall be governed by a board of trustees of five (5) members elected or appointed as provided by law, who at the time of their selection and during their terms of office shall be qualified electors of the district and if trustee zones have been established under section [33-2718](#), Idaho Code, shall be a resident of the trustee zone. Trustees shall be elected at each trustee election, held on the uniform election date in May. The regular term of a trustee shall be for six (6) years, or until his successor has been elected and qualified. Within ten (10) days after his appointment an appointed trustee shall qualify and assume the duties of his office. An elected trustee shall qualify and assume the duties of his office at the annual meeting. All trustees qualify by taking the oath of office required of state officers, to be administered by one (1) of the present trustees or by a trustee retiring.

(2) Following the initial establishment of a library district, the board of county commissioners of the home county within five (5) days shall appoint the members of the first board of trustees, who shall serve until the next election of trustees held in an odd-numbered year or until their successors are elected and qualified in an odd-numbered year. The initial election of trustees shall be for terms of four (4) years for two (2) trustees and thereafter their terms shall be for six (6) years, terms of six (6) years for two (2) trustees and thereafter their terms shall be for six (6) years, and a term of two (2) years for one (1) trustee and thereafter the term shall be for six (6) years. Addition of new territory to an existing library district shall not be considered an initial establishment. The first board of trustees shall be sworn by a member of the board of county commissioners of the home county of the district.

(3) At its first meeting, and after each trustee election, the board shall organize and elect from its membership a chairman and other officers necessary to conduct the affairs of the district.

(4) Members of the board shall serve without salary but shall receive their actual and necessary expenses while engaged in business of the district.

(5) For the purpose of achieving an orderly transition to terms of six (6) years and to hold trustee elections in odd-numbered years, the following schedule shall be followed:

(a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(b) For trustees elected in 2006, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(d) For trustees elected in 2008, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(f) For trustees elected in 2010, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years.

33-2716. BOARD OF TRUSTEES -- NOMINATION AND ELECTION -- RECALL -- VACANCIES.

(1) The procedure for nomination and election of trustees of a library district shall be as provided for in [chapter 14, title 34](#), Idaho Code, and in the general election laws of Idaho. If any two (2) or more candidates for the same trustee position have an equal number of votes, the board of trustees shall determine the winner by a toss of a coin.

(2) Each library district trustee shall be subject to recall following procedures as provided in [chapter 17, title 34](#), Idaho Code.

Individuals signing a petition to recall a library trustee or voting in an election to recall a library trustee shall meet the requirements of section [33-2702](#), Idaho Code. To recall any trustee, a majority of the votes cast at the recall election must be in favor of the recall, and additionally, the number of votes cast in the recall election must equal or exceed the number of votes cast in the last trustee election held in the library district.

(3) A vacancy shall be declared by the board of trustees when any nominee has been elected but has failed to qualify for office, or within thirty (30) days of when any trustees shall (a) die; (b) resign from office; (c) no longer reside in his respective trustee zone of residence; (d) no longer be a resident or qualified elector of the public library district; (e) refuse to serve as trustee; (f) without excuse acceptable to the board of trustees, fail to attend two (2) consecutive regular meetings of the board; or (g) be recalled and discharged from office as provided in this chapter.

A declaration of vacancy shall be made at any regular or special meeting of the board of trustees, at which any of the above-mentioned conditions is determined to exist.

The board of trustees shall appoint to fill the vacancy, a person qualified to serve as trustee of the public library district, provided there remains in membership on the board of trustees a majority of the membership thereof, and the board shall notify the board of library commissioners of the appointment. This appointment shall be made within sixty (60) days of the declaration of vacancy. In the event that the board of trustees fails to exercise their authority, appointments shall be made by the board of county commissioners of the home county in which the district is located within thirty (30) days after the expiration of the sixty (60) days allowed for trustees for this action.

Any person appointed as provided in this chapter shall serve until the next election of public library district trustees following the appointment. At the election a trustee shall be elected to complete the unexpired term of the office which was declared vacant filled by appointment.

The elected trustee shall assume office at the first annual meeting of the public library district following the election.

33-2717. BOARD OF TRUSTEES -- ONE NOMINATION -- NO ELECTION. In any election for the office of trustee it is not necessary to conduct an election if:

(1) After the expiration of the date for filing written nominations only one (1) candidate has been nominated for each position to be filled; and, there has been no declaration of intent to be a write-in candidate filed as provided in section [33-2717A](#), Idaho Code; or

(2) If no candidate has filed a written nomination and only one (1) candidate for each position to be filled has filed a declaration of intent to be a write-in candidate as provided in section [33-2717A](#), Idaho Code. If either of these conditions are present, the board of trustees shall no later than seven (7) days before the scheduled date of the election declare the candidate elected as trustee, and the clerk of the library board shall immediately make and deliver to this person a certificate of election. The clerk of the library board shall also notify the clerk of the county commissioners of the home county and the commission for libraries. The procedure set forth in this section shall not apply to any other library district election.

33-2717A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATE. No write-in vote for library district trustee in a library district election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of library trustee if elected. The declaration of intent shall be filed with the clerk of the library board not later than forty-five (45) days before the day of election.

33-2718. CREATION OF TRUSTEE ZONES.

(1) Each library district may be divided into five (5) trustee zones with each zone having approximately the same population. To the maximum extent possible, boundaries of trustee zones shall follow the existing boundaries of the electoral precincts of the county. They shall be revised, as necessary, to equalize population and to follow new electoral precinct boundaries following the publication of the report of each decennial census. In order for a library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into

trustee zones and providing a legal description of each trustee zone. The board of trustees shall transmit the motion along with the legal description of the trustee zones to the board or boards of county commissioners in the county or counties where the library district is contained and to the board of library commissioners. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and legal description to reject, by adoption of a motion, the establishment of trustee zones proposed by formal motion of the board of trustees of the library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, they shall be deemed to be in full force and effect. If a library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the library board of trustees in writing if a proposal is rejected.

(2) If a proposal for the establishment of trustee zones is rejected by a board of county commissioners, the boundaries of the trustee zones, if any, shall return to the dimensions they were before the rejection. Trustee zones may be redefined and changed, but not more than once every two (2) years after a new set of trustee zones are formally established and in full force and effect.

(3) At the next regular meeting of the board of trustees of the library district following the creation of trustee zones, the public library district board shall appoint from its membership or from other qualified electors resident in each trustee zone, a person from that zone to serve as a trustee until the next regularly scheduled trustee election from that zone, which election shall be held in an odd-numbered year. The initial election of trustees for the trustee zones shall be for terms of four (4) years for two (2) trustees and thereafter their terms shall be for six (6) years, terms of six (6) years for two (2) trustees and thereafter their terms shall be for six (6) years, and a term of two (2) years for one (1) trustee and thereafter the term shall be for six (6) years, with each zone being assigned an initial term length by a random drawing of the numbers one (1) through five (5).

(4) For the purpose of achieving an orderly transition to terms of six (6) years and hold trustee elections in odd-numbered years, the following schedule shall be followed:

(a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(b) For trustees elected in 2006, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(d) For trustees elected in 2008, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(f) For trustees elected in 2010, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years.

33-2719. BOARD OF TRUSTEES -- MEETINGS. The annual meeting of a library district board shall be on the date of its first regular meeting in June. 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. The oath of office shall be administered to the newly elected or re-elected trustee or trustees on the first regular meeting following each trustee election. 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 [chapter 2, title 74](#), Idaho Code. It is the duty of each trustee to attend all meetings of the board of trustees.

33-2720. POWERS AND DUTIES OF THE BOARD OF TRUSTEES.

(1) The board of trustees of each library district shall have the following powers and duties consistent with the laws of the state of Idaho:

- (a) To establish bylaws for its own government;
- (b) To establish policies for the administration, operation and use of the library or libraries under its control;
- (c) To employ and evaluate a library director or library director team to administer the library;
- (d) To create job descriptions, personnel policies, and compensation packages for library personnel;
- (e) To establish an annual budget and to oversee the financial management of the library district;
- (f) To establish and locate libraries, branch libraries or stations to serve the district and to provide suitable rooms, structures, facilities, furniture, apparatus and appliances necessary for the conduct thereof;
- (g) To acquire by purchase, devise, lease, or otherwise, and to own and hold real and personal property and to construct buildings for the use and purposes of the library district, and to sell, exchange or otherwise dispose of property real or personal, when no longer required by the district, and to insure the real and personal property of the district;

(h) To accept gifts of real or personal property for the use and purposes of the library district;

(i) To establish policies for the purchase and distribution of library materials;

(j) To issue warrants, if used, in the manner specified for the issuance of warrants by school districts;

(k) To invest any funds of the district in accordance with the public depository law and other applicable state and federal laws;

(l) To pay actual and necessary expenses of members of the library staff when on business of the district;

(m) To see to the proper conduct of library district elections;

(n) To maintain legal records of all board business;

(o) To exercise other powers, not inconsistent with law, necessary for the effective use and management of the library.

(2) Individual trustees shall have no authority to make decisions about the policies of the library except as specifically authorized by the board.

(3) It shall be the duty of each trustee to attend all board meetings and committee meetings for committees to which he or she has been assigned.

33-2721. LIBRARY DIRECTOR -- DIRECTOR TEAM -- EMPLOYEES.

(1) Except for an administrative only district, the board of trustees of each library district shall appoint a library director or director team who shall administer the library district. The director or one (1) member of the director team assigned by the board shall serve as the secretary for the board without voting rights. The library director or director team shall advise the board, implement policy set by the board, and shall acquire library materials, equipment and supplies. The director or director team shall attend all executive sessions of the board of trustees, except those called to consider the evaluation, dismissal, or disciplining, or to hear complaints or charges against the library director or director team member. No library director or director team member shall be an employee or board member of a library or other agency with which the district has a contract to provide library services.

(2) The board shall fix and pay employee salaries and compensation, classify employees, adopt personnel policies, and discipline or discharge any library director or director team member for cause. The library director or director team shall hire or oversee the hiring of all other employees based on the policies, procedures, and job descriptions created by the library board, and shall discipline and discharge any employee for cause, as necessary, according to the written policies of the board.

33-2722. TREASURER -- CLERK. The board of trustees of each library district shall appoint some qualified person, who may or may not be a member of the board of trustees, to act as treasurer of the library district. This person shall, on taking office, give bond to the library district, with sureties approved by the board of trustees, in the amount of at least five thousand

dollars (\$5,000), which bond shall be paid for by the district and shall be conditioned upon faithful performance of the duties of his office and his accounting for all moneys of the library district received by him or under his control. The treasurer shall supervise all moneys raised for the library district by taxation or received by the district from any other sources and shall supervise all disbursements of funds of the district by order of the board of trustees.

Under the direction of the board of trustees, the treasurer shall have all moneys of the district deposited in accordance with the public depository law and other applicable state and federal laws.

The board of trustees of each library district shall appoint some qualified person, who may or may not be a member of the board of trustees, to act as clerk of the library board. The clerk shall prepare and distribute legal notices and shall have other duties as the board may prescribe.

33-2724.TAXES FOR THE SUPPORT OF LIBRARY DISTRICT -- TAX
ANTICIPATION LOANS -- CARRY OVER AUTHORITY -- CAPITAL ASSETS
REPLACEMENT AND REPAIR FUND.

(1) Any tax levied for library district purposes shall be a lien upon the property against which the tax is levied. The board of trustees shall determine and levy a tax upon each dollar of assessed valuation of property within the district for the ensuing fiscal year as shall be required to satisfy all maturing bond, bond interest, and judgment obligations. For the maintenance and operation of the library district, the board of trustees may also levy upon the taxable property within the district a tax not to exceed six hundredths percent (.06%) of market value for assessment purposes. These levies shall be certified to the board of county commissioners of each county in which the district may lie, not later than the second Monday in September of each year.

(2) In the first year after establishment, the board of a district may, for the purpose of organization and to finance general preliminary expenses of the district and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to six hundredths percent (.06%) on each one dollar (\$1.00) of market value for assessment purposes of all taxable property within the district. To repay the organization indebtedness incurred, the board shall have authority to levy and collect an additional tax not to exceed two hundredths percent (.02%) per annum on each one dollar (\$1.00) of market value for assessment purposes of all taxable property within the district. This additional levy shall not be used for any purpose other than repayment of the organizational indebtedness and interest thereon. This additional levy may be imposed for three (3) years.

(3) Library districts may accumulate fund balances at the end of a fiscal year and carry over these fund balances into the ensuing fiscal year, sufficient to achieve or maintain library district operations on a cash basis. A fund balance is the excess of the assets of a fund over its liabilities and reserves.

(4) The board of trustees of a library district may establish a capital assets replacement and repair fund within the library district budget for which district moneys may be budgeted and carried over from year to year. Disbursements from the fund may be made as the board may

determine to maintain, repair, or replace the capital assets of the district to remodel or repair any existing library building; to furnish and equip any existing library building; and to purchase or replace major appliances and vehicles necessary to maintain and operate the services of the district. Moneys from the capital assets replacement and repair fund may not be used for the purchase of land or to build new library facilities or to build additions to current library facilities. Moneys in the fund may be invested in the manner provided in section [57-127](#), Idaho Code. In any year in which there is a capital assets replacement and repair fund in a library district, the amount held in the fund shall be reported in the library district's budget hearing announcement, along with a list of capital items which may eventually be replaced or repaired with moneys from the fund. The fund shall be included in the annual report filed with the board of library commissioners and in the audit required in section [33-2726](#), Idaho Code.

33-2725. LIBRARY DISTRICT BUDGET -- PUBLIC HEARING -- NOTICE -- ADJUSTMENTS. The board of trustees of each library district shall prepare for the ensuing fiscal year a budget and prior to its adoption shall have called and caused to be held a public hearing thereon at a regular or special meeting. Notice of the time and place of the hearing shall be published at least once in a newspaper printed, or having general circulation within the district or in the county or counties in which the library district may lie. The board of trustees of each library district shall also prepare and publish, as a part of this notice, a summary statement of the budget for the ensuing year prepared in a manner consistent with standard accounting practices and indicating amounts previously budgeted for the then current year for purposes of comparison.

During the year the board of trustees may proceed to adjust the budget as adopted to reflect the receipt of unanticipated revenue, grants, or donations from federal, state or local government or private sources, provided that there shall be no increase in the property tax portion of the annual certified budget. Prior to the adoption of the budget adjustment, the library board shall have called and cause to be held a public hearing thereon at a regular or special meeting. Notice of the time and place of the hearing shall be published at least once in a newspaper printed or having general circulation within the district or in the county or counties in which the library district may lie. The board of trustees of each library district shall also prepare and publish, as a part of this notice, a summary of the budget and the adjustments prepared in a manner consistent with standard accounting practices and indicating amounts previously budgeted for the then current year for purposes of comparison.

33-2726. FISCAL YEAR -- ANNUAL REPORTS -- AUDIT. The fiscal year of each library district shall commence on the first day of October of each year. The board of trustees of each library district shall annually, not later than the first day of January, file with the board of library commissioners a report of the operations of the district for the fiscal year just ended. The report shall be on the form and contain the information that the board of library commissioners requires, but in all cases must include a complete accounting of all financial transactions for the fiscal year being reported.

The board of trustees of each library district shall cause to be made a full and complete audit of the books and accounts of the district as required in section [67-450B](#), Idaho Code.

33-2727. CONTRACTS -- JOINT POWERS AGREEMENTS -- PARTICIPATION IN NONPROFIT CORPORATIONS.

(1) In lieu of, or in addition to, establishing an independent library, the board of trustees may purchase specified library services by contract from any taxing unit, or public or private agency maintaining a library. Contracts for services shall contain provisions on annual budget procedures, accounting for funds, dispute resolution procedures, ownership of assets purchased with district funds, annual reports and procedures for ending the contract.

(2) The board of trustees of a library district may sell specified library services to any taxing unit, or public or private agency which contracts to make an acceptable annual appropriation for these services.

(3) Any purchase or sale of library services shall be under a written contract that is in accordance with all applicable state and federal laws.

(4) In order to improve or expand public library services, library districts may participate in the joint exercise of powers with other public agencies as specified by law.

(5) In order to improve or expand public library services, library districts may become corporate partners in nonprofit corporations.

33-2728. BOND ELECTION.

(1) The purposes for which bonds may be issued shall be: To acquire, purchase, or improve a library site or sites; to build a library or libraries, or other building or buildings; to demolish or remove buildings; to add to, remodel or repair any existing building; to furnish and equip any building or buildings, including all facilities and appliances necessary to maintain and operate the buildings of the library; and to purchase motor vehicles for use as bookmobiles.

The library district may issue bonds in an amount not to exceed one percent (1%) of the market value for assessment purposes of property within the district, less any aggregate outstanding indebtedness.

The board of trustees of any library district, upon approval of a majority thereof, may call a bond election on the question as to whether the board shall be empowered to issue bonds of the district in an amount and for a period of time to be stated in the notice of election. The notice of bond elections, the qualification of bond electors, the conduct of the election, and the canvass of election and determination of the result of election shall be in accordance with [chapter 14, title 34](#), Idaho Code, and with the general election laws of the state of Idaho. Provided however, that any such election conducted pursuant to this section shall be held on election day in the month of May or November as provided for in section [34-106](#)(1), Idaho Code. The majority required to pass a bond issue shall be two-thirds (2/3) of those voting in the election. The issuance of bonds, the expenditure of bond proceeds and the repayment of the bonds shall all be as specified in school district law.

(2) District library bond funds may not be used to purchase or expand a building for a contracting agency providing library services unless the district library gains an ownership share in the building proportional to the percentage of district bond funds used to purchase or expand the building.

33-2729. PLANT FACILITIES RESERVE FUND AND LEVY. The library district board of trustees is authorized to create a plant facilities reserve fund as set forth in sections [33-804](#) and [33-901](#), Idaho Code.

District library facilities plant facilities reserve funds may not be used to purchase or expand a building for a contracting agency providing library services unless the district library gains an ownership share in the building proportional to the percentage of district bond funds used to purchase or expand the building.

33-2737. SCHOOL-COMMUNITY LIBRARY DISTRICTS.

(a) The board of trustees of any school district in which is situated no incorporated city having a population in excess of one thousand (1,000), and in which no public library is maintained under any other provision of law, shall, upon petition of twenty (20) or more school district electors, submit to the school district electors of the district the question whether there shall be a public library established by the district for the benefit of the citizens thereof.

(b) The election on the question shall be held at the same time as the election of school district trustees, next following the filing of the petition, and notice shall be given, the election conducted, and the returns canvassed, as provided in [chapter 4, title 33](#), Idaho Code.

(c) If a majority of the school district electors voting in the election vote in favor of the question a school-community library district shall be established.

(d) No new school-community library shall be established after June 30, 1994.

33-2738. SCHOOL-COMMUNITY LIBRARY DISTRICTS -- BOARD OF TRUSTEES -- TRUSTEE ZONES. Each school-community library district shall be governed by a board of trustees of five (5) members, who at the time of their selection and during their terms of office shall be qualified electors of the district.

(1) Four (4) of the trustees shall be elected. The procedure for nomination and election of trustees shall be as provided for the nomination and election of trustees of a library district pursuant to this chapter. Each school-community public library district may be divided into four (4) trustee zones with each zone having approximately the same population. In order for a school-community public library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into trustee zones and present a description of boundaries of each trustee zone. The board of trustees shall transmit the motion along with the boundaries of the trustee zones to the board or boards of county commissioners in the county or counties where the school-community public library district is contained. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and description to

reject, by adoption of a motion, the establishment of trustee zones proposed by formal motion of the board of trustees of the school-community public library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, the zones shall be deemed to be in full force and effect upon the next annual trustee election. If a school-community public library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the board of trustees in writing if a proposal is rejected.

If a proposal for the establishment of trustee zones is rejected by a board of county commissioners, the boundaries of the trustee zones, if any, shall return to the dimensions they were before the rejection. Trustee zones may be redefined and changed, but not more than once every two (2) years, after a new set of trustee zones are formally established and in full force and effect.

All other matters relating to school-community library public district trustee zones shall be as provided in chapters [4](#) and [5](#), [title 33](#), Idaho Code, relating to school district trustee zones.

(2) The fifth trustee of the school-community library district board shall be a member of the school district board and shall be appointed by the school district board from its members at the annual meeting of the school district board. In the case of division of the district into four (4) elected school-community public library trustee zones, this fifth trustee shall serve as a trustee member-at-large.

(3) The initial board, except for the fifth trustee who shall be appointed by the school board, shall be appointed by the board of county commissioners, and shall serve until the next annual election of trustees or until their successors are appointed and qualified.

33-2739. SCHOOL-COMMUNITY LIBRARY DISTRICTS -- BOARD OF TRUSTEES -- POWERS AND DUTIES -- FISCAL YEAR.

(1) The board of trustees of the school-community library district shall perform the duties required of, and have the power and authority granted to library district trustees pursuant to this chapter, including the authority to levy upon the taxable property in the school-community library district an annual tax not to exceed six hundredths percent (.06%) of market value for assessment purposes for establishing and maintaining public library services. The school-community library district board shall have exclusive control of the school-community library district fund and shall cause to be made a full and complete audit of the books and accounts of the district as provided for in section [33-2726](#), Idaho Code.

(2) On and after fiscal year 1995, school-community library districts shall have a fiscal year of October 1 through September 30.

33-2740. SCHOOL-COMMUNITY LIBRARY DISTRICTS -- CONSOLIDATION -- REORGANIZATION INTO LIBRARY DISTRICTS. School-community library districts may join existing library districts according to the procedures set forth in section [33-2711](#), Idaho Code.

School-community library districts may reorganize into a library district as follows. The board of trustees of the school-community library district shall present a resolution calling for reorganization to the board of county commissioners who shall follow the procedures in subsections (2) through (5) of section [33-2704](#), Idaho Code, except that no precedent petition shall be necessary. After the required hearing, the board of county commissioners shall appoint the first board of library district trustees and thereafter trustees shall be elected as provided in section [33-2715](#), Idaho Code. The school-community library district's dollar amount of the budget from ad valorem taxes shall be transferred without interruption to the new library district and shall be the base of the ad valorem portion of the new district's budget.

The dispersment of the assets and liabilities of the school-community library district shall be the responsibility of the school-community library district board of trustees should the library consolidate with a library district, organize into a library district, or dissolve.

33-2741. PUBLIC LIBRARY -- INTERNET USE POLICY REQUIRED.

(1) Public libraries receiving public moneys and governed by the provisions of chapters [26](#) and [27](#), [title 33](#), Idaho Code, that offer use of the internet or an online service to the public:

(a) (i) Shall have in place a policy of internet safety for minors including the operation of a technology protection measure with respect to any publicly accessible computers with internet access and that protects against access through such computers to visual depictions that are obscene or child pornography or harmful to minors; and

(ii) Shall enforce the operation of such technology protection measure during any use of a computer by a minor.

(b) (i) Shall have in place a policy of internet safety, which may include the operation of a technology protection measure with respect to any publicly accessible computers with internet access and that protects against access through such computers to visual depictions that are obscene or child pornography; and

(ii) May enforce the operation of such technology protection measure during any use of a computer.

(2) The provisions of this section shall not prohibit a public library from limiting internet access or otherwise protecting against materials other than the materials specified in this section.

(3) An administrator, supervisor or other authorized representative of a public library may disable a technology protection measure described in subsection (1) at the request of a library patron to enable access for lawful purposes.

(4) Each public library's policy shall be developed under the direction of the library's board of trustees, adopted in an open meeting and shall have an effective date. The board of trustees shall review the policy at least once every three (3) years. The policy shall reflect the most recent date of review.

(5) Notice of the availability of the policy shall be posted in a conspicuous place within the library for all patrons to observe. The board of trustees may issue any other public notice it considers appropriate to inform the community about the policy.

(6) The policy may:

(a) State that it restricts access to internet or online sites that contain material described in subsection (1) of this section and how the policy meets the requirements provided for in this section;

(b) Inform patrons that administrative procedures and guidelines for library staff to follow in enforcing the policy have been adopted and are available for review at the library; and

(c) Inform patrons that procedures for use by patrons and staff to handle complaints about the policy, its enforcement or about observed patron behavior have been adopted and are available for review at the library.

(7) For purposes of this section, the following terms shall have the following meanings:

(a) "Child pornography" means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(i) The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

(ii) Such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or

(iii) Such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

(b) "Harmful to minors" means any picture, image, graphic image file or other visual depiction that:

(i) Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex or excretion;

(ii) Depicts, describes or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) Taken as a whole, lacks serious literary, artistic, political or scientific value as to minors.

(c) "Minor" means anyone who has not attained the age of eighteen (18) years.

(d) "Obscene" means a depiction that:

(i) The average person, applying contemporary community standards, would find to appeal to the prurient interest;

(ii) Depicts or describes sexual conduct in a patently offensive way; and

(iii) Lacks serious literary, artistic, political or scientific value.

(e) "Public moneys" means any and all moneys belonging to or collected by the state or any political subdivision thereof including, but not necessarily limited to, any city, county, town or district therein.

(8) The provisions of this section shall have no effect on the provisions of section 33–132, Idaho Code.

TITLE 33, CHAPTER 48
IDAHO EDUCATIONAL TECHNOLOGY INITIATIVE

33-4801. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Educational Technology Initiative of 1994."

33-4802. FINDINGS. The legislature hereby finds, determines and declares that the state of Idaho recognizes the importance of applying technology to meet the public need for an improved, thorough and seamless public education system for elementary and secondary education, education of the hearing or visually impaired, postsecondary and higher education and public libraries.

33-4803. DEFINITIONS. As used in this chapter:

(1) "Educational segments" are, individually, the public elementary and secondary school system, the Idaho bureau of educational services for the deaf and the blind, the career technical education system, the commission for libraries, the state historical society, Idaho public television, the community colleges, the four-year colleges and universities, the state department of education and the office of the state board of education.

(2) "Libraries" means district, city, school/community libraries, and the commission for libraries as described in chapters 25, 26 and 27, [title 33](#), Idaho Code.

(3) "Technology" means all present and future forms of computer hardware, computer software and services used or required for automated data processing, computer-related office automation or telecommunications.

(4) "Telecommunications" means all present and future forms of hardware, software or services used or required for transmitting voice, data, video or images over a distance.

33-4804. PUBLIC SCHOOL TECHNOLOGY GRANTS. There is hereby established the public school technology grant program, to be implemented by the state department of education, which shall make available grants for schools to provide Idaho classrooms, including classrooms at the Idaho bureau of educational services for the deaf and the blind, with the equipment and resources necessary to integrate information age technology with instruction and to further connect those classrooms with external telecommunications services. Grant applications shall include a project plan that describes proposed equipment and software purchases; how the proposed equipment and software will be used effectively in the classroom; provision for training teachers to make optimal use of the technology; and provision for local matching funds as prescribed.

TITLE 33, CHAPTER 56
EDUCATION OPPORTUNITY RESOURCE ACT

33-5601. SHORT TITLE. This chapter shall be known and may be cited as the "Education Opportunity Resource Act."

33-5602. PURPOSE, FINDINGS AND LEGISLATIVE INTENT -- DEFINITIONS.(1) The purpose of this act is to establish a resource for Idaho's education and library system in providing broadband and related services to students. The legislature finds that Idaho benefits from a consistent and adequate bandwidth connection to its schools, inclusive of grades K through 12, and to its libraries. It is the intent of the legislature that:

(a) State resources be made available to support Idaho's E-rate eligible entities with technical, E-rate, security, contracting and procurement guidance, and funding distribution;

(b) E-rate eligible entities shall have the ability to collaborate regionally and intrastate for broadband and related services; and

(c) E-rate eligible entities apply for and pursue, in good faith, E-rate funding.

(2) As used in this chapter:

(a) "E-rate" means the schools and libraries program of the universal service fund that is administered by the universal service administrative company under the direction of the federal communications commission.

(b) "E-rate eligible entities" means Idaho public schools grades K through 12, the Idaho digital learning academy, the Idaho department of juvenile corrections education programs, the school for the deaf and the blind and the Idaho public libraries.

33-5603. EDUCATION OPPORTUNITY RESOURCE COMMITTEE -- MEMBERS AND MEETINGS. (1) There is hereby established in the state department of education the education opportunity resource committee. The committee shall consist of the following eight (8) members:

(a) One (1) member shall be the state superintendent of public instruction or the superintendent's designee;

(b) One (1) member shall be appointed by the state board of education;

(c) Three (3) members shall be appointed by the Idaho association of school administrators as follows:

(i) One (1) member who is a superintendent from a school district with fewer than one thousand (1,000) students enrolled, or the superintendent's designee;

(ii) One (1) member who is a superintendent from a school district with between one thousand (1,000) and four thousand nine hundred ninety-nine (4,999) students enrolled, or the superintendent's designee; and

(iii) One (1) member who is a superintendent from a school district with five thousand (5,000) or more students enrolled, or the superintendent's designee;

(d) One (1) member shall be the state librarian or the state librarian's designee; and

(e) Two (2) members shall be school technology personnel appointed by the Idaho education technology association.

(2) The committee shall elect a chairperson and a vice chairperson who shall each hold such position for two (2) year terms and who may be reelected. Members of the committee shall serve four (4) year terms. Vacancies shall be filled by the relevant appointing authority for the remaining term.

(3) The committee shall meet at least once quarterly until July 1, 2018, after which date the committee shall meet at least once annually.

(4) All meetings of the committee shall be held in accordance with the state open meetings law set forth in [chapter 2, title 74](#), Idaho Code.

33-5604. EDUCATION OPPORTUNITY RESOURCE COMMITTEE -- POWERS AND DUTIES. In carrying out its powers and duties set forth in this section, the education opportunity resource committee shall focus on the broadband and related services needs of all E-rate eligible entities. At a minimum, the committee shall:

(1) Make budget and policy recommendations to the state department of education regarding:

(a) Broadband parameters;

(b) Incentives for E-rate eligible entities to obtain the most appropriate service that best fits such entities' broadband needs and that is fiscally responsible; and

(c) The minimum and maximum service levels, the quality of services and the minimum per student or person internet level that contracts must adhere to for E-rate eligible entities to be eligible for state reimbursement;

(2) Establish reimbursement methodology that includes, but is not necessarily limited to, the following components:

(a) Distribution of appropriated moneys to E-rate eligible entities that have received E-rate funding. Distribution of such moneys must be in an amount equal to the non-E-rate reimbursed cost of internet services; and

(b) If E-rate funding is not available to an E-rate eligible entity, reimburse the entity for its internet service costs;

(3) Compile and analyze broadband utilization statistics from E-rate eligible entities to determine the levels of internet services necessary for such entities and report the statistics to the state department of education, and E-rate eligible entities shall cooperate with the committee in carrying out its duty to compile and analyze such information;

(4) Advise and recommend resources to assist the state department of education in carrying out its responsibility to provide E-rate application assistance and support to E-rate eligible entities;

(5) Not provide legal advice;

(6) Collaborate with other relevant governmental and nongovernmental entities to ensure best practices in broadband are used and to recommend the terms of contracts for broadband and related services; and

(7) Ensure compliance with appropriate purchasing laws.

33-5605. EDUCATION OPPORTUNITY RESOURCE ACT -- STATE DEPARTMENT OF EDUCATION DUTIES -- RULEMAKING. (1) The state department of education shall:

(a) Distribute appropriated moneys to E-rate eligible entities for reimbursement for the cost of internet service in accordance with the methodology established by the education opportunity resource committee;

(b) Authorize funding increases for internet service levels when an E-rate eligible entity consistently exceeds utilization benchmarks established by the education opportunity resource committee during school or business days and hours, provided adequate funding is available; and

(c) Provide technical, E-rate, security, contracting and procurement guidance and assistance to E-rate eligible entities at any such entity's request.

(2) The state board of education may promulgate rules in compliance with [chapter 52, title 67](#), Idaho Code, to implement the provisions of this chapter. In promulgating such rules, the board shall collaborate with the education opportunity resource committee.

**TITLE 34, CHAPTER 1
DEFINITIONS**

34-104. "QUALIFIED ELECTOR" DEFINED. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law.

34-105. "REGISTERED ELECTOR" DEFINED. "Registered elector", for the purpose of this act, means any "qualified elector".

34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor's proclamation.

(1) The dates on which elections may be conducted are:

(a) The third Tuesday in May of each year; and

(b) The Tuesday following the first Monday in November of each year.

(c) In addition to the elections specified in paragraphs (a) and (b) of this subsection and subsection (7) of this section, an emergency election may be called upon motion of the governing board of a political subdivision. An emergency exists when there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or it is necessary to do emergency work to safeguard life, health or property.

(d) In addition to the elections specified elsewhere in this section, a presidential primary shall be held on the second Tuesday in March in each presidential election year. Presidential primaries shall be held separately from other primary elections, which shall be held on the third Tuesday in May even in presidential election years.

(2) Candidates for office elected in May shall take office on the date specified in the certificate of election but not more than sixty (60) days following the election.

(3) Candidates for office elected in November shall take office as provided in the constitution, or on January 1, next succeeding the November election.

(4) The governing board of each political subdivision subject to the provisions of this section, which, prior to January 1, 2011, conducted an election for members of that governing board on a date other than a date permitted in subsection (1) of this section, shall establish as the election date for that political subdivision the date authorized in subsection (1) of this section which falls nearest the date on which elections were previously conducted, unless another date is established by law.

(5) The secretary of state is authorized to provide such assistance as necessary, and to

prescribe any needed rules or interpretations for the conduct of election authorized under the provisions of this section.

(6) Water districts governed by [chapter 6, title 42](#), Idaho Code, are exempt from the provisions of this section.

(7) Community colleges governed by [chapter 21, title 33](#), Idaho Code, and school districts are subject to the limitations specified in subsection (1) of this section, except that school districts may also hold an election on the second Tuesday in March of each year and on the last Tuesday in August of each year on bonded indebtedness and property tax levy questions.

(8) Initiative, referendum, bond, levy and any other ballot question elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than sixty (60) days after the clerk of the political subdivision orders that such election shall be held in May and November of even-numbered years and fifty (50) days for all other elections, unless otherwise provided by law. City initiative and referendum elections shall be held in November of odd-numbered years as provided by section [34-1801B](#), Idaho Code. Ballot language for any question to be placed on the ballot shall be submitted to the county clerk at least sixty (60) days before the election held in May and November of even-numbered years and at least fifty (50) days for all other elections.

(9) Recall elections may be held on any of the four (4) dates authorized in subsections (1) and (7) of this section that fall more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held.

(10) Irrigation districts governed by [title 43](#), Idaho Code, are subject to the limitations specified in subsection (1) of this section, except that irrigation districts may also hold an election on the first Tuesday in February of each year and on the first Tuesday in August of each year on questions required to be voted upon by [title 43](#), Idaho Code.

34-107."RESIDENCE" DEFINED.

(1) "Residence," for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.

(2) In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section [63-602G](#), Idaho Code, is filed, and motor vehicle registration.

(3) A qualified elector who has left his home and gone into another state or territory or county of this state for a temporary purpose only shall not be considered to have lost his residence.

(4) A qualified elector shall not be considered to have gained a residence in any county or city of this state into which he comes for temporary purposes only, without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought

him there.

(5) If a qualified elector moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state.

TITLE 34, CHAPTER 4
VOTERS – PRIVILEGES, QUALIFICATIONS AND REGISTRATION

34-439. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS.

(1) Notwithstanding any other provision of law, any taxing district that proposes to submit any question to the electors of the district that would authorize any bonded indebtedness shall provide a brief official statement setting forth in simple, understandable language information on the proposal substantially as follows:

- (a) The purpose for which the bonds are to be used including, but not necessarily limited to, a description of the facility and/or project that will be financed, in whole or in part, by the sale of the bonds; the date of the election; and the principal amount of the bonds to be issued;
- (b) The anticipated interest rate on the proposed bonds based upon current market rates and a maximum interest rate if a maximum is specified in the question to be submitted to electors;
- (c) The total amount to be repaid over the life of the bonds based on the anticipated interest. Such total shall reflect three (3) components: a total of the principal to be repaid; a total of the interest to be paid; and the sum of both;
- (d) The length of time, reflected in months or years, in which the proposed bonds will be paid off or retired; and
- (e) The total, existing indebtedness, including interest accrued, of the taxing district.

(2) The official statement shall be made a part of the ballot prior to the location on the ballot where a person casts a vote and shall be included in the official notice of the election.

34-439A. DISCLOSURES IN ELECTIONS TO AUTHORIZE LEVY.

(1) Notwithstanding any other provision of law except for the provisions of section [63-802\(1\)\(g\)](#), Idaho Code, any taxing district that proposes to submit any question to the electors of the district that would authorize any levy, except for the levies authorized for the purposes provided in sections [63-802\(1\)\(g\)](#) and [33-802\(4\)](#), Idaho Code, and except for levies relating to bonded indebtedness where section [34-439](#), Idaho Code, applies, shall include in the ballot question, or in a brief official statement on the ballot but separate from the ballot question, a disclosure setting forth in simple, understandable language information on the proposal substantially as follows:

- (a) The purpose for which the levy shall be used; the date of the election; and the dollar amount estimated to be collected each year from the levy; and
- (b) The length of time, reflected in months or years, in which the proposed levy will be assessed.

(2) The information called for in subsection (1) of this section shall be placed prior to the location on the ballot where a person casts a vote and shall also be included in like manner in the official notice of the election.

TITLE 34, CHAPTER 14
UNIFORM DISTRICT ELECTION LAW

34-1401. ELECTION ADMINISTRATION. Notwithstanding any provision to the contrary, the county clerk shall administer all elections on behalf of any political subdivision, subject to the provisions of this chapter, including all special district elections and elections of special questions submitted to the electors as provided in this chapter. Water districts governed by [chapter 6, title 42](#), Idaho Code, recreational water and/or sewer districts as defined in section [42-3202A](#), Idaho Code, ground water recharge districts governed by [chapter 42, title 42](#), Idaho Code, ground water management districts governed by [chapter 51, title 42](#), Idaho Code, ground water districts governed by [chapter 52, title 42](#), Idaho Code, and irrigation districts governed by [title 43](#), Idaho Code, are exempt from the provisions of this chapter. Municipal elections shall be conducted under the provisions of this chapter except for the specific provisions of [chapter 4, title 50](#), Idaho Code. All school district and highway district elections shall be conducted pursuant to the provisions of this [chapter 14, title 34](#), Idaho Code. All highway district and school district elections shall be administered by the clerk of the county wherein the district lies. Elections in a joint school district or other political subdivisions that extend beyond the boundaries of a single county shall be conducted jointly by the clerks of the respective counties, and the clerk of the home county shall exercise such powers as are necessary to coordinate the election. "Home county" shall be defined as the county in which the business office for the district or political subdivision is located. For the purposes of achieving uniformity, the secretary of state shall, from time to time, provide directives and instructions to the various county clerks. Unless a specific exception is provided in this chapter, the provisions of this chapter shall govern in all questions regarding the conduct of elections on behalf of all political subdivisions. In all matters not specifically covered by this chapter, other provisions of [title 34](#), Idaho Code, governing elections shall prevail over any special provision which conflicts therewith.

The county clerk shall conduct the elections for political subdivisions and shall perform all necessary duties of the election official of a political subdivision including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar.

34-1402. REGISTRATION. All electors must register with the county clerk before being able to vote in any primary, general, special or any other election conducted in this state. The county clerk shall determine, for each registered elector, the elections for which he is eligible to vote by a determination of the applicable code areas. The determination of tax code area shall be made for all political subdivisions including those otherwise exempt from the provisions of this chapter.

The county clerk shall conform to the provisions of [chapter 4, title 34](#), Idaho Code, in the administration of registration for all political subdivisions within the county.

34-1403. CONDUCT OF ELECTIONS. All elections conducted in this state on behalf of each political subdivision within the county shall be conducted in a uniform manner with regard to the qualifications of electors and shall be conducted on the dates as provided by law. In the event that a statute governing a political subdivision provides for qualifications more restrictive than the qualifications for an elector in section [34-402](#), Idaho Code, the election official of the district shall provide an elector's oath to be executed at the time of the election certifying to the elector's qualifications for the specific election.

34-1404. DECLARATION OF CANDIDACY. Candidates for election in any political subdivision shall be nominated by nominating petitions, each of which shall bear the name of the nominee, the office for which the nomination is made, the term for which nomination is made, bear the signature of not less than five (5) electors of the candidate's specific zone or district of the political subdivision, and be filed with the clerk of the political subdivision. The form of the nominating petition shall be as provided by the county clerk and shall be uniform for all political subdivisions. For an election to be held on the third Tuesday in May, in even-numbered years, the nomination petition shall be filed during the period specified in section [34-704](#), Idaho Code. The clerk of the political subdivision shall verify the qualifications of the nominees and shall, no more than seven (7) days after the close of filing, certify the nominees to be placed on the ballot of the political subdivision. For an election to be held on the first Tuesday after the first Monday of November, in even-numbered years, the nomination shall be filed on or before September 1. The clerk of the political subdivision shall verify the qualifications of the nominees and shall, not later than seven (7) days after the close of filing, certify the nominees to be placed on the ballot of the political subdivisions. For all other elections, the nomination shall be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made. The clerk of the political subdivision shall verify the qualifications of the nominee and shall, not more than seven (7) days following the filing, certify the nominees to be placed on the ballot of the political subdivision.

34-1405. NOTICE OF ELECTION FILING DEADLINE.

(1) Not more than fourteen (14) nor less than seven (7) days preceding the candidate filing deadline for an election, the county clerk shall cause to be published a notice of the forthcoming candidate filing deadline for all taxing districts. The notice shall include not less than the name of the political subdivision, the place where filing for each office takes place, and a notice of the availability of declarations of candidacy. The notice shall be published in the official newspaper of the political subdivision.

(2) The secretary of state shall compile an election calendar annually which shall include not less than a listing of the political subdivisions which will be conducting candidate elections in the forthcoming year, the place where filing for each office takes place, and the procedure for a declaration of candidacy. Annually in December, the county clerk shall cause to be published the election calendar for the county for the following calendar year. This publication shall be in

addition to the publication required by paragraph (1) of this section. The election calendar for the county shall be published in at least two (2) newspapers published within the county, but if this is not possible, the calendar shall be published in one (1) newspaper which has general circulation within the county. Copies of the election calendar shall be available, without charge, from the office of the secretary of state or the county clerk.

34-1405A. WITHDRAWAL OF CANDIDACY. A candidate for nomination or candidate for election to an office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. A candidate may not withdraw later than forty-five (45) days before an election.

34-1406. NOTICE OF ELECTION. The county clerk shall give notice for each political subdivision for any election by publishing such notice in the official newspaper of the county. The notice shall state the date of the election, the polling places, and the hours during which the polls shall be open for the purpose of voting. The first publication shall be made not less than twelve (12) days prior to the election, and the last publication of notice shall be made not less than five (5) days prior to the election. For each primary, general and special election, the county clerk shall cause to be published a facsimile, except as to size, of the sample ballot in at least two (2) newspapers published within the county, but if this is not possible, the sample ballot shall be published in one (1) newspaper published within the county or one (1) newspaper that has general circulation within the county. Such publication shall be in conjunction with the second notice of election required by this section. The political subdivision shall notify the county clerk in writing of the official newspaper of the political subdivision.

34-1407. WRITE-IN CANDIDATES. No write-in candidate for any nonpartisan elective office shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of the office. The declaration of intent shall be filed with the clerk of the political subdivision not less than forty-five (45) days before the date of the election.

If the statutes governing elections within a specific political subdivision provide that no election shall be held in the event that no more than one (1) candidate has filed for an office, that statute shall be interpreted in such a manner as to allow for filing a declaration of intent for a write-in candidate until forty-five (45) days preceding the election. However, if no candidate has filed within that time, no election shall be held for that political subdivision. The provisions of this section shall not apply to candidates in the primary or general election covered by the provisions of section [34-702A](#), Idaho Code.

34-1408. ABSENTEE BALLOTS. Any registered elector may vote at any election by absentee ballot as provided in [chapter 10, title 34](#), Idaho Code. In the event of a written application

to the county clerk for an absentee ballot, the application shall be deemed to be an application for all ballots to be voted in the election, and the county clerk shall provide the ballot of the political subdivision to the elector.

34-1409. CONDUCT OF ELECTION ON ELECTION DAY. At all elections conducted by any political subdivision, the polls shall be opened at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the election official may, at his option, open the polls in his jurisdiction at 7:00 a.m.

All political subdivisions conducting elections on the same date shall, whenever practicable, use the same polling places.

34-1410. CANVASSING OF ELECTION RESULTS. The board of county commissioners shall conduct the canvass of the election results within ten (10) days after the election, in the manner provided in [chapter 12, title 34](#), Idaho Code. The county clerk shall certify the election results to the clerk of each political subdivision for which an election was held. Each political subdivision shall issue the appropriate certificates of election.

34-1411. PAYMENT OF ELECTION EXPENSES BY COUNTY.

(1) On and after January 1, 2011, no county shall charge any taxing district, as defined in section [63-201](#), Idaho Code, for expenses associated with conducting any election on behalf of any taxing district, with the exception of expenses associated with conducting municipal runoff elections, which shall be paid by the city adopting runoff elections pursuant to the provisions of section [50-612](#) or [50-707B](#), Idaho Code. Expenses associated with conducting taxing district elections shall include:

(a) Costs of ballot preparation, distribution, printing and counting, including absentee ballots.

(b) Costs of printing poll books and costs of tally books, stamps, signs and any other voting supplies, publications and equipment.

(c) Wages or other compensation for election judges and clerks or any county employees or officials performing duties associated with conducting taxing district elections.

(d) Costs paid for renting polling facilities.

(e) Acquisition, repair, maintenance or any other costs associated with voting machines or vote tally systems as defined in subsections (9) and (10) of section [34-2401](#), Idaho Code.

(f) Costs of publishing and printing election notices and ballots.

(2) Counties shall not be responsible for any election expenses prior to the time any taxing district orders an election, such as notice and costs for public hearings and notice and costs for public hearings on ballot measures.

(3) Notwithstanding the provisions of subsection (1) of this section, all ballot questions shall be limited to two hundred fifty (250) words or less. If a ballot question is in excess of two

hundred fifty (250) words, the entity proposing a ballot question that is not a state constitutional amendment shall be required to pay the ballot printing costs associated with the ballot question.

**TITLE 34, CHAPTER 17
RECALL ELECTION**

34-1701. OFFICERS SUBJECT TO RECALL. The following public officers, whether holding their elective office by election or appointment, and none other, are subject to recall:

(1) State officers:

(a) The governor, lieutenant-governor, secretary of state, state controller, state treasurer, attorney general, and superintendent of public instruction;

(b) Members of the state senate, and members of the state house of representatives.

(2) County officers:

(a) The members of the board of county commissioners, sheriff, treasurer, assessor, prosecuting attorney, clerk of the district court, and coroner.

(3) City officers:

(a) The mayor;

(b) Members of the city council.

(4) Special district elected officers for whom recall procedure is not otherwise provided by law.

34-1702. REQUIRED SIGNATURES ON PETITION. A petition for recall of an officer shall be instituted by filing with the appropriate official a verified written petition requesting such recall.

(1) If the petition seeks recall of any of the officers named in subsection (1)(a) of section [34-1701](#), Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held to elect a governor.

(2) If the petition seeks recall of any of the officers named in subsection (1)(b) of section [34-1701](#), Idaho Code, the petition shall be filed with the secretary of state, and must be signed by registered electors of the legislative district equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the legislative district at which the member was elected.

(3) If the petition seeks recall of any of the officers named in subsection (2)(a) of section [34-1701](#), Idaho Code, the petition shall be filed with the county clerk, and must be signed by registered electors of the county equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the county for the election of county officers at which the officer was elected.

(4) If the petition seeks recall of any of the officers named in subsection (3) of section [34-1701](#), Idaho Code, the petition shall be filed with the city clerk, and must be signed by registered electors of the city equal in number to twenty percent (20%) of the number of electors registered to vote at the last general city election held in the city for the election of officers.

(5) If the petition seeks recall of any of the officers named in subsection (4) of section [34-1701](#), Idaho Code, the petition shall be filed with the county clerk of the county wherein the district is located. If the district is located in two (2) or more counties, the clerk in each county shall perform the functions within that county. The petition must be signed by registered electors of the district or school trustee zone equal in number to fifty percent (50%) of the number of electors who cast votes in the last election of the district or school trustee zone. If no district election has been held in the last six (6) years, the petition must be signed by twenty percent (20%) of the number of electors registered to vote in the district or school trustee zone at the time the petition is filed.

34-1703. FORM OF PETITION.

(1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the honorable...., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of the State of Idaho respectfully demand that...., holding the office of...., be recalled by the registered electors of this state for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the State of Idaho; my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow twenty numbered lines for signatures.)

(2) The recall petition for members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the honorable...., Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of Legislative District No....., respectfully demand that...., holding the office of...., be recalled by the registered electors of Legislative District No..... for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of Legislative District No....., my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City	Date
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(Here follow twenty numbered lines for signatures.)

(3) The recall petition for county officers shall be in substantially the following form:

RECALL PETITION

To the honorable...., County Clerk for the County of....:

We, the undersigned citizens and registered electors of the County of...., respectfully demand that...., holding the office of...., of the County of...., be recalled by the registered electors of the County of.... for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of...., my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence Street and Number	City	Date
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(Here follow twenty numbered lines for signatures.)

(4) The recall petition for city officers shall be in substantially the following form:

RECALL PETITION

To the honorable...., City Clerk for the City of....:

We, the undersigned citizens and registered electors of the City of...., respectfully demand that...., holding the office of...., of the City of...., be recalled by the registered electors of the City

of... for the following reasons, to-wit:

(setting out the reasons for recall in not more than 200 words); that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of..., my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow twenty numbered lines for signatures.)

(5) The recall petition for special district officers shall be in substantially the following form:

RECALL PETITION

To the honorable..., County Clerk of the County of....:

We, the undersigned citizens and registered electors of (here insert the official name of the district), respectfully demand that..., holding the office of..., of the (district), be recalled by the registered electors of the (district) for the following reasons, to-wit: (insert the reasons for the recall in two hundred (200) words or less); that a special election therefor be called, that we, each for himself say: I am a registered elector of the (district), my residence, address including city, and the date I signed this petition are correctly written after my name.

Signature	Printed Name	Residence	City	Date
		Street and Number		

(Here follow twenty numbered lines for signatures.)

34-1704. PRINTING OF PETITION AND SHEETS FOR SIGNATURES -- TIME LIMITS FOR PERFECTING PETITION.

(1) Before or at the time of beginning to circulate any petition for the recall of any officer subject to recall, the person or persons, organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the secretary of state, county clerk, or city

clerk, as the case may be, a copy of a prospective petition duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and signature sheets for recall shall be printed on a good quality bond paper of standardized size in substantial conformance within the provisions of section [34-1703](#), Idaho Code. To every sheet of petitioners' signatures shall be attached a full and correct copy of the recall petition.

(2) The secretary of state, county clerk, or city clerk, as the case may be, shall indicate in writing on the prospective recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the secretary of state, county clerk, or city clerk, shall inform the person or persons, organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of signatures within seventy-five (75) days following the date of approval as to form. Signatures on the prospective petition shall not be counted toward the required number of signatures. Any petition that does not contain the required number of signatures within the seventy-five (75) days allowed shall be declared null and void ab initio in its entirety.

34-1705. VERIFICATION ON SHEETS FOR SIGNATURES. Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho

ss.

County of

I, ..., swear, under penalty of perjury, that I am a resident of the State of Idaho and at least eighteen (18) years of age; and that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature).....

Post office address

.....

Subscribed and sworn to before me this day of,

(Notary Seal)

.....

Notary Public

Residing at

34-1706. EXAMINATION AND CERTIFICATION OF SIGNATURES. All petitions with attached signature sheets shall be filed on the same day with the secretary of state, county

clerk, or city clerk, as the case may be. The secretary of state or the city clerk shall promptly transmit the petitions and attached signature sheets to the county clerk. An examination to verify whether or not the petition signers are qualified electors shall be conducted by the county clerk and a certificate shall be attached to the signature sheets as provided in section [34-1807](#), Idaho Code. This examination shall not exceed fifteen (15) business days from the date of receipt of the petitions.

34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIGNATION -- SPECIAL ELECTION.

(1) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly provide written notice to the officer being recalled, and the petitioner informing them, that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the secretary of state, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held on the date prescribed in section [34-106](#), Idaho Code. If the officer being recalled is one (1) specified in section [34-1701\(1\)\(a\)](#), Idaho Code, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section [34-1701\(1\)\(b\)](#), Idaho Code, the special election shall be conducted only in the legislative district.

(2) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly provide written notice to the officer being recalled, and the petitioner, informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held on the date prescribed in section [34-106](#), Idaho Code. The special election shall be conducted countywide.

(3) In the event that a petition filed with the county clerk concerning the recall of an official of a special district is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly provide written notice to the officer being recalled, and the petitioner, and the governing board of the special district informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after

notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the governing board of the special district. The special election must be held on the date prescribed in section [34-106](#), Idaho Code. The election shall be conducted by the county clerk in the manner provided in section [34-1401](#), Idaho Code.

(4) In the event that a petition filed with a city clerk is found by the city clerk to contain the required number of certified signatures, the city clerk shall promptly provide written notice to the officer being recalled, and the petitioner, informing them that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the city clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the city clerk, a special election shall be ordered by the city clerk. The special election must be held on the date prescribed in section [34-106](#), Idaho Code. The election shall be conducted by the county clerk in the manner provided in section [34-1401](#), Idaho Code, and shall be conducted citywide.

(5) In the event that a petition is found not to have the required number of signatures, the officer shall continue in office and no new recall petition may be circulated for a period of ninety (90) days against the same officer.

34-1708. FORM OF RECALL BALLOT. The ballot at any recall election shall be headed "RECALL BALLOT" and on the ballot shall be printed in not more than two hundred (200) words the reason for demanding the recall of the officer named in the recall petition, and in not more than two hundred (200) words the officer's justification of his course in office. Then the question of whether the officer should be recalled shall be placed on the ballot in a form substantially similar to the following:

- FOR recalling who holds office of
- AGAINST recalling who holds office of

34-1709. OFFICER TO CONTINUE IN OFFICE. The officer named in the recall petition shall continue to perform the duties of his office until the results of the special recall election are officially declared.

34-1710. CONDUCT OF SPECIAL RECALL ELECTION. Special elections for the recall of an officer shall be conducted and the results thereof canvassed and certified in all respects as general elections, except as otherwise provided. Nothing in this chapter shall preclude the holding of a recall election with another election.

34-1711. CANVASS OF RETURNS.

(1) The board of county commissioners shall act as the board of canvassers for all special recall elections that involve elections held wholly or partly within their county.

(a) For all special recall elections involving state officers, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and shall immediately transmit to the secretary of state an abstract of the votes cast.

(b) Within fifteen (15) days following the special recall election held to recall a state officer, the state board of canvassers shall meet and canvass the votes cast at such election, and the secretary of state shall immediately after the completion thereof, proclaim the results.

(c) For all special recall elections involving county officers, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results.

(d) For all special recall elections involving city or special district officials, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results. The county clerk shall certify the results of the recall election to the clerk of the political subdivision for which the election was held.

34-1712. GENERAL ELECTION LAWS CONTROL.

(1) The provisions relating to general elections, including the payment of expenses of conducting the recall election, shall govern special recall elections except where otherwise provided.

(2) Whenever a special recall election is ordered, notice must be issued in the same manner as for a general election.

(3) To recall any officer, a majority of the votes cast at the special recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall must equal or exceed the votes cast at the last general election for that officer. If the officer was appointed or was not required to stand for election, then a majority of the votes cast in the recall election shall be the number necessary for recall.

(4) If recalled, an officer shall be recalled as of the time when the results of the special recall election are proclaimed, and a vacancy in the office shall exist.

(5) If an officer is recalled from his office the vacancy shall be filled in the manner provided by law for filling a vacancy in that office arising from any other cause.

34-1713. TIME WITHIN WHICH RECALL MAY BE FILED -- REMOVAL OF SIGNATURES.

(1) No petition for a recall shall be circulated against any officer until he has actually held office under the current term for at least ninety (90) days.

(2) After one (1) special recall election, no further recall petition shall be filed against the

same officer during his current term of office, unless the petitioners first pay into the public treasury which has paid such special recall election expenses the whole amount of the expenses for the preceding recall election. The specific reason for recall in one (1) recall petition for which an election has been held cannot be the basis for a second recall petition during that current term of office.

(3) The signer of any recall petition may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his own signature at any time prior to the time when the petition is filed.

34-1714. PROHIBITED ACTS -- PENALTIES.

(1) A person is guilty of a felony, who:

- (a) Signs any name other than his own to any recall petition;
- (b) Knowingly signs his name more than once on the same recall petition;
- (c) Knowingly signs his name to any recall petition for the recall of any state, county or city officer if he is not a registered elector;
- (d) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition;
- (e) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;
- (f) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;
- (g) Makes any false affidavit concerning any recall petition or the signatures appended thereto;
- (h) Offers, proposes or threatens for any pecuniary reward or consideration:
 - (i) To offer, propose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures thereon;
 - (ii) To offer, propose or threaten to desist from beginning, promoting or circulating any recall petition;
 - (iii) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

(2) A public officer is guilty of a felony, who:

- (a) Knowingly makes any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

34-1715. REFUSAL TO ACCEPT PETITION -- MANDATE -- INJUNCTION. If the secretary of state, county clerk, or city clerk, refuses to accept and file any petition for the recall of a public officer with the requisite number of eligible signatures, any citizen may apply within ten (10) business days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state, county clerk, or city clerk shall then accept and file the recall petition, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office, except that the time limitations required by section [34-1704\(2\)](#), Idaho Code, shall begin to run only as of the date of the court judgment, which shall be so stated in the judgment. On a showing that the petition is not legally sufficient, the court may enjoin the secretary of state, county clerk, or city clerk, and all other officers from certifying or printing any official ballot for a recall election. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the court of appeals within ten (10) business days after a decision is rendered. The district court of the state of Idaho in and for Ada County shall have jurisdiction in all cases involving the recall of state officers.

**TITLE 39, CHAPTER 41
IDAHO BUILDING CODE ACT**

39-4116. LOCAL GOVERNMENT ADOPTION AND ENFORCEMENT OF BUILDING CODES.

(1) Local governments enforcing building codes shall do so only in compliance with the provisions of this section. Local governments that have not previously instituted and implemented a code enforcement program prior to the effective date of this act may elect to implement a building code enforcement program by passing an ordinance evidencing the intent to do so. Local governments may contract with a public or private entity to administer their building code enforcement program.

(2) Local governments that issue building permits and perform building code enforcement activities shall, by ordinance effective January 1 of the year following the adoption by the Idaho building code board, adopt the following codes as published by the International Code Council together with any amendments or revisions set forth in section [39-4109](#), Idaho Code, including subsequent versions of the International Building Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this chapter:

- (a) International Building Code, including all rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the federal fair housing act accessibility guidelines;
- (b) Idaho residential code, parts I-IV and IX; and
- (c) Idaho energy conservation code.

Local governments are not required by this chapter to adopt the other referenced codes in the International Building Code.

(3) All single family homes and multiple family dwellings up to two (2) units are hereby exempted from the provisions of the International Fire Code, the International Building Code and the Idaho residential code that require such dwellings to have automatic fire sprinkler systems installed. Nothing in this section shall prevent any person from voluntarily installing an automatic fire sprinkler system in any residential dwelling.

(4) Local governments may amend by ordinance the adopted codes or provisions of referenced codes to reflect local concerns, provided such amendments establish at least an equivalent level of protection to that of the adopted building code. A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section [39-4109](#), Idaho Code, except as provided in paragraphs (a) and (b) of this subsection.

(a) A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section [39-4109](#), Idaho Code.

(b) A local jurisdiction shall not adopt any provision of the International Building Code or Idaho residential code or appendices thereto that has not been adopted or that has been expressly rejected or exempted from the adopted version of those codes by the Idaho building code board through the negotiated rulemaking process as provided in section [39-4109](#), Idaho Code. Provided

however, that, after a finding by the local jurisdiction that good cause exists for such an amendment to such codes and that such amendment is reasonably necessary, a local jurisdiction may adopt such provision by ordinance in accordance with the provisions of [chapter 9, title 50](#), Idaho Code, and provided further that such local jurisdiction shall conduct a public hearing and, provided further, that notice of the time and place of the public hearing shall be published in the official newspaper or paper of general circulation within the jurisdiction and written notice of each of such public hearing and the proposed language shall be given by the local jurisdiction to the local chapters of the entities identified in section [39-4109\(5\)](#), Idaho Code, not less than thirty (30) days prior to such hearing. In the event that there are no local chapters of such entities identified in section [39-4109\(5\)](#), Idaho Code, within the local jurisdiction holding the hearings, the notice shall be provided to the state associations of the respective entities.

(5) Local governments shall exempt agricultural buildings from the requirements of the codes enumerated in this chapter and the rules promulgated by the board. A county may issue permits for farm buildings to assure compliance with road setbacks and utility easements, provided that the cost for such permits shall not exceed the actual cost to the county of issuing the permits.

(6) Permits shall be governed by the laws in effect at the time the permit application is received.

(7) The division shall retain jurisdiction for in-plant inspections and installation standards for manufactured or mobile homes and for in-plant inspections and enforcement of construction standards for modular buildings and commercial coaches.

**TITLE 39, CHAPTER 55
CLEAN INDOOR AIR**

39-5501. LEGISLATIVE FINDINGS AND INTENT.

(1) Public health officials have concluded that secondhand tobacco smoke causes disease, including lung cancer and heart disease, in nonsmoking adults, as well as causes serious conditions in children such as asthma, respiratory infections, middle ear infections, and sudden infant death syndrome. In addition, public health officials have concluded that secondhand smoke can exacerbate adult asthma and allergies and cause eye, throat and nasal irritation. The conclusions of public health officials concerning secondhand tobacco smoke are sufficient to warrant measures that regulate smoking in public places in order to protect the public health and the health of employees who work at public places.

(2) The intent of this chapter is to protect the public health, comfort and environment, the health of employees who work at public places and the rights of nonsmokers to breathe clean air by prohibiting smoking in public places and at public meetings.

39-5502. DEFINITIONS. As used in this chapter:

(1) "Auditorium" means a public building where an audience sits and any corridors, hallways or lobbies adjacent thereto.

(2) "Bar" means any indoor area open to the public operated primarily for the sale and service of alcoholic beverages for on-premises consumption and where: (a) the service of food is incidental to the consumption of such beverages, or (b) no person under the age of twenty-one (21) years is permitted except as provided in section [23-943](#), Idaho Code, as it pertains to employees, musicians and singers, and all public entrances are clearly posted with signs warning patrons that it is a smoking facility and that persons under twenty-one (21) years of age are not permitted. "Bar" does not include any area within a restaurant.

(3) "Employer" means any person, partnership, limited liability company, association, corporation or nonprofit entity that employs one (1) or more persons, including the legislative, executive and judicial branches of state government; any county, city, or any other political subdivision of the state; or any other separate unit of state or local government.

(4) "Indoor shopping mall" means an indoor facility located at least fifty (50) feet from any public street or highway and housing no less than ten (10) retail establishments.

(5) "Public meeting" means all meetings open to the public.

(6) "Public place" means any enclosed indoor place of business, commerce, banking, financial service or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the public place have general and regular access or which the public uses including:

- (a) Buildings, offices, shops or restrooms;
- (b) Waiting rooms for means of transportation or common carriers;
- (c) Restaurants;

- (d) Theaters, auditoriums, museums or art galleries;
- (e) Hospitals, libraries, indoor shopping malls, indoor sports arenas, concert halls, or airport passenger terminals, and within twenty (20) feet of public entrances and exits to such facilities;
- (f) Public or private elementary or secondary school buildings and educational facilities and within twenty (20) feet of entrances and exits of such buildings or facilities;
- (g) Retail stores, grocery stores or arcades;
- (h) Barbershops, hair salons or laundromats;
- (i) Sports or fitness facilities;
- (j) Common areas of nursing homes, resorts, hotels, motels, bed and breakfast lodging facilities and other similar lodging facilities, including lobbies, hallways, restaurants and other designated dining areas and restrooms of any of these;
- (k) Any child care facility subject to licensure under the laws of Idaho, including those operated in private homes, when any child cared for under that license is present;
- (l) Public means of mass transportation including vans, trains, taxicabs and limousines when passengers are present; and
- (m) Any public place not exempted by section [39-5503](#), Idaho Code.

(7) "Publicly-owned building or office" means any enclosed indoor place or portion of a place owned, leased or rented by any state, county or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, municipal or county taxes.

(8) "Restaurant" means an eating establishment including, but not limited to, coffee shops, cafes, cafeterias, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area within a restaurant.

(9) "Smoking" includes the possession of any lighted tobacco product in any form.

(10) "Smoking area" means a designated area in which smoking is permitted.

39-5503. PROHIBITIONS -- EXCEPTIONS.

(1) No person shall smoke in a public place, publicly-owned building or office, or at a public meeting, except in the following which may contain smoking areas or be designated as smoking areas in their entirety:

- (a) Bars;
- (b) Retail businesses primarily engaged in the sale of tobacco or tobacco products;
- (c) Buildings owned and operated by social, fraternal, or religious organizations when used by the membership of the organization, their guests or families, or any facility that is rented or leased for private functions from which the public is excluded and for which arrangements are under the control of the sponsor of the function;

(d) Guest rooms in hotels, motels, bed and breakfast lodging facilities, and other similar lodging facilities, designated by the person or persons having management authority over such public lodging establishment as rooms in which smoking may be permitted;

(e) Theatrical production sites, if smoking is an integral part of the story in the theatrical production;

(f) Areas of owner-operated businesses, with no employees other than the owner-operators, that are not commonly open to the public;

(g) Any office or business, other than child care facilities, located within the proprietor's private home when all such offices and/or businesses occupy less than fifty percent (50%) of the total area within the private home;

(h) Idaho state veterans homes, established pursuant to section [66-901](#), Idaho Code, that permit smoking in designated areas, provided that physical barriers and ventilation systems are used to reduce smoke in adjacent nonsmoking areas; and

(i) A designated employee breakroom established by a small business owner employing five (5) or fewer employees, provided that all of the following conditions are met:

(i) The breakroom is not accessible to minors;

(ii) The breakroom is separated from other parts of the building by a floor to ceiling partition;

(iii) The breakroom is not the sole means of entrance or exit to the establishment or its restrooms and is located in an area where no employee is required to enter as part of the employee's work responsibilities. For purposes of this paragraph, the term "work responsibilities" does not include custodial or maintenance work performed in a breakroom when it is unoccupied; and

(iv) "Warning: Smoking Permitted" signs are prominently posted in the smoking breakroom and properly maintained by the employer. The letters on such signs shall be at least one (1) inch in height.

(2) This section shall not be construed to require employers to provide reasonable accommodation to smokers, or to provide breakrooms for smokers or nonsmokers.

(3) Nothing in this section shall prohibit an employer from prohibiting smoking in an enclosed place of employment.

39-5505. SMOKING IN ELEVATORS PROHIBITED. Notwithstanding any other provision of this chapter or any other statute, or county or city ordinance, no person shall smoke in any elevator generally accessible to the public. Signs indicating that smoking is prohibited shall be conspicuously posted in each elevator and at each entrance to an elevator car or bank of elevators.

39-5506. RESPONSIBILITIES OF EMPLOYERS.

(1) No employer or other person in charge of a public place or publicly-owned building or office shall knowingly or intentionally permit the smoking of tobacco products in violation of this

chapter.

(2) Any employer or other person in charge of a public place or publicly-owned building or office who knowingly violates the provisions of this section is guilty of an infraction and is subject to a fine not to exceed one hundred dollars (\$100).

(3) Any employer who discharges or in any manner discriminates against an employee because that employee has made a complaint or has given information to the department of health and welfare or the department of labor pursuant to this section shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation.

39-5507.VIOLATIONS. An employer, or other person in charge of a public place or publicly owned building, or the agent or employee of such person, who observes a person smoking in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products. If the person persists in violating this chapter, the employer, person in charge, agent or employee shall ask the person to leave the premises. Any person who refuses to either extinguish all lighted tobacco products or leave the premises is guilty of an infraction and is subject to a fine of seventeen dollars and fifty cents (\$17.50). Any violation may be reported to a law enforcement officer.

39-5508. RULES AND REGULATIONS. The director of the Idaho department of health and welfare shall adopt rules and regulations necessary, reasonable and consistent with the intent of this chapter to implement the provisions of this chapter. The director may, upon request, waive the provisions of said rules and regulations if it is determined that there are compelling reasons to do so and a waiver will not significantly affect the health and comfort of nonsmokers.

39-5509. OTHER STATUTES NOT AFFECTED. The provisions of this chapter shall not be deemed to amend, modify or repeal sections [18-5904](#), [18-5905](#) and [18-5906](#), Idaho Code, relating to no smoking during public meetings.

39-5511. LOCAL PROVISIONS. Nothing in this chapter shall be interpreted to prevent local, county or municipal governments from adopting ordinances or regulations more restrictive than the provisions contained herein.

**TITLE 48, CHAPTER 6
CONSUMER PROTECTION ACT**

48-603E. UNFAIR BULK ELECTRONIC MAIL ADVERTISEMENT PRACTICES.

(1) For purposes of this section, unless the context otherwise requires:

(a) "Bulk electronic mail advertisement" means an electronic message, containing the same or similar advertisement, which is contemporaneously transmitted to two (2) or more recipients, pursuant to an internet or intranet computer network.

(b) "Computer network" means a set of related, remotely connected devices and communication facilities, including two (2) or more computers, with the capability to transmit data among them through communication facilities.

(c) "Interactive computer service" means an information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet, and such systems operated or services offered by a library or an educational institution.

(d) "Recipient" means a person who receives any bulk electronic mail advertisements.

(2) Any person who uses an interactive computer service to initiate or cause the sending or transmittal of any bulk electronic mail advertisement shall provide an electronic mail address readily identifiable in the bulk electronic mail advertisement to which the recipient may send a request for declining such mail.

(3) It is unlawful for a person to use an interactive computer service to initiate or cause the sending or transmittal of any bulk electronic mail advertisement to any recipient that the sender knows, or has reason to know, engages in any of the following:

(a) Uses the name of a fictitious name of a third party in the return address field without the permission of the third party.

(b) Misrepresents any information in identifying the point of origin of the transmission path of the bulk electronic mail advertisement.

(c) Fails to contain information identifying the point of origin of the transmission path of the bulk electronic mail advertisement.

(d) Sends or transmits, at any time after five (5) business days of a declination, any bulk electronic mail advertisement to a recipient who provided the sender with a request declining the receipt of such advertisements.

(4) Pursuant to section [48-608](#), Idaho Code, a recipient that receives a bulk electronic mail advertisement in violation of this section may bring an action to recover actual damages. The recipient, in lieu of actual damages, may elect to recover from the person transmitting or causing to be transmitted such bulk electronic mail advertisement the greater of one hundred dollars (\$100) for each bulk electronic mail advertisement transmitted to the recipient in violation of this section or one thousand dollars (\$1,000).

(5) This section does not apply to any of the following:

(a) A person, including an interactive computer service, who provides users with access to a computer network, and as part of that service, transmits electronic mail on behalf of those users, unless such person transmits bulk electronic mail advertisements on behalf of those users which the person knows, or should have known, were transmitted in violation of this section.

(b) Electronic mail advertisements which are accessed by the recipient from an electronic bulletin board.

(c) A person who provides users with access at no charge to electronic mail, including receiving and transmitting bulk electronic mail advertisements, and, as a condition of providing such access, requires such users to receive unsolicited advertisements.

(d) The transmission of bulk electronic mail advertisements from an organization or similar entity to the members of such organization.

(6) An interactive computer service is not liable under this section for an action voluntarily taken in good faith to block or prevent the receipt or transmission through its service of any bulk electronic mail advertisement which is reasonably believed to be in violation of this section.

TITLE 48, CHAPTER 10
IDAHO TELEPHONE SOLICITATION ACT

48-1003C. AUTOMATIC DIALING-ANNOUNCING DEVICE.

(1) When a person intends to utilize an automatic dialing-announcing device to send a message by using or connecting to a telephone line, the person must, at the outset of the message, disclose the following:

- (a) The name of the person for whom the message is being made;
- (b) The purpose of the message; and
- (c) The contact information of the caller.

(2) As used in this section:

(a) "Automatic dialing-announcing device" means a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.

(b) "Caller" means a person who contacts, or attempts to contact, a subscriber in this state by using an automatic dialing-announcing device.

(c) "Subscriber" means a person who has subscribed to telephone service from a telephone company, or other persons living or residing with the subscribing person.

**TITLE 50, CHAPTER 10
FINANCES**

50-1001. FISCAL YEAR. The fiscal year of each city shall commence on the first day of October.

50-1019. PURPOSES FOR WHICH BONDS MAY BE ISSUED -- LIMITATION ON AMOUNT. Every city incorporated under the laws of the territory of Idaho or of the state of Idaho shall have power and authority to issue city coupon bonds not to exceed in aggregate at any time, ten per cent (10%) of the assessed full cash valuation [two per cent (2%) of the market value for assessment purposes] of the real and personal property in said city, according to the assessment of the preceding year, for any or all of the purposes specified [in subsections 1 through 10 of this section,] as follows:

1. To provide for constructing, laying out, grading, curbing, draining, sidewalking or otherwise improving streets, alleys, intersections, crossings and crosswalks; and to construct, or aid in the construction of bridges across streams within or contiguous to, or within one (1) mile of the exterior limits of, such city.

2. To provide for the funding, refunding, purchase and redemption of the outstanding indebtedness, bonds may be issued under this section for such purposes, without submission of the question of issuance of such bonds to the electors of the city, when the same can be done to the profit and benefit of such city without incurring any additional liability.

3. To provide for the establishment of hospitals and cemeteries, either within or without the corporate limits of such city.

4. To provide for the purchase, improvement and equipment of lands and buildings thereon, for public parks, monuments, recreation facilities and zoos, either within or without the corporate limits of such city.

5. To provide for the purchase, erection, construction and furnishing of city public libraries.

6. To provide for the establishment of a fire department by the purchase of building sites, buildings, and suitable equipment and apparatus necessary to provide fire protection.

7. To provide for the purchase, acquisition, improvement and equipment of aviation facilities either wholly or partly within or without the corporate limits of such city, or wholly or partly within or without the state of Idaho.

8. To provide for flood control by acquisition and purchase of right-of-way and to establish, alter, enlarge, improve, reconstruct and change the channels of watercourses or any stream, river or body of water within or without the corporate limits of the city.

9. To provide for the acquisition, construction, remodeling, improvement or otherwise, of buildings for public use, together with all necessary appurtenant facilities and equipment, including all necessary land for building sites, either within or without the corporate limits of such city.

10. To provide for the purchase, acquisition, erection and construction of off-street parking sites, structures, buildings, facilities, equipment and appurtenances.

11. To provide for the purchase, acquisition, improvement and equipment of transit systems.

All bonds of any municipality which were issued, sold and delivered to the purchasers thereof prior to April 12, 1967, for the purpose of providing for the building, laying, construction, equipment, extension, enlargement, alteration, improvement or maintenance of storm sewers or sanitary sewerage systems, shall be excluded when determining the aggregate amount of bonds of any city issued hereunder which are outstanding for the purpose of computing the debt limitation provided for in the first paragraph of this section.

50-1026. CITY BONDS -- ORDINANCE -- ELECTION. Whenever the city council of a city shall deem it advisable to issue the coupon bonds of such city, the mayor and council shall provide therefor by ordinance, which shall specify and set forth all the purposes, objects, matters and things required by section [57-203](#), Idaho Code, and make provision for the collection of an annual tax sufficient to pay the interest on such proposed bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within thirty (30) years from the time of contracting the same as required by the constitution and laws of the state of Idaho.

The ordinance shall also provide the date for holding an election that is in accordance with the dates authorized in section [50-405](#), Idaho Code, which falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held. Notice shall be given in the official newspaper of the city by the county clerk in accordance with election law in [title 34](#), Idaho Code. Such election shall be conducted as other city elections. The voting at such elections must be by ballot, and the ballot used shall be substantially as follows: "In favor of issuing bonds to the amount of.... dollars for the purpose stated in Ordinance No.....," and "Against issuing bonds to the amount of.... dollars for the purpose stated in Ordinance No....." If at such election, held as provided in this chapter, two-thirds (2/3) of the qualified electors voting at such election assent to the issuing of such bonds and the incurring of the indebtedness thereby created for the purpose aforesaid, such bonds shall be issued in the manner provided by the laws of the state of Idaho.

**TITLE 50, CHAPTER 14
CONVEYANCE OF PROPERTY**

50-1405. CONVEYANCE -- DISPOSITION OF PROCEEDS. The proceeds received from the sale or exchange of property shall be utilized in a manner consistent with provisions of law regarding revenues received by the city.

**TITLE 50, CHAPTER 29
LOCAL ECONOMIC DEVELOPMENT ACT**

50-2905A. ELECTION NECESSARY FOR EXPENDITURES ON CERTAIN PROJECTS. (1) Notwithstanding any other provision of this chapter, on and after July 1, 2016, it shall be unlawful for an urban renewal agency to expend revenue collected under this chapter on project costs when the amount of revenue collected under this chapter contributes to fifty-one percent (51%) or more of the total project cost and the project is for construction of a municipal building that will not be subject to property taxation or unless such construction project is first approved in an election by sixty percent (60%) of the participating qualified electors residing within the borders of the qualified municipality. An election pursuant to this section shall be in accordance with the provisions of [chapter 1, title 34](#), Idaho Code.

(2) For purposes of this section, the following terms shall have the following meanings:

(a) "Municipal building" means only an administrative building, city hall, library, courthouse, public safety or law enforcement buildings, other judicial buildings, fire stations, jails and detention facilities;

(b) "Project costs" shall have the same meaning as provided in section [50-2008](#), Idaho Code.

50-2908. DETERMINATION OF TAX LEVIES -- CREATION OF SPECIAL FUND.
[EFFECTIVE JULY 1, 2017]

(1) For purposes of calculating the rate at which taxes shall be levied by or for each taxing district in which a revenue allocation area is located, the county commissioners shall, with respect to the taxable property located in such revenue allocation area, use the equalized assessed value of such taxable property as shown on the base assessment roll rather than on the current equalized assessed valuation of such taxable property, except the current equalized assessed valuation shall be used for calculating the tax rate for:

(a) Levies for refunds and credits pursuant to section [63-1305](#), Idaho Code, and any judgment pursuant to section [33-802](#)(1), Idaho Code, certified after December 31, 2007;

(b) Levies permitted pursuant to section [63-802](#)(3), Idaho Code, certified after December 31, 2007;

(c) Levies for voter approved general obligation bonds of any taxing district and plant facility reserve fund levies passed after December 31, 2007;

(d) Levies set forth in paragraphs (a) through (c) of this subsection, first certified prior to December 31, 2007, when the property affected by said levies is included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or any taxing district after December 31, 2007; and

(e) School levies for supplemental maintenance and operation pursuant to section [33-802](#)(3) and (4), Idaho Code, approved after December 31, 2007, and for emergency funds pursuant to section [33-805](#), Idaho Code, approved after July 1, 2015.

(2) With respect to each such taxing district, the tax rate calculated under subsection (1)

of this section shall be applied to the current equalized assessed valuation of all taxable property in the taxing district, including the taxable property in the revenue allocation area. The tax revenues thereby produced shall be allocated as follows:

(a) To the taxing district shall be allocated and shall be paid by the county treasurer:

(i) All taxes levied by the taxing district or on its behalf on taxable property located within the taxing district but outside the revenue allocation area;

(ii) A portion of the taxes levied by the taxing district or on its behalf on the taxable property located within the revenue allocation area, which portion is the amount produced by applying the taxing district's tax rate determined under subsection (1) of this section to the equalized assessed valuation, as shown on the base assessment roll, of the taxable property located within the revenue allocation area; and

(iii) All taxes levied by the taxing district to satisfy obligations specified in subsection (1)(a) through (e) of this section.

(b) To the urban renewal agency shall be allocated the balance, if any, of the taxes levied on the taxable property located within the revenue allocation area.

(3) Upon enactment of an ordinance adopting a revenue allocation financing provision as part of an urban renewal plan, the urban renewal agency shall create a special fund or funds to be used for the purposes enumerated in this chapter. The revenues allocated to the urban renewal agency pursuant to this chapter shall be paid to the agency by the treasurer of the county in which the revenue allocation district is located and shall be deposited by the agency into one (1) or more of such special funds. The agency may, in addition, deposit into such special fund or funds such other income, proceeds, revenues and funds it may receive from sources other than the revenues allocated to it under subsection (2)(b) of this section.

(4) For the purposes of section [63-803](#), Idaho Code, during the period when revenue allocation under this chapter is in effect, and solely with respect to any taxing district in which a revenue allocation area is located, the county commissioners shall, in fixing any tax levy other than the levy specified in subsection (1)(a) through (e) of this section, take into consideration the equalized assessed valuation of the taxable property situated in the revenue allocation area as shown in the base assessment roll, rather than the current equalized assessed value of such taxable property.

(5) For all other purposes, including, without limitation, for purposes of sections [33-802](#), [33-1002](#) and [63-1313](#), Idaho Code, reference in the Idaho Code to the term "market value for assessment purposes" (or any other such similar term) shall mean market value for assessment purposes as defined in section [63-208](#), Idaho Code.

**TITLE 54, CHAPTER 19
PUBLIC WORKS CONTRACTORS**

54-1901. LEGISLATIVE INTENT -- DEFINITIONS.

(1) The legislature finds that it is in the best interests of the people of the state of Idaho to establish a process for licensure of public works contractors to be administered through the public works contractors license board. To assure that experienced and qualified contractors provide services to public entities in Idaho, the board is charged with licensing as provided in this chapter. Effective licensing procedures should assure that contractors of integrity provide work for which they have specific experience and expertise and that public facilities are constructed and rebuilt by efficient and cost-effective means. Licensing should also protect the public health and safety through judicious exercise of investigative, disciplinary and enforcement activities.

(2) For the interpretation of this chapter, unless the context indicates a different meaning:

(a) "Person" includes any individual, firm, copartnership, corporation, limited liability company, limited liability partnership, association or other organization, or any combination thereof acting as a unit.

(b) "Public works contractor," which term is synonymous with the term "builder," "subcontractor" and "specialty contractor," and in this chapter referred to as "contractor" or "licensee," includes any person who, in any capacity, undertakes, or offers to undertake, or purports to have the capacity to undertake any construction, repair or reconstruction of any public work, or submits a proposal to, or enters into a contract with, the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or with any agency, or with any other public board, body, commission, department or agency, or officer or representative thereof, authorized to let or award contracts for the construction, repair or reconstruction of any public work.

(c) "Public works construction" includes any or all of the following branches:

(i) Heavy construction, which is defined as constructing substantially in its entirety any fixed works and structures (not including "building construction"), without limitation, for any or all of the following divisions of subjects: irrigation, drainage, sanitation, sewage, water power, water supply, reservoirs, flood control, reclamation, inland waterways, railroads, grade separations, track elevation, elevated highways, hydroelectric developments, aqueducts, transmission lines, duct lines, pipelines, locks, dams, dikes, levees, revetments, channels, channel cutoffs, intakes, drainage, excavation and disposal of earth and rocks, foundations, piers, abutments, retaining walls, viaducts, shafts, tunnels, airports, air bases and airways, and other facilities incidental to the same;

(ii) Highway construction, which is defined as all work included in highway construction contracts, including, without limitation, highways, roads, streets, bridges, tunnels, sewer and street grading, street paving, curb setting, surfacing and other facilities incidental to any of the same;

(iii) Building construction, which is defined as all work in connection with any structure now built, being built, or hereafter built, for the support, shelter and enclosure of persons, chattels, personal and movable property of any kind, requiring in its construction the use of more than two (2) unrelated building trades or crafts.

(iv) Specialty construction, which is defined as any work in connection with any public works construction, requiring special skill and the use of specially skilled trades or crafts.

(d) "Board" means the board created by this chapter under the name of "public works contractors license board."

(e) "Administrator" means the administrator of the division of building safety.

(f) "Year" means the fiscal year ending June 30, each year.

(g) "Federal aid funds" means a direct grant in aid, matching funds, or loan from an agency of the federal government and designated for a specific public works project. Revenue sharing funds, federal impact funds, timber stumpage fees, and similar indirect allowances and subsidies not designated for a specific public works project shall not be regarded as "federal aid funds" within the meaning of this section.

(h) "Government obligation" means a public debt obligation of the United States government or the state of Idaho and an obligation whose principal and interest is unconditionally guaranteed by the United States government or the state of Idaho.

(i) "Public entity" means the state of Idaho, or any county, city, school district, sewer district, fire district, or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof.

(j) "Bid" or "bidder" means any proposal submitted by a public works contractor to a public entity in competitive bidding for the construction, alteration, repair or improvement of any public works construction.

54-1903. EXEMPTIONS. This chapter shall not apply to:

(a) An authorized representative of the United States government, the state of Idaho, or any incorporated town, city, county, irrigation district, reclamation district or other municipal or political corporation or subdivision of this state.

(b) Officers of a court when they are acting within the scope of their office.

(c) Public utilities operating under the jurisdiction of the public utilities commission of the state of Idaho on construction, maintenance and development work incidental to their own business.

(d) The sale or installation of any finished products, materials or articles of merchandise, which are not actually fabricated into and do not become a permanent fixed part of the structure.

(e) Any construction, alteration, improvement or repair of personal property.

(f) Any construction, alteration, improvement or repair carried on within the limits and boundaries of any site or reservation, the title of which rests in the federal government.

(g) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, drainage districts or reclamation districts, except when performed by a person required to be licensed under this chapter.

(h) Duly licensed architects, licensed engineers, and land surveyors when acting solely in their professional capacity.

(i) Any construction, alteration, improvement or repair involving any single project involving any number of trades or crafts with an estimated cost of less than ten thousand dollars (\$10,000), or a project estimated to cost less than fifty thousand dollars (\$50,000) for which no responsive statement of interest was received from a licensed public works contractor when statements of interest were solicited as provided in section [67-2805](#), Idaho Code.

(j) Any construction, operation, alteration or maintenance of a solid waste disposal site including those operated by, for, or at the direction of a city or a county.

(k) Any construction, operation or repair carried on in response to an emergency that has been officially declared by the governor pursuant to the provisions of [chapter 10, title 46](#), Idaho Code, or an emergency that has been declared by a governing body (city or county) in anticipation of a governor's declaration, for a period of time not to exceed seven (7) calendar days.

TITLE 57, CHAPTER 1
PUBLIC DEPOSITORY LAW

57-101. NAME OF ACT. This chapter may be cited as the "Public Depository Law."

57-102. SCOPE OF ACT. This chapter is designed to safeguard and protect the funds of all political subdivisions and of all municipal and quasi-municipal corporations of the state, having power to levy taxes or assessments, now existing or hereafter created and whether organized under the general laws or any special law of the state.

57-103. DEFINITIONS. In this chapter, unless the context otherwise requires, words and phrases shall have the meanings defined in the sections following.

57-104. DEPOSITING UNIT. Every municipal and quasi-municipal corporation, recreation district, improvement district, school district, or governmental unit, of every kind, character or class, now or hereafter created or organized, and authorized by law to levy taxes or special assessments, for which the county treasurer does not act as treasurer, and every county, is a depositing unit: provided, that as to any such depositing unit as herein defined the moneys of which may at any time be in the custody, charge or possession of any county treasurer or tax collector, the county shall be deemed to be the depositing unit with respect to such moneys while the same so remain in such custody, charge or possession, and also of all moneys in the custody, charge or possession of any county treasurer or tax collector for the credit of any school district or other political subdivision of a county authorized by law to levy taxes or special assessments and not herein defined as a "depositing unit."

The board of control or other agency created by or as a result of contracts entered into under the authority of federal and state statutes pursuant to which such board or other agency acts as the operating agent for one or more irrigation districts within the state of Idaho, including the board of control of the Boise Project as created by the respective contracts entered into by and between the United States and the New York irrigation district, Nampa & Meridian irrigation district, Boise-Kuna irrigation district, Wilder irrigation district, in the state of Idaho, and the Big Bend irrigation district in the state of Oregon, under the provisions of the Act of Congress of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplemental thereto, and particularly under the provisions of section 4 of the Act of Congress of December 5, 1924, (43 Stat. 672, 701, now sections [500](#) and [501](#) of [chapter 12, title 43](#) of the United States Code Annotated) [U.S.C., tit. 43, sections 500, 501], all generally referred to as the Reclamation Law, shall also be deemed to be a depositing unit within the meaning and for the purposes of this chapter, (being the public depository law) with boundaries coinciding with those of the irrigation districts in this state for which said board of control, or other agency, now or hereafter acts as operating agent, and as such shall also be deemed to be located in all counties in the state in which all or any part of such irrigation district or districts are located, and all moneys coming into the possession of such board

of control, or such other agency, are public moneys and may be deposited in bank, under the provisions of this chapter, in the name of such board, or other agency.

57-105. PUBLIC MONEYS. "Public moneys" are all moneys coming into the hands of any treasurer of a depositing unit, and in the case of any county shall also include all moneys coming into the hands of its tax collector or public administrator.

57-106. SUPERVISING BOARD. "Supervising board" is the official governing body of a depositing unit.

57-107. TREASURER. "Treasurer" is the official custodian of public moneys as defined in this chapter.

57-108. AUDITOR. "Auditor" is the officer of a depositing unit charged by law or by ordinance or resolution of the supervising board with the duty of checking the accounts of the treasurer.

57-109. DEPOSITING UNIT IN TWO OR MORE COUNTIES -- DESIGNATION OF AUDITOR. If any depositing unit as defined in this chapter, or any part thereof, is located or deemed to be located in two (2) or more counties of the state, then the county auditor of whichever one of such counties as is from time to time designated by the supervising board of such depositing unit, and he alone, shall have, exercise and be vested with all the rights, powers and duties with respect to such depositing unit and the whole thereof, as a county auditor has or exercises under the provisions of this chapter with respect to depositing units located entirely in his own county.

57-110. DESIGNATED DEPOSITORY. "Designated depository" is any national bank, state bank, trust company, federal savings and loan association, state savings and loan association, federal credit union or state credit union, located in the state and designated as a depository by the supervising board.

57-111. FINANCIAL INSTITUTIONS ELIGIBLE AS DEPOSITORIES -- CERTAIN FUNDS OF IRRIGATION DISTRICTS UNDER SECTION 43-118, IDAHO CODE. Any national bank, state bank, trust company, federal savings and loan association, state savings and loan association, federal credit union or state credit union, located within the geographical boundaries of any depositing unit, may become a depository of the public funds of such depositing unit by making application therefor to its supervising board and may under the provisions of section [57-130](#), Idaho Code, become the depository of other depositing units within the state.

Provided, that moneys which have been or shall be hereafter derived by irrigation districts organized under and by virtue of the provisions of section [43-118](#), Idaho Code, from the sale of

coupon bonds for the payment of interest on bonds outstanding as provided by [chapter 5, title 43](#), Idaho Code, may be deposited in a depository designated within the state of Idaho as provided by this chapter, or in such other depository within or without the state of Idaho as shall be designated by resolution of the board of directors of the irrigation district, and upon such terms and conditions as shall be agreed upon by the directors of the irrigation district and the purchasers of the outstanding bonds: provided, however, that the funds available as aforesaid shall in no manner be dissipated or used for any purpose other than the payment of interest on outstanding bonds.

57-111A. TREASURER OF DEPOSITING UNIT SHALL NOT DEPOSIT MONEY IN ANY BANK OR TRUST COMPANY WHICH HAS FAILED TO PAY ALL STATE AND LOCAL TAXES. The treasurer of a depositing unit shall not deposit moneys of a depositing unit in a financial institution which has failed to pay all state and local taxes it owes, including corporate income or franchise taxes upon its corporate income or franchise, sales and use taxes upon its purchases of tangible personal property, and real and personal property taxes upon property owned or leased by such financial institution.

57-113. REPORT ON CAPITAL AND SURPLUS. Every financial institution designated as a public depository and holding any deposit of public funds of any depositing unit under the provisions of this chapter shall, on or before beginning to hold such deposits, file with the treasurer and the supervising board of each such depositing unit whose deposit it so holds, the affidavit of one (1) of its officers showing the amount of the capital stock and surplus or reserves and unallocated or undivided earnings, as applicable, of such institution. In the event that such institution has such an affidavit on file with the treasurer and supervising board of each relevant depositing unit on the effective date of this section, such affidavit or affidavits shall satisfy the requirement of this section until January 31 of the year next following the effective date of this act. Such affidavits shall be effective for the purposes of this section to and including January 31 next following the date of their filing, but no longer, and, on or before that date, if such institution is to continue as a designated public depository under this chapter, a like affidavit shall be filed in like manner for the succeeding year on or before the date specified by the state treasurer pursuant to section [67-2739\(2\)](#), Idaho Code. No such institution shall receive deposits from nor act as depository for the public funds of any depositing unit unless and until an affidavit as is herein required and which still continues in effect is on file with the treasurer and the supervising board of such depositing unit in accordance with this section.

57-127. DEPOSIT OF PUBLIC FUNDS -- DUTIES OF TREASURER AND SUPERVISING BOARD. Except where the public moneys of a depositing unit in the custody of the treasurer at any one (1) time are less than one thousand dollars (\$1000), the treasurer shall deposit, and at all times keep on deposit, subject to the provisions of this law, in designated depositories, all public moneys coming into his hands, and it is hereby made the duty of said supervising board not less than once every six (6) months to certify to the treasurer the capital and

surplus or reserves and unallocated or undivided earnings, as applicable, of each public depository, a copy of which certificate shall immediately be served on the treasurer by the supervising board or its clerk; provided, that with the approval of the supervising board of the depositing unit, the treasurer is authorized and empowered to invest surplus or idle funds of the depositing unit in investments permitted by section [67-1210](#), Idaho Code, and interest received on all such investments, unless otherwise required by law, shall be paid into the general fund of the depositing unit: and provided further, that as to all public moneys in the custody of the treasurer of a depositing unit for which there is no legal depository available under this chapter, it shall be the duty of the supervising board of the depositing unit to designate and place for the safekeeping of such public moneys, and until such designation it shall be the duty of the treasurer to deposit such excess sums on special deposit in any public depository, and the expense of such service shall be borne by the depositing unit.

57-127A. DEPOSIT FOR SAFEKEEPING -- RESPONSIBILITY. The treasurer may deposit for safekeeping with a designated depository or a federal reserve bank any bonds, notes, bills, debentures, obligations, or certificates of indebtedness in which the moneys of the taxing unit or its agencies are invested pursuant to law; provided the treasurer shall take from the designated depository a receipt for the securities deposited. A treasurer may accept securities in authorized book entry form. The treasurer shall not be responsible for securities so deposited until they are withdrawn by the treasurer from the designated depository, except insofar as a violation by the treasurer of the prudent man investment rule contributes to any loss.

57-128. DESIGNATION OF DEPOSITORY. The supervising board shall designate one or more financial institutions within the boundaries of the depositing unit which are qualified public depositories as defined by section [57-110](#), Idaho Code, and which is in compliance with section [57-113](#), Idaho Code, as depository or depositories for the moneys required to be kept by the treasurer. Such designation shall be determined by competitive bidding or by other means generally accepted as standard business practice. In no case shall the deposit or deposits of public funds of any depositing unit in any public depository, exceed at any one (1) time in the aggregate the total of the capital and surplus or reserves and unallocated or undivided earnings, as applicable, of such public depository. In the event that any financial institution has been designated as a depository under this chapter, such designation shall continue in force until revoked by the supervising board of the depositing unit.

57-130. DEPOSIT IN FINANCIAL INSTITUTIONS OUTSIDE OF DEPOSITING UNIT. Where there are no approved depositories in the depositing unit, or where the money in the treasury exceeds the amount which the designated depositories in the depositing unit are willing to accept, the said excess moneys may be deposited in financial institutions outside of the depositing unit, but within the state of Idaho, which may be designated by the supervising board under the same conditions and subject to the same requirements as if in the depositing unit, and

where the money in the treasury exceeds the amount which all designated depositories in the state are willing to accept, such excess may in that event and not otherwise, be deposited in banks outside the state, which banks shall be designated by the supervising board under the same conditions and subject to the same requirements as for designated depositories in the depositing unit.

57-131. DEPOSITS SUBJECT TO PAYMENT ON DEMAND. All deposits in public depositories shall be demand deposits or deposits in accounts upon which negotiable orders of withdrawal may be written, or in similar transaction deposit accounts except for deposits of surplus or idle funds which the said depositing units are authorized to make under section [57-127](#), Idaho Code, with the approval of their respective supervising boards. The term "surplus or idle funds" shall mean the excess of available moneys in the public treasury, including the reasonably anticipated revenues, over and above the reasonably anticipated expenditures chargeable to those moneys, taking into account the dates at which such revenues and expenditures may be expected to occur, the charges of expenses to revenues being done in such a manner as to produce the maximum amount of excess. This definition shall not apply to idle funds in the state treasury, which funds shall be as defined in section [67-1210](#), Idaho Code.

57-132. DEPOSITS BY TAX COLLECTOR AND PUBLIC ADMINISTRATOR. It is hereby made the duty of the tax collector and public administrator of every county of this state to deposit any and all sums of money coming into his hands by virtue of his office in a depository designated by the supervising board under the provisions of this chapter, and any such moneys so deposited shall be a part of the public moneys as defined in this chapter, but shall remain subject to withdrawal by such tax collector or public administrator so depositing the same. Such sums while so on deposit in said depository, shall be held in separate accounts respectively designated as "Tax Collector's Account" and "Public Administrator's Account."

57-133. DEMAND DEPOSITS -- PAYMENT OF SERVICE CHARGES -- INTEREST ON TIME DEPOSITS. A public depository may pay interest to the depositing unit upon demand deposits, deposit accounts upon which negotiable orders of withdrawal may be written, and similar transaction deposit accounts made with it by such depositing unit as allowed by state or federal law.

The supervising boards of all depositing units are authorized in their discretion and from time to time to adopt, amend, and/or repeal rules and regulations not inconsistent with other provisions of this act providing for the payment by such depositing unit to its designated depository or depositories of reasonable charges for their services rendered in acting as such depositories. The rate of such charges and the terms and conditions thereof shall be fixed by such supervising boards in such rules and regulations, and shall be uniformly applicable to all designated depositories for such depositing unit under like circumstances and conditions. Such charges shall be allowed and

paid from the funds of such depositing unit available for the payment of its general expenses as other claims against said funds are allowed and paid.

Every public depository shall pay interest upon time deposits made by the public depositing unit at rates not less than those paid to investors for deposits of the same amount and under like circumstances and conditions; provided, however, that such time deposits shall bear interest at a rate not in excess of the maximum rate permitted by any applicable governmental regulation.

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 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.

57-134. ACCOUNTING FOR MONEYS DEPOSITED. The treasurer shall require, and it is hereby made the duty of every such depository to keep accurate accounts of all such moneys deposited with it, showing the amount deposited, and when deposited, and to render, at the beginning of each and every month, to the treasurer and auditor a statement, in duplicate, showing the daily balance of the public moneys of the depositing unit held by it during the month next preceding.

57-135. TREASURER'S MONTHLY REPORT. It is the duty of the treasurer to file a report in writing, verified by his affidavit, with the auditor on the last business day of each and every month, showing exactly how much cash he has in the treasury and in what bank or banks deposited, and if in more than one, how much in each, which reports shall be examined by the supervising board at the next regular session following the filing of the same, and compared by it with the books of the treasurer at least twice a year, and if it shall find that the treasurer has willfully made any false statement therein he may be suspended or removed from office.

57-137. RESPONSIBILITY FOR LOSS THROUGH INSOLVENCY OF BANK. Where the treasurer in accordance with the terms and provisions of this chapter has deposited and kept on deposit any public moneys in designated depositories, he shall not be liable personally or upon his official bond for any public moneys that may be lost by reason of the failure or insolvency of any such depository.

57-138. LIABILITY OF COUNTY AUDITOR UNDER PUBLIC DEPOSITORY LAW. The county auditor shall not be liable personally or upon his official bond for any losses by reason of his acts under the provisions of the public depository law, except insofar as such acts are in bad faith and have resulted in such loss.

57-139. OFFENSES BY TREASURER -- PENALTY. The making of profit, directly or indirectly, by the treasurer of any depositing unit out of any money in the treasury, belonging to the depositing unit, the custody of which the treasurer is charged with, by loaning or otherwise using it, or depositing the same in any manner contrary to law, or the removal by the treasurer or by his consent, of such moneys, or a part thereof, out of the vault or safe of the treasurer's department, after the same shall have been provided by the depositing unit, or out of any legal depository of such moneys, except for the payment of warrants, legally drawn, or for the purpose of depositing the same, under the provisions of this law, in any designated depositories, shall constitute a felony, and on conviction thereof, shall subject the treasurer to imprisonment in the state penitentiary for a term of not exceeding two (2) years, or a fine not exceeding five thousand dollars (\$5,000), or to both such fine and imprisonment, and the treasurer shall be liable upon his official bond for all profits realized from such unlawful use of such funds.

57-140. NEGLIGENCE OF TREASURER -- PENALTY. If the treasurer of any depositing unit shall wilfully fail or refuse at any time to do or perform any act required of him by the provisions of this law relative to the deposit of public funds, he shall be guilty of a misdemeanor, and upon conviction thereof, he shall be sentenced to pay a fine not exceeding \$5000.

57-141. BRIBERY OF TREASURER A FELONY -- PENALTY. The offering, or giving, directly or indirectly, by designated depository, or by any officer or stockholder thereof, or by any other person or persons in its or their behalf, or by its or their knowledge, acquiescence or authority, or in its or their interest, to the treasurer of any depositing unit, of any gift, compensation, reward or inducement, with the intent or for the purpose of inducing said treasurer to deposit public funds in any designated depository contrary to any law of this state, shall constitute a felony, and shall, upon conviction thereof, subject the person offending to imprisonment in the state penitentiary for a period not exceeding two (2) years, or to a fine not exceeding five thousand dollars (\$5,000), or to both such fine and imprisonment.

57-142. EXPENSES -- AUDIT AND PAYMENT. Any expense incurred in carrying out the provisions of the public depository law shall be audited by the supervising board and paid out of the current revenues of the depositing unit.

57-143. INSPECTION OF TREASURER'S OFFICE. The supervising board or any person authorized by it in writing, may, during business hours, in the presence of the treasurer or his

deputy or clerk, inspect and examine the books of account in the office of its treasurer and all contracts, writings, securities and other papers belonging to the depositing unit or pertaining to the business thereof, held by the treasurer, and may inspect and count the moneys belonging to the county and the several funds thereof in the custody of the treasurer; and it is hereby made the duty of the treasurer to furnish all reasonable facilities for the purpose.

57-144. INSPECTION OF AUDITOR'S OFFICE. The supervising board or any person authorized by it in writing, may, during business hours, in the presence of the county auditor or his deputy, inspect and examine the contracts, writings, securities, bonds and other papers belonging to the depositing unit, or pertaining to the business thereof in the custody of the auditor, and it is hereby made the duty of the county auditor to furnish all reasonable facilities for the purpose.

57-145. DEPOSIT OF FUNDS BY COUNTY OFFICERS OTHER THAN TREASURER PENDING DEPOSIT WITH TREASURER -- MANNER OF DEPOSITING -- DUTIES AND LIABILITIES OF OFFICER AND RECEIVING DEPOSITORIES. All public and other moneys and funds in the official custody of any county officer other than the county treasurer as such and as ex officio public administrator and ex officio tax collector, including checks, drafts and all other instruments for the payment of money acceptable for deposit in banks, may, pending the deposit thereof with the county treasurer or other officer or person entitled by law to receive the same, be deposited on general deposit with interest in any designated depository in such officer's county, provided that such account is insured by the federal government and that said funds are readily accessible for distribution according to law. All interest accrued shall be paid into the county current expense fund, or if there be no designated depository in said county, then in any designated depository in the state of Idaho, to the credit of such officer in his official capacity and subject to payment on demand on the check of such officer or that of his successor in office in like capacity.

No designated depository accepting deposits hereunder shall have any duty or obligation whatever as to the disposition of such funds by the officer depositing the same, nor be liable in any respect for such officer's misappropriation, misapplication or wrongful use or disposal thereof, nor for his failure to deposit the same with the county treasurer or other officer or person entitled to receive the same at the time and in the manner provided by law; but nothing herein shall be construed as in any wise relieving such officer of the duty of paying over such funds to the county treasurer or other officer or person entitled to receive the same at the time and in the manner fixed by law, nor of any other duty or liability with respect thereto, except that such officer shall not be liable either personally or on his official bond for the nonpayment by any designated depository of funds deposited with it pursuant to the provisions of this act.

TITLE 57, CHAPTER 6
SINKING FUNDS
MISCELLANEOUS PROVISIONS

57-601. INVESTMENT OF SINKING FUND -- PURCHASE OF OUTSTANDING BONDS. The treasurer of the state of Idaho, the city council or city commissioner of every city, the board of trustees of every village, the board of county commissioners of every county, the board of commissioners of every highway district, the board of trustees of every school district, the board of commissioners of every drainage district, the board of directors of every irrigation district, the board of trustees of every library district, and the governing board of every taxing district within the state of Idaho, whenever there is in any sinking fund, now existing or hereafter created by authority of the laws of the state, an amount in excess of the requirements to pay bonds maturing within the current year, shall, so far as practicable, invest the same in time certificates of deposit of public depositories, interest-bearing general obligation bonds, tax anticipation notes or treasury certificates lawfully issued by the United States of America, the state of Idaho, or any city, county, highway district, or school district in the state of Idaho. The state or any city, village, county, highway district, school district, drainage district, irrigation district, library district, or any other taxing district in the state of Idaho may purchase for the sinking fund any bonds originally issued or assumed by it and keep the same alive in the sinking fund and resell the same, or any other investments of the sinking funds, when it may be deemed advisable to make more advantageous investments or to provide means for the redemption of maturing bonds; provided, that if any bonds so purchased are not necessary for the protection of any such sinking fund the governing board shall cause any such bonds together with the interest coupons thereon to be cancelled; provided, that whenever there is in any sinking fund of any irrigation district, now existing or hereafter created by authority of the laws of the state, an amount of funds in excess of the requirements to pay bonds maturing within the current year, such irrigation district may invest such excess moneys in any of the anticipation notes or warrants or other interest-bearing securities of such irrigation district; provided, further that any county hospital board may invest in short term interest-bearing bonds and other evidences of indebtedness of the United States, time certificates of deposit of public depositories or savings accounts insured by the federal deposit insurance corporation, to the extent of such insurance, whenever there are current expense funds in excess of requirements for the current year when it may be deemed advisable to put surplus current funds to work.

57-601A. INCOME FROM INVESTMENT OF SINKING FUND. Any income or profit that may be realized from the investment of the funds referred to in section [57-601](#), Idaho Code, shall, as the same are received, be deposited to the sinking fund from which such excess funds were invested, and in no event shall any of such said income or profits from said investment be deposited to the general fund or any operating fund of such investing entity. Any member of any taxing board or any disbursing officer described in section [57-601](#), Idaho Code, who fails, refuses,

or neglects to return the interest or income from investments to the proper sinking fund shall be proceeded against in the manner prescribed by section [57-603](#), Idaho Code.

**TITLE 59, CHAPTER 4
OATH OF OFFICE**

59-401. LOYALTY OATH -- FORM. Before any officer elected or appointed to fill any office created by the laws of the state of Idaho enters upon the duties of his office, he must take and subscribe an oath, to be known as the official oath, which is as follows:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Idaho, and that I will faithfully discharge the duties of (insert office) according to the best of my ability."

59-402. TIME OF TAKING OATH. Whenever a different time is not prescribed by law the oath of office must be taken, subscribed and filed within ten (10) days after the officer has notice of his election or appointment, or before the expiration of fifteen (15) days from the commencement of his term of office, when no such notice has been given.

59-403. BEFORE WHOM OATH TAKEN. Except when otherwise provided, the oath may be taken before any officer authorized to administer oaths.

59-404. COUNTY OFFICERS -- TIME AND PLACE OF TAKING OATH. The oath of office of county elective officers shall be taken by the county commissioners before the county recorders of their respective counties, on the second Monday of January succeeding each general election, and on the same day the other county officers shall take and subscribe the official oath before the chairman of the board. Provided, however, in the event of inability to appear for the taking of the oath, for any reason, a duly elected county official may be sworn in and may subscribe to the oath, wherever he may be, provided he appear before an officer duly authorized to administer oaths, and provided further, that any person who is in any branch of the armed forces of the United States of America, may appear before any person qualified to administer oaths, as prescribed in section 55-705 and may take and subscribe the oath of office as provided for in section 59-401 of this title and chapter, and the oath of office shall have the same force and effect as though it were taken before the county commissioners as herein provided.

59-405. WHERE OATH FILED. Every oath of office, certified by the officer, before whom the same was taken, must be filed within the time required by law, except when otherwise specially directed, as follows:

1. The oath of all officers whose authority is not limited to any particular county, in the office of the secretary of state.
2. The oath of all officers elected or appointed for any county, district or precinct, in the offices [office] of the recorder of their respective counties. The oath for school district trustees shall be filed in the manner prescribed by section 33-501, Idaho Code.

**TITLE 59, CHAPTER 10
MISCELLANEOUS PROVISIONS**

59-1026. WILLFUL AND KNOWING AVOIDANCE OF COMPETITIVE BIDDING AND PROCUREMENT STATUTES -- CIVIL PENALTIES. It is a violation of this section for an official of any political subdivision or the state itself to willfully or knowingly avoid compliance with procurement or competitive bidding statutes or to willfully or knowingly split or separate purchases or work projects with the intent of avoiding compliance with such statutes. If any officer or employee of any public entity willfully or knowingly violates this section, the public entity which the officer or employee serves shall be liable for civil penalties not to exceed five thousand dollars (\$5,000) for each offense, such civil penalty to be payable to the office of the public agency bringing an enforcement action, upon court order, to reimburse the reasonable expense of enforcing compliance with competitive bidding and procurement statutes.

TITLE 60, CHAPTER 1
CONTRACT FOR PRINTING-PUBLICATION NOTICES

60-103. EXCEPTION IN CASE OF EXCESSIVE CHARGE -- EXCEPTIONS FOR LACK OF PRODUCTION FACILITIES ON BIDS ON STATE OR COUNTY WORK. (a) Whenever it shall be established that any charge for printing, engraving, binding (excluding binding for state supported libraries) or stationery work is in excess of the charge usually made to private individuals for the same kind and quality of work, then the state or county officer or officers having such work in charge shall have power to have such work done outside of said county or state, but nothing in this chapter shall be construed to oblige any of said officers to accept any unsatisfactory work.

(b) Any work referred to in section [60-101](#) or [60-102](#), Idaho Code, and which is to be executed for or on behalf of the state or a county may be executed outside of this state in any case (1) where the execution of such work shall require the use of a technique or process which cannot be performed through the use of physical production facilities located within this state and the use of such technique or process is essential to a necessary function to be served by the printing, binding, engraving or stationery work required; (2) where, after a solicitation has been made or notice thereof has been given as required by section [67-9208](#), Idaho Code, no bid or proposal is made thereon by any person, firm or corporation proposing to execute such work within this state; or (3) where, after a solicitation has been made or notice thereof given as required by section [67-9208](#), Idaho Code, the lowest bid from a person, firm or corporation proposing to execute such work within this state is more than ten percent (10%) above the lowest bid from a person, firm or corporation proposing to execute such work outside this state.

60-106. QUALIFICATIONS OF NEWSPAPERS PRINTING LEGAL NOTICES. No legal notice, advertisement or publication of any kind required or provided by the laws of the state of Idaho, to be published in a newspaper, shall be published or have any force or effect, as such, unless the same be published in a newspaper of general interest published in the state of Idaho, and which newspaper if published weekly, has been continuously and uninterruptedly published in the county during a period of seventy-eight (78) consecutive weeks prior to the first publication of the notice, or advertisement, and, if published daily, has been so published as a daily newspaper in the county during a period of twelve (12) consecutive months prior to the first publication of the notice or advertisement; provided that, notwithstanding any other provision of Idaho laws, the term "newspaper of (or having) general circulation," wherever used in Idaho Code as a qualification of newspapers required to be used for the publication of notice, shall mean a "newspaper," as defined in this section, that is published within the boundaries of the governmental entity wherein the notice is required to be published and which newspaper has the largest paid circulation among all newspapers published in that governmental entity as verified by the sworn statement of average total paid or requested circulation for the preceding twelve (12) months that was filed on the annual statement of ownership, management and circulation with the U.S. postal service on the date immediately preceding the date of the required publication of notice; excepting that, where no newspaper is published within the governmental entity required to publish a notice, the term "newspaper of (or having) general circulation" shall mean the newspaper with the largest

paid circulation published within any county in which the governmental entity is located, or the newspaper published nearest to the boundaries of the governmental entity; provided, that nothing in this chapter shall invalidate the publication of such notice or advertisement in any newspaper which has simply changed its name, frequency of publication, suspended publication because of an act of God, or public enemy, fire, strike, or other labor dispute, explosion, flood, government prohibition, government requisition of essential property, preferential government orders, breakdown, legal acts of public authorities or other acts beyond the control of the publisher for a period of not to exceed six (6) months, or changed the place of publication from one part of the county to another part thereof, without breaking the continuity of its regular issues for the required length of time: and, provided further, that this chapter shall not apply to counties in which no newspaper has been published for the required length of time: provided the term "Newspaper" as used in this section shall apply only to such newspapers of general interest made up of at least four (4) pages of at least five (5) columns each, printed from type matter or from "slugs" cast upon the linotype or intertype or similar "slug-casting" machine, or by the process known as "offset," or stereotyped forms of at least seventeen and three-fourths (17 3/4) inches depth; or, if smaller pages, then comprising an equivalent amount of type matter, and which shall have at least two hundred (200) bona fide subscribers living within the county in which the newspaper is published at regular intervals and, in no case, less frequently than once a week; provided that a newspaper produced by the process known as mimeographing or similar methods shall not be deemed a legal newspaper for publications of any kind. And provided further, that any duly qualified newspaper, as hereinbefore defined, shall not forfeit its standing as such by reason of the fact that it has suspended publication for all or any part of the period during which the United States has been or shall be engaged in the prosecution of any war, or for one (1) year following the date of the proclamation of the President of the United States declaring that this nation is no longer at war, or the termination of a state of war shall be otherwise established. And if any such newspaper shall resume regular publication within one (1) year from the date when the termination of the state of war shall be so established, it shall then be as fully qualified to publish any legal notice, advertisement, or publication required to be published by the laws of the state of Idaho, as if such newspaper had not suspended regular publication during the above mentioned period of time.

No newspaper shall qualify under this section unless the same shall hold a valid second class mailing permit from the United States Post Office. Any violations of the previous requirements of this section concerning printing of newspapers other than in the governmental entity in which a notice or advertisement is required to be printed are hereby excused and any advertisement published in any such newspapers is hereby validated.

60-106A. ELECTRONIC PUBLICATION OF LEGAL NOTICES BY NEWSPAPERS.

(1) In addition to the newspaper publication required by section [60-106](#), Idaho Code, legal notices, advertisements or publications of any kind required or provided by the laws of the state of Idaho to be published in a newspaper may also be electronically published by any newspaper. An

electronically published legal notice, advertisement or publication shall have the same legal effect as a legal notice, advertisement or publication that is published in a newspaper.

(2) The following definitions apply to this section:

(a) "Electronically published" means the printing and disseminating of legal notices, advertisements or publications through the use of messaging.

(b) "Messaging" means the use of interconnected electronic networks that automatically transmit data from one (1) computer to another.

(3) The following provisions apply to this section:

(a) Electronic publication may be in addition to the required printed publication in a newspaper; and

(b) Electronic publication may be made by newspapers having electronic publication capability. Nothing in this section shall be construed to require a newspaper to develop and maintain an electronic publication capability; and

(c) Newspapers may not charge an additional rate for electronic publication. Rates for such electronic publication shall be included in the rates for official notices as provided for in section [60-105](#), Idaho Code; and

(d) Any party placing a legally required public notice in electronic form should, to the greatest extent practicable, provide in such notices the messaging address of the newspaper and, if applicable, that of the person or governmental agency requiring such notice to be published.

60-109A. PUBLICATION BY FIRST CLASS MAIL. Any notice required by law to be published by any regional board, commission, department or authority created by or pursuant to statute; any county, city, school district, special district, any joint district, or other political subdivision of the state of Idaho may be published by mailing such notice by first class mail, postage prepaid, to the residents of such jurisdiction; provided, however, that publication by mail as provided for herein, shall constitute legal notice only if the cost of mailing, including preparation, materials and postage, is less than the cost of other publication required by law. Proof of such mailing shall be by sworn affidavit of the duly constituted officers of the body publishing the notice.

**TITLE 63, CHAPTER 2
DEFINITIONS
GENERAL PROVISIONS**

63-201. DEFINITIONS. As used for property tax purposes in chapters 1 through 23, [title 63](#), Idaho Code, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

- (1) "Appraisal" means an estimate of property value for property tax purposes.
 - (a) For the purpose of estimated property value to place the value on any assessment roll, the value estimation must be made by the assessor or a certified property tax appraiser.
 - (b) For the purpose of estimating property value to present for an appeal filed pursuant to sections [63-501A](#), [63-407](#) and [63-409](#), Idaho Code, the value estimation may be made by the assessor, a certified property tax appraiser, a licensed appraiser, or a certified appraiser or any party as specified by law.
- (2) "Bargeline" means those water transportation tugs, boats, barges, lighters and other equipment and property used in conjunction with waterways for bulk transportation of freight or ship assist.
- (3) "Cogenerators" means facilities that produce electric energy, and steam or forms of useful energy that are used for industrial, commercial, heating or cooling purposes.
- (4) "Collection costs" are amounts authorized by law to be added after the date of delinquency and collected in the same manner as property tax.
- (5) "Credit card" means a card or device, whether known as a credit card or by any other name, issued under an arrangement pursuant to which a card issuer gives to a cardholder the privilege of obtaining credit from the card issuer or other person in purchasing or leasing property or services, obtaining loans, or otherwise.
- (6) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.
- (7) "Delinquency" means any property tax, special assessment, fee, collection cost, or charge collected in the same manner as property tax, that has not been paid in the manner and within the time limits provided by law.
- (8) "Electronic funds transfer" means any transfer of funds that is initiated by electronic means, such as an electronic terminal, telephone, computer, ATM or magnetic tape.
- (9) "Fixtures" means those articles that, although once movable chattels, have become accessory to and a part of improvements to real property by having been physically incorporated therein or annexed or affixed thereto in such a manner that removing them would cause material injury or damage to the real property, the use or purpose of such articles is integral to the use of the real property to which it is affixed, and a person would reasonably be considered to intend to make the articles permanent additions to the real property. "Fixtures" includes systems for the heating, air conditioning, ventilation, sanitation, lighting and plumbing of such building.
- (10) "Floating home" means a floating structure that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.
- (11) "Improvements" means all buildings, structures, manufactured homes, as defined in section [39-4105](#)(8), Idaho Code, mobile homes as defined in section [39-4105](#)(9), Idaho Code, and modular buildings, as defined in section [39-4301](#)(10), Idaho Code, erected upon or affixed to land, fences, water ditches constructed for mining, manufacturing or irrigation purposes, fixtures, and

floating homes, whether or not such improvements are owned separately from the ownership of the land upon or to which the same may be erected, affixed or attached. The term "improvements" also includes all fruit, nut-bearing and ornamental trees or vines not of natural growth, growing upon the land, except nursery stock.

(12) "Late charge" means a charge of two percent (2%) of the delinquency.

(13) "Lawful money of the United States" means currency and coin of the United States at par value and checks and drafts that are payable in dollars of the United States at par value, payable upon demand or presentment.

(14) "Legal tender" means lawful money as defined in subsection (13) of this section.

(15) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

(16) "Operating property" means real and personal property operated in connection with any public utility, railroad or private railcar fleet, wholly or partly within this state, and which property is necessary to the maintenance and operation of the public utility, railroad or private railcar fleet, and the roads or lines thereof, and includes all rights-of-way accompanied by title; roadbeds; tracks; pipelines; bargelines; equipment and docks; terminals; rolling stock; equipment; power stations; power sites; lands; reservoirs, generating plants, transmission lines, distribution lines and substations; and all title and interest in such property, as owner, lessee or otherwise. The term includes electrical generation plants under construction, whether or not owned by or operated in connection with any public utility. For the purpose of the appraisal, assessment and taxation of operating property, pursuant to [chapter 4, title 63](#), Idaho Code, the value of intangible personal property shall be excluded from the taxable value of operating property in accordance with the provisions of section [63-602L](#), Idaho Code, and the value of personal property, other than intangible personal property, shall be excluded from the taxable value of operating property in accordance with the provisions of section [63-602KK](#), Idaho Code. Operating property shall be included in taxable value for the purpose of making a levy, as required in section [63-803](#), Idaho Code, except when an exemption is provided or when said levy is to be made against real property only.

(17) "Party in interest" means a person who holds a recorded purchase contract, mortgage, deed of trust, security interest, lien or lease upon the property. For purposes of notice requirements in section [63-1009](#), Idaho Code, recording includes documents recorded in full or by memorandum providing notice thereof.

(18) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entities as recognized by the state of Idaho.

(19) "Personal property" means everything that is the subject of ownership and that is not included within the term "real property."

(20) "Private railcar fleet" means railroad cars or locomotives owned by, leased to, occupied by or franchised to any person other than a railroad company operating a line of railroad in Idaho or any company classified as a railroad by the interstate commerce commission and entitled to possess such railroad cars and locomotives except those possessed solely for the purpose of repair, rehabilitation or remanufacturing of such locomotives or railroad cars.

(21) "Public utility" means electrical companies, pipeline companies, natural gas distribution companies, or power producers included within federal law, bargelines, and water

companies which are under the jurisdiction of the Idaho public utilities commission. The term also includes telephone corporations, as that term is defined in section [62-603](#), Idaho Code, except as hereinafter provided, whether or not such telephone corporation has been issued a certificate of convenience and necessity by the Idaho public utilities commission.

This term does not include cogenerators, mobile telephone service or companies, nor does it include pager service or companies, except when such services are an integral part of services provided by a certificated utility company, nor does the term "public utility" include companies or persons engaged in the business of providing solely on a resale basis, any telephone or telecommunication service that is purchased from a telephone corporation or company.

(22) "Railroad" means every kind of railway, whether its line of rails or tracks be at, above or below the surface of the earth, and without regard to the kind of power used in moving its rolling stock, and shall be considered to include every kind of street railway, suburban railway or interurban railway excepting facilities established solely for maintenance and rebuilding of railroad cars or locomotives.

(23) "Real property" means land and all rights and privileges thereto belonging or any way appertaining, all quarries and fossils in and under the land, and all other property that the law defines, or the courts may interpret, declare and hold to be real property under the letter, spirit, intent and meaning of the law, improvements and all standing timber thereon, including standing timber owned separately from the ownership of the land upon which the same may stand, except as modified in [chapter 17, title 63](#), Idaho Code. Timber, forest, forest land, and forest products shall be defined as provided in [chapter 17, title 63](#), Idaho Code.

(24) "Record owner" means the person or persons in whose name or names the property stands upon the records of the county recorder's office. Where the record owners are husband and wife at the time of notice of pending issue of tax deed, notice to one (1) shall be deemed and imputed as notice to the other spouse.

(25) "Special assessment" means a charge imposed upon property for a specific purpose, collected and enforced in the same manner as property taxes.

(26) "System value" means the market value for assessment purposes of the operating property when considered as a unit.

(27) "Tax code area" means a geographical area made up of one (1) or more taxing districts with one (1) total levy within the geographic area, except as otherwise provided by law.

(28) "Taxing district" means any entity or unit with the statutory authority to levy a property tax.

(29) "Taxable value" means market value for assessment purposes, less applicable exemptions or other statutory provisions. When statutory provisions define taxable value as limited to real property for the purpose of making a levy, operating property shall not be included.

(30) "Transient personal property" is personal property, specifically such construction, logging or mining machinery and equipment which is kept, moved, transported, shipped, hauled into or remaining for periods of not less than thirty (30) days, in more than one (1) county in the state during the same year.

(31) "Warrant of distraint" means a warrant ordering the seizure of personal property to enforce payment of property tax, special assessment, expense, fee, collection cost or charge collected in the same manner as personal property tax.

63-215. LEGAL DESCRIPTION AND MAP OF BOUNDARIES TO BE RECORDED AND FILED.

(1) Any taxing district which shall be formed or organized hereafter, or which shall change any existing boundaries hereafter, shall cause one (1) copy of the legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such district or municipality as formed or organized, or as altered, to be recorded with the county recorder and filed with the county assessor in the counties within which the unit is located and with the state tax commission within thirty (30) days following the effective date of such formation, organization or alteration but no later than the tenth day of January of the year following such formation, organization or alteration. In the case of fire protection districts, the board of county commissioners approving the boundaries shall be responsible for delivering to the assessor and recorder the map and legal description of the amended district boundaries. Formation, organization or alteration documents that are filed pursuant to this section shall include contact information that is current at the time of filing and that identifies an individual associated with the taxing district.

(2) Urban renewal agencies shall comply with the requirements of subsection (1) of this section when a revenue allocation area within the jurisdiction of the urban renewal agency is formed or when the boundaries of such an area are altered.

(3) The state tax commission shall review filings required by subsections (1) and (2) of this section and if the commission finds that the formation of a district or a change in a district's boundaries fails to provide a proper legal description or fails to correctly identify the boundaries or does not comply with Idaho law relating to boundaries, the state tax commission may direct that the formation or change not be recognized. The state tax commission's review shall not include matters relating to notice, open meeting law requirements or compliance with provisions in Idaho law not relating to boundaries.

(4) The county assessor, county auditor and state tax commission shall retain on file in their respective offices all copies of legal descriptions of taxing district boundaries and maps filed by the various taxing jurisdictions authorized to impose a levy on property.

(5) The state tax commission shall be responsible for providing copies of uniform tax code area numbers and maps to the county assessor, county auditor and county treasurer and various companies having operating property subject to assessment in the state of Idaho and under the jurisdiction of the state tax commission for assessment and taxation purposes.

(6) Unless otherwise specifically authorized to form with noncontiguous boundaries, or to annex or de-annex properties so as to make noncontiguous boundaries, all taxing districts shall form with and maintain contiguous boundaries.

TITLE 63, CHAPTER 3
ASSESSMENT OF REAL AND PERSONAL PROPERTY

63-301A. NEW CONSTRUCTION ROLL.

(1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

- (a) The name of the taxpayer;
- (b) The description of the new construction, suitably detailed to meet the requirements of the individual county;
- (c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;
- (d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both;
- (e) The amount of taxable market value added as provided in subsection (3)(g) of this section as a result of dissolution of any revenue allocation area;
- (f) The amount of taxable market value to be deducted to reflect the adjustments required in paragraphs (f)(i), (f)(ii), (f)(iii) and (f)(iv) of this subsection:
 - (i) Any board of tax appeals or court ordered value change, if property has a taxable value lower than that shown on any new construction roll in any one (1) of the immediate five (5) tax years preceding the current tax year;
 - (ii) Any reduction in value resulting from correction of value improperly included on any previous new construction roll as a result of double or otherwise erroneous assessment;
 - (iii) Any reduction in value, in any one (1) of the immediate five (5) tax years preceding the current tax year, resulting from a change of land use classification;
 - (iv) Any reduction in value resulting from the exemption provided in section [63-602W](#)(4), Idaho Code, in any one (1) of the immediate five (5) tax years preceding the current tax year.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission on or before the fourth Monday in July. Provided however, the value shown in subsection (3)(f) of this section shall be reported to the appropriate county auditor by the state tax commission by the third Monday in July and the value sent by the county auditor to each taxing district. The value established pursuant to subsection (3)(f) of this section is subject to correction by the state tax commission until the first Monday in September and any such corrections shall be sent to the appropriate county auditor, who shall notify any affected taxing districts.

(3) The value shown on the new construction roll shall include the taxable market value increase from:

- (a) Construction of any new structure that previously did not exist; or
- (b) Additions or alterations to existing nonresidential structures; or
- (c) Installation of new or used manufactured housing that did not previously exist within the county; or
- (d) Change of land use classification; or
- (e) Property newly taxable as a result of loss of the exemption provided by section [63-602W](#)(3) or (4), Idaho Code; or

(f) The construction of any improvement or installation of any equipment used for or in conjunction with the generation of electricity and the addition of any improvement or equipment intended to be so used, except property that has a value allocated or apportioned pursuant to section [63-405](#), Idaho Code, or that is owned by a cooperative or municipality, as those terms are defined in section [61-332A](#), Idaho Code, or that is owned by a public utility, as that term is defined in section [61-332A](#), Idaho Code, owning any other property that is allocated or apportioned. No replacement equipment or improvements may be included; or

(g) Provided such increases do not include increases already reported on the new construction roll, as permitted in paragraphs (j) and (k) of this subsection, increases in value over the base value of property on the base assessment roll within an urban renewal revenue allocation area that has been terminated pursuant to section [50-2909](#)(4), Idaho Code, to the extent that this increment exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value. Notwithstanding other provisions of this section, the new construction roll shall not include new construction located within an urban renewal district's revenue allocation area, except as provided in this paragraph; or

(h) New construction, in any one (1) of the immediate five (5) tax years preceding the current tax year, allowable but never included on a new construction roll, provided however, that, for such property, the value on the new construction roll shall reflect the taxable value that would have been included on the new construction roll for the first year in which the property should have been included.

(i) Formerly exempt improvements on state college or state university owned land for student dining, housing, or other education related purposes approved by the state board of education and board of regents of the university of Idaho as proper for the operation of such state college or university provided however, such improvements were never included on any previous new construction roll.

(j) Increases in base value when due to previously determined increment value added to the base value as required in sections [50-2903](#) and [50-2903A](#), Idaho Code, due to a modification of the urban renewal plan. In this case, the amount added to the new construction roll will equal the amount by which the increment value in the year immediately preceding the year in which the base value adjustment described in this subsection occurs exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value.

(k) Increases in base value when due to previously determined increment value added to the base value as a result of a de-annexation within a revenue allocation area as defined in section [50-2903](#), Idaho Code. In this case, the amount added to the new construction roll will equal the amount by which the increment value in the year immediately preceding the year in which the de-annexation described in this subsection occurs exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value within the area subject to the de-annexation.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section [63-602W](#)(3) or (4), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation, except as provided in subsection (3)(g) of this section.

**TITLE 63, CHAPTER 6
EXEMPTION FROM TAXATION**

63-602. PROPERTY EXEMPT FROM TAXATION.

(1) Property shall be exempt from taxation as provided in titles [21](#), [22](#), [25](#), [26](#), [31](#), [33](#), [39](#), [41](#), [42](#), [49](#), [50](#), [67](#) and [70](#), Idaho Code, and in chapters [6](#), [24](#), [30](#), [35](#) and [45](#), [title 63](#), Idaho Code; provided, that no deduction shall be made in assessment of shares of capital stock of any corporation or association for exemptions claimed under this section, and provided further, that the term "full cash value" wherever used in this act shall mean the actual assessed value of the property as to which an exemption is claimed.

(2) The use of the words "exclusive" or "exclusively" in this chapter shall mean used exclusively for any one (1) or more, or any combination of, the exempt purposes provided hereunder and property used for more than one (1) exempt purpose, pursuant to the provisions of sections [63-602A through 63-602NN](#), Idaho Code, shall be exempt from taxation hereunder so long as the property is used exclusively for one (1) or more or any combination of the exempt purposes provided hereunder.

(3) All exemptions from property taxation claimed shall be approved annually by the board of county commissioners or unless otherwise provided:

(a) Exemptions pursuant to sections [63-602A](#), [63-602F](#), [63-602I](#), [63-602J](#), [63-602K](#) for land of more than five (5) contiguous acres, [63-602L\(1\)](#), [63-602M](#), [63-602R](#), [63-602S](#), [63-602U](#), [63-602V](#), [63-602W](#), [63-602Z](#), [63-602DD\(1\)](#), [63-602EE](#), [63-2431](#), [63-3502](#), [63-3502A](#) and [63-3502B](#), Idaho Code, do not require application or approval by the board of county commissioners. For all other exemptions in [title 63](#), Idaho Code, the process of applying is as specified in the exemption statutes or, if no process is specified and application is necessary to identify the property eligible for the exemption, annual application is required. Exemptions in other titles require no application.

(b) For exemptions that require an application, provided such exemptions are for property otherwise subject to assessment by the county assessor, the application must be made to the county commissioners by April 15 and the taxpayer and county assessor must be notified of any decision by May 15, unless otherwise provided by law. The decision of the county commissioners and any subsequent assessment notices sent to the taxpayer may be appealed to the county board of equalization pursuant to sections [63-501](#) and [63-501A](#), Idaho Code.

(c) For exemptions that require an application, provided such exemptions are for property otherwise subject to assessment by the state tax commission, application for exemption shall be included with the annual operator's statement as required pursuant to section [63-404](#), Idaho Code. Notice of the decision and its effect on the assessment will be provided in accordance with procedures specified in [chapter 4, title 63](#), Idaho Code. Appeals shall be to the state tax commission in accordance with section [63-407](#), Idaho Code.

63-602F. PROPERTY EXEMPT FROM TAXATION. The following property is exempt from taxation:

- (1) Possessory rights to public lands;
- (2) Mining claims not patented;
- (3) All public cemeteries;
- (4) All public libraries.

63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.

(1) (a) An item of taxable personal property purchased on or after January 1, 2013, shall be exempt from property taxation if the item of taxable personal property has an acquisition price of three thousand dollars (\$3,000) or less.

(b) For purposes of this section, the term "acquisition cost" means all costs required to put an item of taxable personal property into service and includes:

- (i) The purchase price of a new or used item;
- (ii) The cost of freight and shipping;
- (iii) The cost of installation, engineering, erection or assembly; and
- (iv) Sales and use taxes.

(c) For purposes of this subsection, an "item of taxable personal property" means equipment, machinery, furniture or other personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable personal property is not an individual component part of a piece of equipment, machinery, furniture or other personal property as a whole. An item of taxable personal property does not include an improvement to real property, a part that will become an improvement, or anything defined as a fixture.

(2) On and after January 1, 2015, except as provided in subsection (8) of this section, each person's personal property, located in the county, which is not otherwise exempt, shall be exempt to the extent of one hundred thousand dollars (\$100,000). For the purposes of this section, a person includes two (2) or more people using the property in a common enterprise who are within a relationship described in section 267 of the Internal Revenue Code, as defined in section [63-3004](#), Idaho Code.

(3) (a) No later than the third Monday of November 2013, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (2) of this section, in that county for that year. The certification shall identify the property receiving tax reductions, the value of the property, the property's location, the amount of the tax levy applicable to personal property in the location, and the tax before and after the exemption allowed in subsection (2) of this section. The certification shall be in the form prescribed by the state tax commission and shall include such additional information as the commission may require by rule as needed to implement the purpose of this section. The

certification shall be reviewed and, if necessary, corrected by the state tax commission.

(b) Except as provided in subsection (7) of this section, the year beginning January 1, 2014, and every year thereafter, the amount of annual replacement of property tax on personal property exempted pursuant to subsection (2) of this section shall be the amount approved by the state tax commission pursuant to paragraph (a) of this subsection.

(4) (a) Subject to the limitations of this section, the state tax commission shall reimburse from the amount appropriated for personal property tax replacement in section [63-3638](#), Idaho Code, the county treasurer of each county for the reduction on the certification provided in subsection (3) of this section. The county treasurer shall reimburse from the amount received to each taxing district within the county an amount in proportion to the amount of reduction shown on the certification in subsection (3) of this section as corrected. The amount that would otherwise be attributable to tax revenues derived from tax levies on personal property exempted by this section within an existing revenue allocation area as defined in section [50-2903](#)(15), Idaho Code, shall be paid directly by the county treasurer to such public body or agency entitled thereto, equal to the amounts that would have been distributed in accordance with the formula for such distribution set forth in section [50-2908](#), Idaho Code. Taxing districts created on or after January 1, 2013, shall not be eligible for the reimbursement provided for in this paragraph.

(b) The state tax commission shall pay one-half (1/2) of the reimbursement provided in this section no later than December 20 of each year, and the second one-half (1/2) shall be paid by no later than June 20 of the following year. The money received by the county tax collector under the provisions of this section may be considered by counties and other taxing districts and budgeted against at the same time, and in the same manner, and in the same year as revenues from taxation. The total amount paid to the county treasurers shall not exceed the amount certified to the state tax commission under subsection (3) of this section.

(c) For purposes of the limitation provided by section [63-802](#), Idaho Code, moneys received from distributions pursuant to section [63-3638](#), Idaho Code, as property tax replacement for the taxable value of property exempt from taxation pursuant to this section shall be treated as property tax revenues.

(5) (a) Nothing contained in this section shall affect the taxation of forest lands or forest products pursuant to [chapter 17, title 63](#), Idaho Code, or the taxation of the net profits of mines pursuant to [chapter 28, title 63](#), Idaho Code.

(b) The exemption from personal property tax provided for in subsection (2) of this section shall not apply to motor vehicles, recreational vehicles, aircraft and boats that are not registered with the state of Idaho and for which required registration fees have not been paid.

(6) (a) The application for the exemption provided for in subsection (2) of this section shall be in the form prescribed by the state tax commission and shall include such information as the state tax commission may require by rule as needed to implement the purpose of this section including, but not limited to, a list of each item of personal property, the purchase date of each item of personal property, the unit cost of each item of personal property, if more than the exemption allowed in subsection (1) of this section, and the total cost of the items of personal

property.

(b) The application for this exemption, if the county is capable of so providing, may be transmitted by the county assessor electronically, as that term is defined in section [63-115](#), Idaho Code, when requested by the taxpayer, or mailed by the county assessor to the taxpayer, or his agent or representative at the taxpayer's last known post office address, no later than March 1 of each year. The transmission or mailing of the application shall also include the taxpayer's application for the exemption allowed by this section for the last year in which the taxpayer filed an application.

(c) A taxpayer need only make application for the exemption in this section once as long as all of the following conditions are met:

(i) The taxpayer has received the exemption during the previous year as a result of him making a valid application as defined in this section.

(ii) The amount of the exemption allowed by this section is more than the taxable value of personal property owned by the taxpayer.

(iii) The taxpayer has not made purchases of personal property, excluding items of taxable personal property exempted pursuant to subsection (1) of this section, that would cause the taxable value of the personal property owned by the taxpayer to exceed the maximum amount allowed as an exemption by this section.

(d) Knowingly failing to report changes in the taxable value of personal property that exceed the amount of the exemption allowed pursuant to this section shall subject the taxpayer to a fine not in excess of ten thousand dollars (\$10,000) in addition to other penalties set forth in this chapter.

(7) Recovery of property tax exemptions allowed by this section but improperly claimed:

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed, the county assessor shall decide whether the exemption claimed should have been allowed, and if not, notify 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) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning on the date the assessment notice reflecting the improperly claimed exemption was required to be mailed to the taxpayer.

(c) The taxpayer may appeal to the board of tax appeals the decision by the board of county commissioners 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.

(d) 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. In cases of fraud, the fine set forth in subsection (6)(d) of this section shall be assessed for each tax year.

(e) 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.

(f) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes. If the recovery is for property tax for which the state provided replacement money, the amounts recovered shall be reported and remitted to the state tax commission, which shall reimburse the general fund. The state tax commission will then notify each affected taxing district or unit of its proportionate share of the recovered property tax, which amount shall be deducted from future payments to be made pursuant to subsection (3) of this section.

(g) Thirty (30) days after the taxpayer is notified, as provided in paragraph (a) of this subsection, 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 paragraph (h) of this subsection, 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 commissioners' decision granting the appeal.

(h) Any unpaid recovered property taxes shall become a lien upon the taxpayer's personal 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 treasurer sent the notice to the taxpayer pursuant to this section.

(i) 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.

(8) For operating property with values apportioned to more than one (1) county, the personal property exemption shall be subtracted from the Idaho allocated value prior to apportionment and, for private railcar companies, prior to determining whether their values are to be apportioned. Notwithstanding amounts calculated as provided in subsection (1) of this section, the amount of the exemption otherwise provided in subsection (2) of this section shall be calculated as follows:

(a) Take the lesser amount of:

(i) The number of counties in which a company has operating property multiplied by one hundred thousand dollars (\$100,000); or

(ii) The total statewide value of eligible personal property reported by the company.

(b) Reduce the amount calculated in paragraph (a) of this subsection by the value of any nonoperating personal property granted the exemption otherwise found in subsection (2) of this section, as reported by county assessors.

**TITLE 63, CHAPTER 8
LEVY AND APPORTIONMENT OF TAXES**

**63-802.LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES
-- EXCEPTIONS. [EFFECTIVE UNTIL JULY 1, 2017]**

(1) Except as provided in subsections (3) and (4) of this section, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (j) of this subsection inclusive:

(a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue calculated as described in this subsection. Multiply the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section [63-3638](#)(11) or (13), Idaho Code, by the value shown on the new construction roll compiled pursuant to section [63-301A](#), Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor;

(b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made;

(c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1)(h) of this section;

(d) In the case of school districts, the restriction imposed in section [33-802](#), Idaho Code;

(e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the forgone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally forgone. Provided however, that prior to budgeting any forgone increase, the district must provide notice of its intent to do so, hold a public hearing, which may be in conjunction with its annual budget hearing, and certify by resolution the amount of forgone increase to be budgeted and the specific purpose for which the forgone increase is being budgeted. Upon adoption of the resolution, the clerk of the district shall file a copy of the resolution with the county clerk and the state tax commission. Said additional amount shall be included in future calculations for increases as allowed;

(f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section;

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an

election called for that purpose and held on the May or November dates provided by section [34-106](#), Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section;

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district;

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections [33-315](#) through [33-318](#), Idaho Code;

(j) The amount of money received in the twelve (12) months immediately preceding June 30 of the current tax year as a result of distributions of the tax provided in section [63-3502B\(2\)](#), Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section [31-1425](#), Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes, which exceeds the limitation imposed in subsection (1) of this section unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section [34-106](#), Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies to satisfy judgments pursuant to section [63-1305A](#), Idaho Code, and revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section [63-317](#), Idaho Code, for the preceding tax year.

63-802A.NOTICE OF BUDGET HEARING. (1) Not later than April 30 of each year, each taxing district shall set and notify the county clerk of the date and location set for the budget hearing of the district. If no budget hearing is required by law, the county clerk shall be so notified.

(2) Beginning in 2003, a taxing district that fails to comply with subsection (1) of this section shall be prohibited from including in its budget any budget increase otherwise permitted by either subsection (1)(a) or (1)(e) of section [63-802](#), Idaho Code.

(3) If a taxing district wishes to change the time and location of such budget hearing as stated on the assessment notice, it shall publish such change of time and location in advance of

such hearing as provided by law.

63-802C. ELECTION TO CREATE A NEW TAXING DISTRICT.

(1) In the case of an election to create a new taxing district, the county clerk, of the county or counties where the proposed taxing district is proposed to be located, shall mail a notice of the election to all residences within the proposed taxing district or to residents in the proposed taxing district who are eligible to vote in this election. The notice shall be mailed not less than fourteen (14) calendar days prior to the day of the election and shall state with specificity: the purpose of the election, the date of the election, which shall be on a date authorized in section [34-106](#), Idaho Code, the polling places, the time the polls will be open, the aggregate amount of taxes that will be raised in the proposed taxing district if the election is successful and the increase that will occur per one hundred thousand dollars (\$100,000) of taxable value of property, above any exemptions, of residential property, commercial property, industrial property, land actively devoted to agriculture and operating property.

(2) The county clerk shall, within ten (10) days after the filing of the petition to create the new taxing district, estimate the cost of advertising and holding the election provided in this section and notify in writing the person or any of the persons filing the petition as to the amount of the estimate. The person or persons shall within twenty (20) days after receipt of the written notice deposit the estimated amount with the county clerk in cash, or the petition shall be deemed withdrawn. If the deposit is made and the proposed new taxing district is formed, the person or persons so depositing the sum shall be reimbursed from the first moneys collected by the county from the taxes authorized to be levied by this section.

(3) Compliance with this section shall satisfy any notice or publication requirement as may be provided by law.

63-803.CERTIFICATION OF BUDGETS IN DOLLARS. [EFFECTIVE JANUARY 1, 2017]

(1) Whenever any taxing district is required by law to certify to any county treasurer, county auditor, county assessor, county commissioners or to any other county officer, any property tax levy, upon property located within said district, such certification shall, notwithstanding any other provision of the law applicable to any such district, be made at the time and in the manner hereinafter provided.

(2) The county auditor shall inform each of the taxing districts within his county of the taxable value of that district as soon as such value is known to the auditor, whether the value comes from the appraisal and assessment of real and personal property, or from allocation of the taxable value of operating property, or from other sources.

(3) Using the taxable value of the district, the council, trustees, board or other governing body of any taxing district shall certify the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved. The amount of money so determined shall be certified in dollars to the appropriate

county commissioners. Any taxing unit, except regional airport authorities, located in more than one (1) county shall divide its dollar budget for certification to the separate counties by multiplying the amount of such budget by a fraction, the numerator of which shall be the total taxable value of all property in such taxing unit within the county to which such certification is to be made, and the denominator of which shall be the total taxable value of property in such taxing unit in all such counties. Budget certification to the participating counties of regional airport authorities shall be made in the manner prescribed in section [21-807](#)(10), Idaho Code. Taxable value shall be certified by the county auditor of each affected county to such taxing unit and such certification shall be used in this formula. Except as provided in section [33-805](#), Idaho Code, relating to school emergency fund levies, the certification to the county commissioners required in this section shall be made not later than the Thursday prior to the second Monday in September, unless, upon application therefor, the county commissioners grant an extension of not more than seven (7) working days. After receipt of this certification, the county commissioners shall make a tax levy as a percent of taxable value of all property in the taxing district which, when applied to the tax rolls, will meet the budget requirements certified by such taxing districts.

(4) Except as provided in subsection (1)(a) through (e) of section [50-2908](#), Idaho Code, for the purpose of this section, "taxable value" shall mean the portion of the equalized assessed value, less any exemptions, and the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area of an urban renewal district, located within each taxing district which certifies a budget to be raised from a property tax levy. When the county auditor is notified of revenues sufficient to cover expenses as provided in section [50-2903](#)(5), Idaho Code, taxable value shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area. For each taxing district, taxable value shall include the value from the property and operating property rolls for the current year and subsequent and missed property rolls for the prior year or the best estimate of the subsequent and missed property rolls for the current year.

63-804. FILING COPY OF BUDGET. The council, trustees, board or other governing body of any taxing district shall at the time of certifying the total amount required from a property tax upon property within the district to raise the amount of money fixed by their budget as previously prepared or approved and as provided for in section [63-803](#), Idaho Code, file with the appropriate county commissioners a certified copy of their budget as previously prepared, approved and adopted.

63-807. LEVY BY NEW TAXING UNITS -- DUTIES OF AUDITOR.

Except as otherwise provided by law, no taxing district formed or organized after the first day of January, in any year, shall be authorized to make a levy for that calendar year, nor shall the auditor of any county in which the taxing district may be situated be required to extend any levy on behalf of the taxing district upon the county rolls extended by him for the year. No existing taxing district which shall annex any territory after the first day of January of the current year,

shall be authorized to levy a property tax for the year upon the property situated in the annexed territory and the property shall in all respects be taxed as if the annexation had not taken place. However, should any existing school district or school districts divide, consolidate or reorganize after the assessment date in any year, the board of trustees of the divided, consolidated or reorganized school district shall have the power to levy property taxes and certify the levy for the year in the same manner and according to the same boundaries which the separate school districts involved in the division, consolidation or reorganization could have levied property taxes had the division, consolidation or reorganization not taken place.

63-810. ERRONEOUS LEVY -- CORRECTIVE ACTION.

(1) Whenever the county commissioners have discovered that a levy has been made by unintentional clerical, mathematical or electronic error, in any levy certified by such board, the county commissioners on their own motion may:

(a) If discovered prior to the fourth Monday of November of the year for which the levy is certified, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits.

(b) If discovered after the fourth Monday of November of the year for which the levy is certified, but before February 15 of the succeeding year, order all necessary corrections made in all property tax records, if the corrected levy is otherwise within statutory limits. The corrected levy shall be applied to the taxable value within each taxing district and the property taxes so applied shall be a perpetual lien on the property, and such property tax levy and tax charge shall supersede all previous incorrect levies and charges made for that year, except that the property tax computed using the corrected levy shall allow a credit for the amount of property taxes previously paid. If additional property tax is owed due to the corrected levy, the county tax collector shall, prior to the fourth Monday in May, mail to the last record owner of any property affected by such erroneous levy a notice of tax correction. The deadline for paying such property tax shall be no later than June 20 of that year. Late charges and interest will be added if full property tax is not paid by June 20 and interest will be calculated from January 1 as provided in section [63-1001](#), Idaho Code.

(c) Provided the levy correction is made after the fourth Monday of November or after tax notices have been mailed, the levy correction shall be considered at a hearing held by the county commissioners at which time any taxpayer may appear and be heard upon the issue. Notice of the date, time, place and purpose of such hearing shall be published in a newspaper published in the county, or if there is none, then in a newspaper of general circulation in the county. The notice shall be run once each week for the two (2) weeks preceding the hearing. The hearing shall be held not less than seven (7) days after the first notice is published.

(2) The county commissioners shall submit the corrected levy and a copy of the order to the state tax commission. The state tax commission shall review the corrected levy and take action as required in section [63-809](#), Idaho Code.

(3) For the purposes of sections [63-701](#) through [63-710](#), Idaho Code, and for the purposes

of the distributions required in section [63-3638](#), Idaho Code, the state tax commission, county auditor, and the county commissioners shall use the corrected values and numbers allowed in this section to recompute and correct such distributions by adjusting future distributions to account for any difference. For the purposes of chapters 8 and 10, [title 33](#), Idaho Code, the state department of education shall use the corrected values and numbers allowed in this section.

TITLE 63, CHAPTER 9
PAYMENT AND COLLECTION OF PROPERTY TAXES

63-902. PROPERTY TAX NOTICE AND RECEIPTS -- DUTY OF TAX COLLECTOR.

(1) For property on the property roll or operating property roll, the county tax collector must, prior to the fourth Monday of November in each year, mail or transmit electronically, as that term is defined in section [63-115](#), Idaho Code, if electronic transmission is requested by the taxpayer, to every taxpayer, or to his agent or representative, at his last known post-office address, a tax notice prepared upon forms prescribed in section [63-219](#), Idaho Code, which shall contain at least the following:

- (a) The year in which the property tax was levied;
- (b) The name and address of the property owner;
- (c) An accurate description of the property, or in lieu thereof, the tax number of record;
- (d) The parcel number;
- (e) Full market value for assessment purposes;
- (f) The total amount of property taxes due:
 - (i) State;
 - (ii) County;
 - (iii) City;
 - (iv) School district separately shown as:
 - (A) Maintenance and operation;
 - (B) Bond;
 - (C) Supplemental;
 - (D) Other;
 - (v) And every other tax being separately shown.
- (g) All property tax levies in the tax code area;
- (h) The date when such property taxes become delinquent;
- (i) Notation of delinquencies against said property;
- (j) Whether an interim payment account exists;
- (k) The different payment options available to the taxpayer, his agent or representative shall be printed in boldface type in a contrasting color or highlighted on the face of the tax notice.

(2) The tax notices shall be numbered consecutively and the numbers must be entered upon all property rolls.

(3) Tax notices prepared in tax code area format shall state that levy sheets are available to the public.

(4) Levy sheets shall list the total property tax levy for each taxing district or taxing jurisdiction and the total in each tax code area.

(5) If the taxpayer is one other than the equitable titleholder, such as an escrowee, trustee of trust deed or other third party, the taxpayer shall deliver to the equitable titleholder a statement of the total amount of property taxes billed, on or before the second Monday of December.

(6) The tax collector in each county of the state is authorized to destroy all duplicate property tax receipts and microfilm of tax receipts on file in his office as they reach ten (10) years old. Property tax receipts may be destroyed if information has been replicated in other storage media.

(7) Computer and data processing routines for completion of all phases of the property tax roll procedures may be utilized with the responsibility for completion of each office's statutory duties to remain under the supervision of that office. Wherever the designation "property roll" appears within [title 63](#), data processing or computer procedures and forms may be substituted as permanent records.

(8) The county tax collector must, as soon as possible after the subsequent or missed property roll is delivered to him from the county auditor, mail or transmit electronically, if electronic transmission is requested by the taxpayer, a notice to every taxpayer listed on the subsequent or missed property roll, or to his agent or representative. The notice shall conform as nearly as possible to the notice required for property listed on the property roll.

(9) Failure to mail or transmit electronically, if electronic transmission is requested by the taxpayer, such property tax notice, or receipt of said notice by the taxpayer, shall not invalidate the property taxes, or any proceedings in the collection of property taxes, or any proceedings in the foreclosure of property tax liens.

(10) No charge, other than property taxes, shall be included on a tax notice unless the entity placing such charge has received approval from the board of county commissioners to place such charge on the tax notice and such entity:

- (a) Has the authority by law to place a lien on property; and
- (b) Has the authority to certify such charge to the auditor; and
- (c) Is required to collect such charge in the same manner provided by law for the collection of real and personal property taxes.

(11) If a taxpayer requests to receive a tax notice electronically, the request must be made on a form provided by the county tax collector.

**TITLE 63, CHAPTER 13
MISCELLANEOUS PROVISIONS OF TAX LAW**

63-1305. REFUND OR CREDIT OF PROPERTY TAXES BY ORDER OF COURT OR BOARD OF TAX APPEALS. (1) When any court or the board of tax appeals orders a refund of any property taxes imposed under chapters 1 through 17, [title 63](#), the county commissioners of the county or counties which collected the taxes may either refund taxes or apply the amount to be refunded as a credit against taxes due from the taxpayer in the following year. The county commissioners may use a combination of both a payment and a credit to effect the refund.

(2) As used in this section, "refund" includes property tax described in subsection (1) of this section found by the court or the board of tax appeals to have been overpaid and not lawfully due, interest due on the refund of such tax, costs and other amounts ordered paid by a court or the board of tax appeals.

(3) In the event a refund is paid, payments must be made by warrants drawn on the county's current expense fund by the county auditor. The auditor shall apportion the amount of property taxes cancelled as credit to the tax collector. The auditor shall charge the various funds and taxing districts with their proportionate share of the refund and credit the current expense account.

(4) If a credit is given the following year, the credit shall be allowed against actual property taxes assessed to the taxpayer by the taxing districts which received the taxes ordered to be refunded.

(5) Amounts equal to the refunds or credits allowed in this section may be included in amounts certified pursuant to sections [63-802](#) through [63-807](#), Idaho Code, but shall not be a part of the operating budget within the meaning of section [63-802](#), Idaho Code.

63-1305A. PAYMENT OF JUDGMENT BY ORDER OF COURT. [EFFECTIVE UNTIL JULY 1, 2017]

(1) Notwithstanding the provisions of section [6-928](#), Idaho Code, and except as provided for in section [63-1305](#), Idaho Code, a nonschool taxing district may certify a budget request for an amount of property tax revenues to finance an annual budget in excess of the limitations imposed by section [63-802](#), Idaho Code, for the purpose of paying a final judgment entered by a court of law, including interest, costs and award of attorney's fees, if any, provided that:

(a) The taxing district first budgets the maximum amount of property tax permitted pursuant to section [63-802](#), Idaho Code, including any available forgone amount; and

(b) All surplus funds available to the taxing district are used to pay the outstanding judgment; and

(c) The judgment was entered after December 1, 2010; and

(d) The judgment amount, including interest and award of attorney's fees, if any, exceeds one-third (1/3) of the property tax revenues used to finance the taxing district's highest annual budget in the preceding three (3) years; and

(e) The amount in excess of the limitations imposed by section [63-802](#), Idaho Code, authorized by this section does not increase the budget that would otherwise be applicable by more than the amount raised by a levy rate of one-tenths of one percent (0.1%).

(2) The provisions of subsection (1) of this section pertain regardless of whether the judgment is paid in cash, redeemable warrants, the proceeds of bonded indebtedness permitted as an ordinary and necessary expense or any combination of these methods of payment.

(3) The state tax commission may promulgate rules necessary to administer the provisions of this section.

(4) The levy permitted pursuant to subsection (1) of this section may be levied only until the judgment is paid in full.

63-1305B. ELECTION -- AUTHORIZATION OF GOVERNING BODY. [EFFECTIVE UNTIL JULY 1, 2017]

(1) No nonschool taxing district shall exercise any powers provided pursuant to section [63-1305A](#), Idaho Code, unless a majority of qualified electors, voting in an election held in such nonschool taxing district, vote to approve the question of whether the governing body of such district may exercise the powers and authority provided for in section [63-1305A](#), Idaho Code.

(2) The election provided for in this section shall be held in accordance with the provisions of section [34-106](#), Idaho Code.

63-1311. FEES FOR SERVICES.

(1) Notwithstanding any other provision of law, the governing board of any taxing district may impose and cause to be collected fees for those services provided by that district which would otherwise be funded by property tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered.

(2) No charge, other than property taxes shall be included on a tax notice unless the taxing district placing such charge has received approval by the board of county commissioners to place such charge on the tax notice and meets the criteria set forth in section [63-902](#), Idaho Code.

63-1311A. ADVERTISEMENT OF AND HEARING ON FEE INCREASES. No taxing district may make a decision approving a fee increase that is in excess of five percent (5%) of the amount of the fee last collected or a decision imposing a new fee, unless it first holds a hearing upon such proposed fee increase or fee imposition at a regular or special meeting of the district's governing body and after it gives public notice of such hearing in the manner provided in this section. Any taxing district that is required to hold a hearing and give public notice of the hearing as provided in this section, and which fails to do so, shall have the validity of all or a portion of the fee increase that it collects be voidable.

The taxing district shall give public notice of its intent to make a decision on a proposed fee increase, that is in excess of five percent (5%) of the amount of fees last collected prior to such decision, or a decision to impose a new fee by giving public notice either by advertising in at least

one (1) newspaper as defined in section [60-106](#), Idaho Code, or by holding three (3) public meetings in three (3) different locations in the district or by a single mailing notice to all district residents, providing that the same information is given and providing the meeting shall be held not less than seven (7) days after mailing of the notice. An advertisement used to satisfy the requirements of this section shall be run once each week for the two (2) weeks preceding the week during which the hearing required by this section will be held. The advertisement shall state that the taxing district will meet on a certain day, time and place fixed in the advertisement, for the purpose of hearing public comments regarding any proposed fee increase beyond the limits prescribed by this section, or imposition of a new fee and to explain the reasons for such action.

63-1312. MUNICIPAL PROPERTY TAXES -- NOTIFICATION OF VALUATION.

(1) Prior to the fourth Monday of March of the current year the county auditor must notify every taxing district or authority, other than school districts, of the total taxable valuation of all the taxable property situated within such districts for the preceding calendar year for the purpose of assisting such governing authorities in their determination of tax rates to be levied for the current year and other informational purposes.

(2) Prior to the first Monday in August the auditor of each county in the state shall notify the state tax commission and the clerk of each taxing unit in his county of the taxable valuation of all the taxable property situated within that taxing district from the property roll for the current year, from the operating property roll for the previous year, from the prior year's actual or current year's estimated subsequent property roll and missed property roll, and the amount of value subject to occupancy tax notwithstanding exemptions authorized in [chapter 6, title 63](#), Idaho Code, for the previous year.

(3) The auditor shall furnish the valuation from the current operating property roll upon receipt from the state tax commission.

(4) Subsequent to the notification of the county auditor of revenues sufficient to cover expenses as provided in section [50-2903\(5\)](#), Idaho Code, taxable value as used in this section shall also include the value that exceeds the value of the base assessment roll for the portion of any taxing district within a revenue allocation area.

**TITLE 63, CHAPTER 30
INCOME TAX**

63-3022J. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT.

(1) Any individual or corporation may deduct from taxable income an amount equal to the fair market value of technological equipment donated to public elementary or public secondary schools, private elementary or private secondary schools, public universities, private universities, public colleges, private colleges, public community colleges, private community colleges, public technical colleges or private technical colleges, or public libraries and library districts located within the state of Idaho, except that the amount of the deduction shall not exceed the amount of the taxpayer's cost of the technological equipment donated nor reduce Idaho taxable income to less than zero. The deduction allowed pursuant to this section shall be in addition to any other deduction allowed pursuant to this chapter. In order to take the deduction pursuant to this section, the taxpayer shall receive a written statement from the donee in which the donee agrees to accept the technological equipment donated.

(2) For the purposes of this section, "technological equipment" means a computer, computer software, scientific equipment or apparatus to be used by the university, college, community college, technical college, school or library directly or indirectly in the education program of the university, college, community college, technical college, school or library and which is donated to the university, college, community college, technical college, school or library no later than five (5) years after its manufacture has been substantially completed.

(3) For the purposes of this section, a public elementary or public secondary school means one that is located within this state and receives funding pursuant to [chapter 10, title 33](#), Idaho Code.

(4) For purposes of this section, a private elementary or private secondary school means one that is located within this state and is operated on a nonprofit basis.

(5) For the purposes of this section, a public library or library district means one that is located within this state and receives funding pursuant to chapters 26 and 27, [title 33](#), Idaho Code.

(6) For purposes of this section, a public university, public college, public community college or public technical college means one that is located within this state and receives an appropriation from the legislature.

(7) For purposes of this section, a private university, private college, private community college or private technical college means one that is located within this state and is operated on a nonprofit basis.

(8) The state tax commission shall promulgate rules to administer the provisions of this section. The rules shall be promulgated in compliance with [chapter 52, title 67](#), Idaho Code.

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS --
LIMITATION. **[EFFECTIVE UNTIL JANUARY 1, 2020]**

At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by [chapter 30, title 63](#), Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by

such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to a nonprofit corporation, fund, foundation, trust or association which is: (i) organized and operated exclusively for the benefit of elementary or secondary education institutions located within the state of Idaho; (ii) officially recognized and designated by resolution of the applicable governing board as any such elementary or secondary education institution's sole designated supporting organization; and (iii) qualified to be exempt from federal taxation under the terms of section 501(c)(3) of the Internal Revenue Code, for the express purpose of supplementing and enhancing a thorough system of public schools as defined in section [33-1612](#), Idaho Code, or supplementing and enhancing the private school which is the beneficiary, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the council for the deaf and hard of hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on Hispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, to the Idaho STEM action center, to nonprofit public or private museums or their foundations located within the state of Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed fifty percent (50%) of such taxpayer's total income tax liability imposed by section [63-3024](#), Idaho Code, for the year, or five hundred dollars (\$500), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections [63-3025](#) and [63-3025A](#), Idaho Code, for the year, or five thousand dollars (\$5,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

- (a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.
- (b) It regularly offers education above the twelfth grade.
- (c) It is accredited by the northwest commission on colleges and universities.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the northwest commission on colleges and universities, or accredited by a body approved by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and accredited by the state board of education pursuant to section [33-119](#), Idaho Code.

For the purposes of this section, "organized and operated exclusively for the benefit of elementary or secondary education institutions" means having an explicit provision in the supporting organization's bylaws or other governing document that expressly identifies the

elementary or secondary schools, or one (1) or more school districts, in the state of Idaho that will be the exclusive beneficiary of the distributions of the nonprofit corporation, fund, foundation, trust or association.

For the purposes of this section, a nonprofit corporation, fund, foundation, trust or association that invests contributions in an endowment or otherwise shall be subject to the standards of care imposed under section [33-5003](#), Idaho Code.

TITLE 63, CHAPTER 31
ANTICIPATION OF REVENUE BY TAXING DISTRICTS

63-3101. TAXING DISTRICT DEFINED. A taxing district within the meaning of this act is any county, any political subdivision of the state, any municipal corporation, including specially chartered cities, any school districts, including specially chartered school districts, any quasi-municipal corporation, or any other public corporation authorized by law to levy taxes, now or hereafter organized.

63-3102. AUTHORITY TO BORROW MONEY. Any taxing district shall have power from time to time by resolution to borrow money and issue revenue anticipation bonds or notes, bearing interest at such rate as may be determined by the governing board, and maturing not more than one (1) year from the date thereof, for the purpose of providing funds in anticipation of the collection of taxes of the current fiscal year, in anticipation of the distribution of state appropriated funds, and in anticipation of other revenues of any nature, for the year in which said revenue anticipation bonds or notes are issued, exclusive of taxes required to be raised to pay the principal of outstanding bonded indebtedness of the taxing district, the proceeds of such bonds or notes to be used for the purpose for which said taxes are levied or such funds or other revenues are appropriated. The amount authorized to be borrowed by means of such revenue anticipation bonds or notes shall not exceed seventy-five per cent (75%) of the taxes levied for the current fiscal year and not yet collected by said taxing district, seventy-five per cent (75%) of the anticipated distribution from the public school income fund not yet collected for the current fiscal year, and seventy-five per cent (75%) of other revenues anticipated, as shown by the budget duly adopted by the taxing district and certified in accordance with section [63-804](#), Idaho Code, and not yet collected for the fiscal year. If the tax levy or budget for any fiscal year has not been completed, then the amount of revenue anticipation bonds or notes issued in anticipation of taxes, state funds, or other revenues to be levied for such fiscal year shall not exceed seventy-five per cent (75%) of the taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year. In determining the amount of revenue anticipation bonds or notes which may be issued, the governing body shall declare in the resolution providing for the issuance of such bonds or notes the amount of taxes levied or state funds or other revenues anticipated for the current fiscal year and the amount of such taxes or state funds or other revenues anticipated not yet collected by said taxing district, or in the event that the tax levy or budget for the fiscal year has not been completed, the governing authority shall declare in the resolution providing for the issuance of such revenue anticipation bonds or notes the amount of taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year. In each instance, taxes raised or to be raised to pay the principal of outstanding bonded indebtedness of the taxing district shall not be included in the amount of taxes or state funds or other revenues anticipated against which such revenue anticipation bonds or notes are authorized to be issued. Such revenue anticipation bonds or notes shall be negotiable instruments, and the full faith, credit and resources of the taxing district shall

be pledged for the payment of the same. Such bonds or notes shall be issued in such form and detail as shall be determined by the governing authority of the taxing district by resolution duly adopted.

63-3103. SALE OF REVENUE ANTICIPATION BONDS OR NOTES. Such revenue anticipation bonds or notes may be sold at public or private sale at such times, in such amounts and on such terms as may be determined by the governing body.

63-3104. CREATION OF FUND TO PAY BONDS OR NOTES AT MATURITY -- PAYMENT OF BONDS OR NOTES. To provide for the payment of said revenue anticipation bonds or notes at maturity, there shall be created by the resolution providing for the issuance of said revenue anticipation bonds or notes a special fund to be known as the "Revenue Anticipation Bond or Note Redemption Fund." Whenever any revenue anticipation bonds or notes have been issued in anticipation of the collection of taxes, or of state appropriated funds or other revenues, all such moneys thereafter collected or received, the collection of which has been so anticipated, shall be placed in the "Revenue Anticipation Bond or Note Redemption Fund" until such time as the funds accumulated therein shall be sufficient to pay all such revenue anticipation bonds or notes outstanding, together with interest thereon at maturity, and the funds so accumulated in the "Revenue Anticipation Bond or Note Redemption Fund" are hereby appropriated and set apart for such purpose only, and shall be used for no other purpose; provided, however, that nothing in this section shall be construed to limit the payment of the principal of and interest on said revenue anticipation bonds or notes solely to the taxes or other funds or revenues, in anticipation of which said bonds or notes were issued, but such bonds or notes shall be the direct and general obligation of the taxing district.

63-3105. TAX LEVY TO COVER DEFICIENCY IN BOND OR NOTE PAYMENTS. In the event that the taxes collected for any fiscal year prior to date on which final installment of such taxes becomes delinquent, or other anticipated funds or revenues, shall not be sufficient to pay the revenue anticipation bonds or notes issued in anticipation of the collection of taxes or other funds or revenues of such fiscal year, the taxing district shall, in providing for the levy of taxes for the succeeding fiscal year, include in such tax levy for the succeeding fiscal year the amount necessary to cover such deficiency in the collection of such taxes or other funds or revenues, such levy in the succeeding year to be in an amount which, together with the amount of taxes then in such "Revenue Anticipation Bond or Note Redemption Fund" shall be sufficient to provide for the payment of principal of and interest on the revenue anticipation bonds or notes issued in anticipation of such taxes, funds, or other revenues and payable out of such fund.

63-3106. ISSUANCE AND SALE OF REFUNDING BONDS OR NOTES BY TAXING DISTRICTS TO PAY FOR REVENUE ANTICIPATION BONDS OR NOTES. A taxing district shall have power to issue refunding bonds or notes, with like limitations upon interest and maturity,

and shall issue refunding bonds or notes where such refunding bonds or notes shall be necessary to provide for the payment of any revenue anticipation bonds or notes at maturity, or to provide for the payment of any revenue anticipation notes or bonds heretofore issued by any taxing district where such revenue anticipation notes or bonds are outstanding and unpaid after their maturity date. Said refunding bonds or notes shall be authorized by resolution and shall be issued, sold and paid as herein provided for the issuance, sale and payment of revenue anticipation bonds or notes. At no time shall the total amount outstanding of such revenue anticipation bonds or notes and such refunding bonds or notes exceed seventy-five per cent (75%) of the amount of taxes levied or state funds or other revenues anticipated for the current fiscal year and not yet collected by said taxing district, or if such refunding bonds or notes are issued before the tax levy or budget for any fiscal year has been completed, then the total amount outstanding of such revenue anticipation bonds or notes and such refunding bonds or notes shall not exceed seventy-five per cent (75%) of the amount of taxes levied or state funds or other revenues received by said taxing district in the previous fiscal year; provided that where refunding bonds or notes have been issued or the issuance thereof has been provided for by the adoption of a resolution for the purpose of refunding any revenue anticipation bonds or notes, the said revenue anticipation bonds or notes to be refunded by said refunding bonds or notes shall not be included in determining the total amount of revenue anticipation bonds and notes outstanding, but for that purpose shall be treated as having been refunded and retired by such refunding bonds or notes.

63-3107. CONSTRUCTION. This act shall be construed as full authority for the issuance of such revenue anticipation bonds or notes, and it shall not be necessary to comply with the requirements or provisions of any other statute relative to the issuance or sale of bonds or notes of any taxing district, in connection with the issuance of revenue anticipation bonds or notes issued under the authority of this act.

63-3108. NECESSARY ACTIONS AUTHORIZED. In order to carry out the provisions of this act, all necessary actions are hereby authorized and directed.

**TITLE 63, CHAPTER 36
SALES TAX**

63-3622O. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS.

(1) There are exempted from the taxes imposed by this chapter:

- (a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations; and
- (b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and
- (c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and
- (d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and
- (e) Sales to or purchases by centers for independent living; and
- (f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and
- (g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies; and
- (h) Sales to or purchases by a qualifying senior citizen center; and
- (i) Sales to or purchases by the Blind Services Foundation, Inc.; and
- (j) Donations to, sales to or purchases by the Advocates for Survivors of Domestic Violence and Sexual Assault, Inc., a nonprofit corporation; and
- (k) Sales to or purchases by nonprofit organizations offering free dental clinic services to children; and

(1) Admissions to and purchases by museums, as defined in subsection (2) of this section.

(2) As used in this section, these words shall have the following meanings:

(a) "Educational institution" shall mean nonprofit colleges, universities, public charter schools organized pursuant to [chapter 52, title 33](#), Idaho Code, the Idaho digital learning academy established pursuant to [chapter 55, title 33](#), Idaho Code, and other primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.

(b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.

(c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Camp Rainbow Gold, Mental Health Association, The Arc, The Children's Home Society of Idaho,

American Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs, Special Olympics Idaho, the Idaho Women's and Children's Alliance, and the Family Services Alliance of Southeast Idaho, together with said entities' local or regional chapters or divisions.

(d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

(e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to [chapter 1, title 38](#), Idaho Code.

(f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.

(g) "Nonsale clothier" shall mean any nonprofit corporation or association, one of whose primary purposes is the furnishing or providing of clothes to others without charge.

(h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.

(i) "Center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(i) Is designed and operated within a local community by individuals with disabilities;

(ii) Provides an array of independent living services and programs; and

(iii) Is cross-disability.

(j) "Political subdivision" means:

(i) A governmental organization which:

1. Embraces a certain territory,
2. Is organized for public advantage and not in the interest of private individuals or classes,
3. Has been delegated functions of government, and

4. Has the statutory power to levy taxes; or

(ii) A public health district created by section [39-408](#), Idaho Code; or

(iii) A soil conservation district as defined in section [22-2717](#), Idaho Code; or

(iv) A drainage district created pursuant to [chapter 29, title 42](#), Idaho Code; or

(v) An irrigation district created pursuant to [title 43](#), Idaho Code; or

(vi) A state grazing board created by section [57-1204](#), Idaho Code; or

(vii) A water measurement district created pursuant to section [42-705](#) or [42-706](#), Idaho Code; or
(viii) A ground water management district created pursuant to [chapter 51, title 42](#), Idaho Code.

(k) "Agency of the state of Idaho" shall mean an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.

(l) "Volunteer fire department" means an entity exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which primarily provides fire protection or fire prevention on a not-for-profit basis to surrounding residents.

(m) "Licensed emergency medical service agency" means an emergency medical service (EMS) licensed by the EMS bureau of the department of health and welfare and which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which provides emergency medical services on a not-for-profit basis to surrounding residents.

(n) "Qualifying senior citizen center" means an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code and which is a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health, including mental health, social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(o) "Museum" means a public institution or an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code, which stores, preserves and exhibits objects of art, history, science or other objects of historical, educational or cultural value on a permanent basis in a building, portion of a building or outdoor location and which provides museum services to the public on a regular basis.

(3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections [67-2328](#) through [67-2333](#), Idaho Code.

(4) The exemptions granted by subsection (1) of this section do not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section [63-3615](#)(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.

(5) There is exempted from the taxes imposed in this chapter the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

63-3638. SALES TAX -- DISTRIBUTION.

All moneys collected under this chapter, except as may otherwise be required in sections [63-3203](#) and [63-3709](#), Idaho Code, shall be distributed by the state tax commission as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the state tax commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(2) Five million dollars (\$5,000,000) per year is continuously appropriated and shall be distributed to the permanent building fund, provided by section [57-1108](#), Idaho Code.

(3) Four million eight hundred thousand dollars (\$4,800,000) per year is continuously appropriated and shall be distributed to the water pollution control account established by section [39-3628](#), Idaho Code.

(4) An amount equal to the sum required to be certified by the chairman of the Idaho housing and finance association to the state tax commission pursuant to section [67-6211](#), Idaho Code, in each year is continuously appropriated and shall be paid to any capital reserve fund, established by the Idaho housing and finance association pursuant to section [67-6211](#), Idaho Code. Such amounts, if any, as may be appropriated hereunder to the capital reserve fund of the Idaho housing and finance association shall be repaid for distribution under the provisions of this section, subject to the provisions of section [67-6215](#), Idaho Code, by the Idaho housing and finance association, as soon as possible, from any moneys available therefor and in excess of the amounts which the association determines will keep it self-supporting.

(5) An amount equal to the sum required by the provisions of sections [63-709](#) and [63-717](#), Idaho Code, after allowance for the amount appropriated by section [63-718](#)(3), Idaho Code, is continuously appropriated and shall be paid as provided by sections [63-709](#) and [63-717](#), Idaho Code.

(6) An amount required by the provisions of [chapter 53, title 33](#), Idaho Code.

(7) An amount required by the provisions of [chapter 87, title 67](#), Idaho Code.

(8) For fiscal year 2011, and each fiscal year thereafter, four million one hundred thousand dollars (\$4,100,000), of which two million two hundred thousand dollars (\$2,200,000) shall be distributed to each of the forty-four (44) counties in equal amounts, and one million nine hundred thousand dollars (\$1,900,000) of which shall be distributed to the forty-four (44) counties in the proportion that the population of the county bears to the population of the state. For fiscal year 2012, and for each fiscal year thereafter, the amount distributed pursuant to this subsection, shall be adjusted annually by the state tax commission in accordance with the consumer price index for all urban consumers (CPI-U) as published by the U.S. department of labor, bureau of labor statistics, but in no fiscal year shall the total amount allocated for counties under this subsection, be less than four million one hundred thousand dollars (\$4,100,000). Any increase resulting from the adjustment required in this section shall be distributed to each county in the proportion that the population of the county bears to the population of the state. Each county shall establish a special election fund to which shall be deposited all revenues received from the distribution pursuant to this subsection. All such revenues shall be used exclusively to defray the costs associated with conducting elections as required of county clerks by the provisions of section [34-1401](#), Idaho Code.

(9) One dollar (\$1.00) on each application for certificate of title or initial application for registration of a motor vehicle, snowmobile, all-terrain vehicle or other vehicle processed by the county assessor or the Idaho transportation department excepting those applications in which any sales or use taxes due have been previously collected by a retailer, shall be a fee for the services of the assessor of the county or the Idaho transportation department in collecting such taxes, and shall be paid into the current expense fund of the county or state highway account established in section [40-702](#), Idaho Code.

(10) Eleven and five-tenths percent (11.5%) is continuously appropriated and shall be distributed to the revenue sharing account which is created in the state treasury, and the moneys in

the revenue sharing account will be paid in installments each calendar quarter by the state tax commission as follows:

(a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various cities as follows:

(i) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the population of that city bears to the population of all cities within the state; and

(ii) Fifty percent (50%) of such amount shall be paid to the various cities, and each city shall be entitled to an amount in the proportion that the preceding year's market value for assessment purposes for that city bears to the preceding year's market value for assessment purposes for all cities within the state.

(b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the various counties as follows:

(i) One million three hundred twenty thousand dollars (\$1,320,000) annually shall be distributed one forty-fourth (1/44) to each of the various counties; and

(ii) The balance of such amount shall be paid to the various counties, and each county shall be entitled to an amount in the proportion that the population of that county bears to the population of the state;

(c) Thirty-five and nine-tenths percent (35.9%) of the amount appropriated in this subsection shall be paid to the several counties for distribution to the cities and counties as follows:

(i) Each city and county which received a payment under the provisions of section [63-3638](#)(e), Idaho Code, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (10)(c) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each city's and county's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (10)(c) in any quarter exceeds the amount paid in the fourth quarter of calendar year 1999, each city and county shall be entitled to a proportionately increased payment, but such increase shall not exceed one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999.

(iv) If the dollar amount of money available under this subsection (10)(c) in any quarter exceeds one hundred five percent (105%) of the total payment made in the fourth quarter of calendar year 1999, any amount over and above such one hundred five percent (105%) shall be paid fifty percent (50%) to the various cities in the proportion that the population of the city bears to the population of all cities within the state, and fifty percent (50%) to the various counties in the proportion that the population of a county bears to the population of the state; and

(d) Seven and seven-tenths percent (7.7%) of the amount appropriated in this subsection shall be paid to the several counties for distribution to special purpose taxing districts as follows:

(i) Each such district which received a payment under the provisions of section [63-3638](#)(e), Idaho Code, as such subsection existed immediately prior to July 1, 2000, during the fourth quarter of calendar year 1999, shall be entitled to a like amount during succeeding calendar quarters.

(ii) If the dollar amount of money available under this subsection (10)(d) in any quarter does not equal the amount paid in the fourth quarter of calendar year 1999, each special purpose taxing district's payment shall be reduced proportionately.

(iii) If the dollar amount of money available under this subsection (10)(d) in any quarter exceeds the amount distributed under paragraph (i) of this subsection (10)(d), each special purpose taxing district shall be entitled to a share of the excess based on the proportion each such district's current property tax budget bears to the sum of the current property tax budgets of all such districts in the state. The state tax commission shall calculate district current property tax budgets to include any unrecovered foregone amounts as determined under section [63-802\(1\)\(e\)](#), Idaho Code. When a special purpose taxing district is situated in more than one (1) county, the state tax commission shall determine the portion attributable to the special purpose taxing district from each county in which it is situated.

(iv) If special purpose taxing districts are consolidated, the resulting district is entitled to a base amount equal to the sum of the base amounts which were received in the last calendar quarter by each district prior to the consolidation.

(v) If a special purpose taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received.

(vi) Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection (10)(d).

(vii) For purposes of this subsection (10)(d), a special purpose taxing district is any taxing district which is not a city, a county or a school district.

(11) Amounts calculated in accordance with section 2, chapter 356, laws of 2001, for annual distribution to counties and other taxing districts beginning in October 2001 for replacement of property tax on farm machinery and equipment exempted pursuant to section [63-602EE](#), Idaho Code. For nonschool districts, the state tax commission shall distribute one-fourth (1/4) of this amount certified quarterly to each county. For school districts, the state tax commission shall distribute one-fourth (1/4) of the amount certified quarterly to each school district. For nonschool districts, the county auditor shall distribute to each district within thirty (30) calendar days from receipt of moneys from the state tax commission. Moneys received by each taxing district for replacement shall be utilized in the same manner and in the same proportions as revenues from property taxation. The moneys remitted to the county treasurer for replacement of property exempt from taxation pursuant to section [63-602EE](#), Idaho Code, may be considered by the counties and other taxing districts and budgeted at the same time, in the same manner and in the same year as revenues from taxation on personal property which these moneys replace. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts which were received in the last calendar quarter by each district pursuant to this subsection prior to the consolidation. If a taxing district is dissolved or disincorporated, the state tax commission shall continuously distribute to the board of county commissioners an amount equal to the last quarter's distribution prior to dissolution or disincorporation. The board of county commissioners shall determine any redistribution of moneys so received. If a taxing district annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts formed after January 1, 2001, are not entitled to a payment under the provisions of this subsection. School districts shall receive an amount determined by multiplying

the sum of the year 2000 school district levy minus .004 times the market value on December 31, 2000, in the district of the property exempt from taxation pursuant to section [63-602EE](#), Idaho Code, provided that the result of these calculations shall not be less than zero (0). The result of these school district calculations shall be further increased by six percent (6%). For purposes of the limitation provided by section [63-802](#), Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section [63-602EE](#), Idaho Code, shall be treated as property tax revenues.

(12) Amounts necessary to pay refunds as provided in section [63-3641](#), Idaho Code, to a developer of a retail complex shall be remitted to the demonstration pilot project fund created in section [63-3641](#), Idaho Code.

(13) Amounts calculated in accordance with subsection (4) of section [63-602KK](#), Idaho Code, for annual distribution to counties and other taxing districts for replacement of property tax on personal property tax exemptions pursuant to subsection (2) of section [63-602KK](#), Idaho Code, which amounts are continuously appropriated unless the legislature enacts a different appropriation for a particular fiscal year. For purposes of the limitation provided by section [63-802](#), Idaho Code, moneys received pursuant to this section as property tax replacement for property exempt from taxation pursuant to section [63-602KK](#), Idaho Code, shall be treated as property tax revenues. If taxing districts are consolidated, the resulting district is entitled to an amount equal to the sum of the amounts that were received in the last calendar year by each district pursuant to this subsection prior to the consolidation. If a taxing district or revenue allocation area annexes territory, the distribution of moneys received pursuant to this subsection shall be unaffected. Taxing districts and revenue allocation areas formed after January 1, 2013, are not entitled to a payment under the provisions of this subsection.

(14) Amounts collected from purchasers and paid to the state of Idaho by retailers that are not engaged in business in this state and which retailer would not have been required to collect the sales tax, less amounts otherwise distributed in subsections (1) and (10) of this section, shall be distributed to the tax relief fund created in section [57-811](#), Idaho Code. The state tax commission will determine the amounts to be distributed under this subsection.

(15) Any moneys remaining over and above those necessary to meet and reserve for payments under other subsections of this section shall be distributed to the general fund.

**TITLE 67, CHAPTER 4
LEGISLATURE**

67-450A. CHARGES FOR AUDIT. The annual appropriation to the office of legislative services from the general fund shall provide for authorized audits and services to general fund departments, agencies, commissions, or institutions without charge to the unit receiving such services. The cost and expenses incurred by the legislative services office in conducting audits or in carrying out other work authorized by law in dedicated funds, shall be paid from the appropriation to the office, department, board, commission, or institution and/or the dedicated funds under the control of the office, department, board, commission, or institution for whom the work is done. The audit fee or costs of work performed in such dedicated fund agencies shall be based on an hourly rate computed by the legislative services office and shall be sufficient to defray all costs and expenses incurred, including but not limited to related salary, travel and office overhead expenses. The legislative services office may require partial payments, during the course of the audit, for services rendered and expenses incurred. All charges shall be paid within thirty (30) days after billing is received.

All moneys received from the various dedicated fund agencies shall be added to the legislative services office's appropriation from the general fund and are hereby appropriated to the legislative services office, providing that the legislative services office's expenditures shall not exceed the amount appropriated by the legislature.

67-450B. INDEPENDENT FINANCIAL AUDITS OF LOCAL GOVERNMENTAL ENTITIES -- FILING REQUIREMENTS.

(1) The requirements set forth in this section are minimum audit requirements for all local governmental entities, and include, without limitation, all cities, counties, authorities and districts organized as separate legal and reporting entities under Idaho law, and include the councils, commissions and boards as appointed or elected and charged with fiscal management responsibilities of the local governmental entity.

Audits under these requirements are to be performed by independent auditors in accordance with generally accepted governmental auditing standards, as defined by the United States general accountability office. The auditor shall be employed on written contract.

The entity's governing body shall be required to include in its annual budget all necessary expenses for carrying out the provisions of this section.

The entity shall file one (1) copy of each completed audit report with the legislative services office within nine (9) months after the end of the audit period.

(2) The minimum requirements for any audit performed under the provisions of this section are:

(a) The governing body of a local governmental entity whose annual expenditures (from all sources) exceed two hundred fifty thousand dollars (\$250,000) shall cause a full and complete

audit of its financial statements to be made each fiscal year.

(b) The governing body of a local governmental entity whose annual expenditures (from all sources) exceed one hundred thousand dollars (\$100,000), but do not exceed two hundred fifty thousand dollars (\$250,000) in the current year, shall have an annual audit or may elect to have its financial statements audited on a biennial basis. The first year that expenditures exceed one hundred thousand dollars (\$100,000) is the first year of the biennial audit period. The local government entity may continue the biennial audit cycle in subsequent years as long as the entity's annual expenditures during the first year of the biennial audit period do not exceed two hundred fifty thousand dollars (\$250,000). In the event that annual expenditures exceed two hundred fifty thousand dollars (\$250,000) in the current year following a year in which a biennial audit was completed, the local government entity shall complete an annual audit. In the event that annual expenditures in the current year do not exceed one hundred thousand dollars (\$100,000) following a year in which an annual or biennial audit was completed, the local government entity has no minimum audit requirement.

(c) The governing body of a local governmental entity whose annual expenditures (from all sources) do not exceed one hundred thousand dollars (\$100,000) has no minimum audit requirements under this section.

(d) Federal audit requirements applicable because of expenditure of federal assistance supersede the minimum audit requirements provided in this section.

67-450E. LOCAL GOVERNING ENTITIES CENTRAL REGISTRY – REPORTING INFORMATION REQUIRED – PENALTIES FOR FAILURE TO REPORT. In addition to the provisions applicable to local governing entities found in section [67-450B](#), Idaho Code, the provisions of this section shall also apply to local governing entities. For purposes of this section, "local governing entity" shall have the same meaning as provided in section [67-450B](#), Idaho Code. The term local governing entity shall also include entities governed by [chapter 20, title 50](#), Idaho Code. If a local governing entity is governed by the provisions of section [33-701](#), Idaho Code, such entity shall not be required to comply with the provisions of this section.

(1) (a) There is hereby established a central registry and reporting portal ("registry") on the legislative services office website. The registry and reporting portal shall serve as the unified location for the reporting of and access to administrative and financial information of local governing entities in this state. To establish a complete list of all local governmental entities operating in Idaho, on the effective date of this legislation and so that the registry established will be comprehensive, every existing local governing entity shall register with the state registry. For calendar year 2015, the submission of information required by subsection (2) of this section shall occur prior to March 1, 2015, and shall be in the form and format required by the legislative services office. In addition to the information required by this section for the March 1, 2015, filing deadline, the entity shall report the date of its last independent audit. The registry listing will be available on the legislative services office website by January 1, 2016.

(b) The county clerk shall notify each local governing entity of the requirements of this section.

(c) After March 1, 2015, and on or before December 1 of each year:

(i) The state tax commission shall submit a list to the legislative services office of all taxing districts within the state; and

(ii) The county clerk of each county shall submit a list to the legislative services office of all taxing districts in the county and any other local governing entities that are authorized to impose fees, assessments or receive property tax money within the county.

(2) On or before December 1 of each year, every local governing entity shall submit to the online central registry and reporting portal the following information:

(a) Administrative information:

(i) The terms of membership and appointing authority for the governing board member of the local governmental entity;

(ii) The official name, mailing address and electronic mailing address of the entity;

(iii) The fiscal year of the entity;

(iv) Except for cities and counties, the section of Idaho Code under which the entity was established, the date of establishment, the establishing entity and the statute or statutes under which the entity operates, if different from the statute or statutes under which the entity was established.

(b) Financial information:

(i) The most recent adopted budget of the entity; and

(ii) An unaudited comparison of the budget to actual revenues and expenditures for the most recently completed fiscal year.

(c) Bonds or other debt obligation information:

(i) The cumulative dollar amount of all bonds or other debt obligations issued or incurred by the entity; and

(ii) The average length of term of all bond issuances or other debt obligations and the average interest rate of all bonds or other debt obligations.

(d) Within five (5) days of submitting to the central registry the information required by this subsection, the local governing entity shall notify the entity's appointing authority, if the entity has an appointing authority, that it has submitted such information.

(e) If any information provided by an entity as required by this subsection changes during the year, the entity shall update its information on the registry within thirty (30) days of any such change.

(f) All reasonable fees, costs and other expenses incurred assisting local governing entities in compiling the reporting information required by this section may be charged by the county against the local governing entity requesting the county's service. An entity may request assistance from the county to comply with provisions of this section but the county is under no obligation to provide such assistance. For purposes of this section, reasonable fees and costs shall include, but not be limited to, the labor costs, material costs and copying costs incurred while

assisting local governing entities to comply with this section. Such fees and costs may be deducted from any distributions of taxes, fees or assessments collected by the county on behalf of the local governing entity.

(3) Audits required by section [67-450B](#), Idaho Code, will be submitted to the online portal.

(4) Notification and penalties.

(a) If a local governing entity fails to submit information required by this section or submits noncompliant information required by this section, the legislative services office shall notify the entity immediately after the due date of the information that either the information was not submitted in a timely manner or the information submitted was noncompliant. The local governing entity shall then have thirty (30) days from the date of notice to submit the information or notify the legislative services office that it will comply by a time certain.

(b) No later than September 1 of any year, the legislative services office shall notify the appropriate board of county commissioners and the state tax commission of the entity's failure to comply with the provisions of this section. Upon receipt of such notification, the board of county commissioners shall place a public notice in a newspaper of general circulation in the county indicating that the entity is noncompliant with the legal reporting requirements of this section. The county commissioners shall assess to the entity the cost of the public notice. Such costs may be deducted from any distributions of taxes, fees or assessments collected by the county on behalf of the local governing entity. For any noncomplying entity, the legislative services office shall notify the board of county commissioners and the state tax commission of the compliance status of such entity by September 1 of each year until the entity is in compliance.

(c) A local governing entity that fails to comply with this section shall be prohibited from including in its budget any budget increase otherwise permitted by either subsection (1)(a) or (e) of section [63-802](#), Idaho Code.

(d) In addition to any other penalty provided in this section, in any failure to comply with this section, the state tax commission shall withhold the annual distribution of sales tax distribution pursuant to section [63-3638](#)(10), Idaho Code, for any noncomplying entity. The state tax commission shall withhold and retain such money in a reserve account until the legislative services office certifies that the entity has complied with the provisions of this section, at which point the state tax commission shall pay any money owed to the local governing entity previously in violation of this section.

(e) For any local governing entity that is a non-taxing district, including entities established pursuant to [title 50](#), Idaho Code, upon notification to the board of county commissioners from the legislative services office of noncompliance by such entity, the board of county commissioners shall convene to determine appropriate compliance measures including, but not limited to, the following:

(i) Require a meeting of the board of county commissioners and the entity's governing body wherein the board of county commissioners shall require compliance of this section by the entity;

(ii) Assess a noncompliance fee on the noncomplying entity. Such fee shall not exceed five thousand dollars (\$5,000). Such fees and costs may be deducted from any distributions of taxes, fees or assessments collected by the county on behalf of the local governing entity. The amount of any such fee shall not be passed on to persons subject to the jurisdiction of the entity in the form of adjustments to any fee or assessment imposed or collected by the entity. Any fee collected shall be deposited into the county's current expense fund;

(iii) Cause a special audit to be conducted on the entity at the cost of the entity.

(5) The provisions of this section shall have no impact or effect upon reporting requirements for local governing entities relating to the state tax commission.

**TITLE 67, CHAPTER 14
ATTORNEY GENERAL**

67-1401.DUTIES OF ATTORNEY GENERAL. Except as otherwise provided in this chapter, it is the duty of the attorney general:

(1) To perform all legal services for the state and to represent the state and all departments, agencies, offices, officers, boards, commissions, institutions and other state entities, in all courts and before all administrative tribunals or bodies of any nature. Representation shall be provided to those entities exempted pursuant to the provisions of section [67-1406](#), Idaho Code. Whenever required to attend upon any court or administrative tribunal, the attorney general shall be allowed necessary and actual expenses, all claims for which shall be audited by the state board of examiners.

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

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

(4) To account for and pay over to the proper officer all moneys received which belong to the state.

(5) To supervise nonprofit corporations, corporations, charitable or benevolent societies, person or persons holding property subject to any public or charitable trust and to enforce whenever necessary any noncompliance or departure from the general purpose of such trust and, in order to accomplish such purpose, said nonprofit corporations, corporations, charitable or benevolent societies, person or persons holding property subject to any public or charitable trust are subject at all times to examination by the attorney general, on behalf of the state, to ascertain the condition of its affairs and to what extent, if at all, said trustee or trustees may have failed to comply with trusts said trustee or trustees have assumed or may have departed from the general purpose for which it was formed. In case of any such failure or departure, the attorney general shall institute, in the name of the state, any proceeding necessary to enforce compliance with the terms of the trust or any departure therefrom.

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

(7) When required by the public service, to repair to any county in the state and assist the prosecuting attorney thereof in the discharge of duties.

(8) To bid upon and purchase, when necessary, in the name of the state, and under the direction of the state controller, any property offered for sale under execution issued upon

judgments in favor of or for the use of the state, and to enter satisfaction in whole or in part of such judgments as the consideration for such purchases.

(9) Whenever the property of a judgment debtor in any judgment mentioned in subsection (8) of this section has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance, taking precedence of the judgment in favor of the state, under the direction of the state controller, to redeem such property from such prior judgment, lien, or encumbrance; and all sums of money necessary for such redemption must, upon the order of the board of examiners, be paid out of any money appropriated for such purposes.

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

(11) To exercise all the common law power and authority usually appertaining to the office and to discharge the other duties prescribed by law.

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

(13) To appoint deputy attorneys general and special deputy attorneys general and other necessary staff to assist in the performance of the duties of the office. Such deputies and staff shall be nonclassified employees within the meaning of section [67-5302](#), Idaho Code.

(14) To establish a medicaid fraud control unit pursuant to the provisions of section [56-226](#), Idaho Code, and to exercise concurrent investigative and prosecutorial authority and responsibility with county prosecutors to prosecute persons for the violation of the criminal provisions of [chapter 2, title 56](#), Idaho Code, and for criminal offenses that are not defined in said [chapter 2, title 56](#), Idaho Code, but that involve or are directly related to the use of medicaid program funds or services provided through the medicaid program.

(15) To seek injunctive and any other appropriate relief as expeditiously as possible to preserve the rights and property of the residents of the state of Idaho, and to defend as necessary the state of Idaho, its officials, employees and agents in the event that any law or regulation violating the public policy set forth in the Idaho health freedom act, [chapter 90, title 39](#), Idaho Code, is enacted by any government, subdivision or agency thereof.

(16) To establish an internet crimes against children unit pursuant to the provisions of section [67-1410](#), Idaho Code, and to exercise concurrent investigative and prosecutorial authority and responsibility with county prosecutors to prosecute persons for the violation of the criminal provisions of sections [18-1507](#), [18-1509A](#), [18-1513](#) and [18-1515](#), Idaho Code, which may also encompass criminal offenses that are not defined in said sections but that involve or are directly related to child pornography and solicitation of minors for pornography, prostitution or sex-related offenses.

(17) To respond to allegations of violation of state law by elected county officers, to investigate such claims, to issue appropriate findings and to refer such cases for further

investigation and prosecution pursuant to section [31-2002](#), Idaho Code.

(18) To establish a sobriety and drug monitoring program to reduce the number of people on Idaho's highways who drive under the influence of alcohol or drugs, reduce the number of repeat offenders for certain offenses in which the abuse of alcohol or drugs was a contributing factor, and increase pretrial and posttrial options for prosecutors and judges in responding to repeat DUI offenders and offenders for certain crimes in which the abuse of alcohol or drugs was a contributing factor in the commission of the crime, and to adopt such rules and establish such fees as are necessary for the operation of said program, as set forth by law.

**TITLE 67, CHAPTER 23
MISCELLANEOUS PROVISIONS**

67-2309. WRITTEN PLANS AND SPECIFICATIONS FOR WORK TO BE MADE BY OFFICIALS -- AVAILABILITY. All officers of the state of Idaho, the separate counties, cities, towns, villages or school districts within the state of Idaho, all boards or trustees thereof or other persons required by the statutes of the state of Idaho to advertise for bids on contracts for the construction, repair or improvement of public works, public buildings, public places or other work, shall make written plans and specifications of such work to be performed or materials furnished, and such plans and specifications shall be available for all interested and prospective bidders therefor, providing that such bidders may be required to make a reasonable deposit upon obtaining a copy of such plans and specifications; all plans and specifications for said contracts or materials shall state, among other things pertinent to the work to be performed or materials furnished, the number, size, kind and quality of materials and service required for such contract, and such plans and specifications shall not specify or provide the use of any articles of a specific brand or mark, or any patented apparatus or appliances when other materials are available for such purpose and when such requirements would prevent competitive bidding on the part of dealers or contractors in other articles or materials of equivalent value, utility or merit. The design-build method of construction may be employed by public officials in contracts for the construction, repair, or improvement of public works, public buildings, public places or other work. For purposes of this section, a design-build contract is a contract between a public entity and a nongovernmental party in which the nongovernmental party contracting with the public entity agrees to both design and build a structure, roadway or other item specified in the contract. In any action which shall arise under this section, the court may assess a civil penalty not to exceed five hundred dollars (\$500) to be paid by the public entity.

67-2321. CHANGE OF NAME OF TAXING DISTRICT -- HEARING -- ELECTION -- EXCEPTIONS.

(1) Whenever the governing body of a taxing district, by a majority vote of its members, adopts a proposal to change the name of the district, it shall be the duty of such body to conduct at least one (1) public hearing on the proposal and to give notice of the hearing. At least fifteen (15) days prior to the hearing, notice of the time and place and a copy of the proposal of the name change shall be published in the official newspaper or paper of general circulation within the jurisdiction. The governing body may also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement.

(2) At the hearing, if it shall satisfactorily appear to the governing body that no good cause exists to deny the proposal for change of name, the governing body may adopt a resolution effecting the name change in the same form as was presented in the proposal on which the hearing was conducted. Such resolution shall also specify the date of organization of the district and its present name.

If a petition signed by ten percent (10%) of the qualified electors of the taxing district is presented in opposition to the proposed name change, the governing body of the taxing district shall submit the question to the electors of the district in accordance with the provisions of [chapter 14, title 34](#), Idaho Code. If a majority of votes cast on the question of changing the name of the district are in favor of the name change, the governing body of the taxing district shall adopt a resolution effecting that change, specifying the date of organization of the district and its present name.

(3) No resolution for change of the name of a taxing district shall be effective until a certified copy of the resolution has been filed with the state tax commission and with the county recorder of each county in which the jurisdiction is situated.

(4) Any change of name under the provisions of this section shall not affect any of the rights, property or obligations of said taxing district.

(5) The provisions of this section shall not apply to any city, county or school district, nor to any taxing district for which provision for change of name is otherwise provided by law.

67-2326. JOINT ACTION BY PUBLIC AGENCIES -- PURPOSE. It is the purpose of this act to permit the state and public agencies to make the most efficient use of their powers by enabling them to cooperate to their mutual advantage and thereby provide services and facilities and perform functions in a manner that will best accord with geographic, economic, population, and other factors influencing the needs and development of the respective entities.

67-2327. DEFINITIONS. "Public agency" means any city or political subdivision of this state, including, but not limited to counties; school districts; highway districts; and port authorities; instrumentalities of counties, cities or any political subdivision created under the laws of the state of Idaho; any agency of the state government; and any city or political subdivision of another state.

"State" means a state of the United States and the District of Columbia.

67-2328. JOINT EXERCISE OF POWERS.

(a) Any power, privilege or authority, authorized by the Idaho Constitution, statute or charter, held by the state of Idaho or a public agency of said state, may be exercised and enjoyed jointly with the state of Idaho or any other public agency of this state having the same powers, privilege or authority; but never beyond the limitation of such powers, privileges or authority; and the state or public agency of the state, may exercise such powers, privileges and authority jointly with the United States, any other state, or public agency of any of them, to the extent that the laws of the United States or sister state, grant similar powers, privileges or authority, to the United States and its public agencies, or to the sister state and its public agencies; and provided the laws of the United States or a sister state allow such exercise of joint power, privilege or authority. The state or any public agency thereof when acting jointly with another public agency of this state may exercise and enjoy the power, privilege and authority conferred by this act; but nothing in this act shall be construed to extend the jurisdiction, power, privilege or authority of the state or public

agency thereof, beyond the power, privilege or authority said state or public agency might have if acting alone.

(b) Any state or public agency may enter into agreements with one another for joint or cooperative action which includes, but is not limited to, joint use, ownership and/or operation agreements pursuant to the provisions of this act. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of these participating public agencies shall be necessary before any such agreement may enter into force.

(c) Any such agreement shall specify the following:

(1) Its duration.

(2) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created.

(3) Its purpose or purposes.

(4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor.

(5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.

(6) Any other necessary and proper matters.

(d) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (1), (3), (4), (5), and (6) of subsection (c) of this section, contain the following:

(1) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented.

(2) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

(3) No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, said performances may be offered in satisfaction of the obligation or responsibility.

67-2329. AGREEMENT FILED WITH SECRETARY OF STATE -- CONSTITUTIONALITY -- ENFORCEABLE IN COURTS -- RECIPROCITY. Prior to its becoming binding, any agreement made pursuant to this act between two (2) or more states or between two (2) or more public agencies of two (2) or more states shall be filed with the secretary of state, who shall require an opinion of the attorney general that such agreement does not violate the provisions of the Constitution of the United States, or the Idaho Constitution and statutes. Such opinion shall be rendered within thirty (30) days from the date of request by the secretary of state

and submitted to the secretary and interested parties. Failure to render such opinion within such time shall be considered as approval by the attorney general. Upon receiving an opinion that the agreement is constitutional the secretary shall notify the agreeing parties and the agreement shall be in full force and effect from the date of such notice, provided, that such agreement shall not be enforced by the courts of this state unless the state of Idaho or public agency thereof is provided due process for enforcement in the courts of the United States or a sister state. In the event of action on any such agreement, any state or public agency joined in such action not a real party in interest, may seek damages incurred by it because of such joinder against any proper party to the action.

67-2330. APPROVAL OF APPROPRIATE STATE OFFICER OR AGENCY. In the event that an agreement made pursuant to this act shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction. Failure to disapprove an agreement submitted hereunder within thirty (30) days of its submission shall constitute approval thereof.

67-2331. FUNDS -- PROPERTY -- PERSONNEL -- SERVICES. Any public agency entering into an agreement pursuant to this act may appropriate funds and may sell, lease, give, or otherwise supply public property to the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.

67-2332. INTERAGENCY CONTRACTS. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform, including, but not limited to joint contracting for services, supplies and capital equipment, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties.

67-2333. POWERS OF AGENCIES NOT INCREASED OR DIMINISHED. Nothing in this act shall be interpreted to grant to any state or public agency thereof the power to increase or diminish the political or governmental power of the United States, the state of Idaho, a sister state, nor any public agency of any of them.

67-2334. "VOLUNTEER" DEFINED. For the purposes of this act, "volunteer" means any person who contributes his services in a program or service conducted or sponsored by any agency, department or unit of state government for which he receives no financial remuneration, except for reasonable and necessary expenses actually incurred in the course of his participation in the program.

67-2335. ACCEPTANCE OF VOLUNTEERS -- EXPENSES. No law of this state prohibits any agency, department or unit of state government from accepting volunteers for any program which it conducts or sponsors. The agency, department or unit of state government sponsoring the program or service may reimburse volunteers for reasonable and necessary expenses actually incurred in the course of their participation in those programs.

67-2336. QUALIFICATIONS OF VOLUNTEERS. Civil service law and requirements shall not apply to volunteers in any program conducted or sponsored by any agency, department or unit of state government. Requirements for volunteers are limited to requirements set by federal statute and to any requirements set by the agency, department or unit of state government sponsoring the program or service.

67-2337. EXTRATERRITORIAL AUTHORITY OF PEACE OFFICERS.

(1) As used in this section, "peace officer" shall mean a certified full-time paid employee of a police or law enforcement agency whose duties include and primarily consist of the prevention, investigation and detection of crime, and the enforcement of penal, traffic, or highway laws of this state or any political subdivision.

(2) All authority that applies to peace officers when performing their assigned functions and duties within the territorial limits of the respective city or political subdivisions, where they are employed, shall apply to them outside such territorial limits to the same degree and extent only when any one (1) of the following conditions exist:

(a) A request for law enforcement assistance is made by a law enforcement agency of said jurisdiction.

(b) The peace officer possesses probable cause to believe a crime is occurring involving a felony or an immediate threat of serious bodily injury or death to any person.

(c) When a peace officer is in fresh pursuit as defined in and pursuant to [chapter 7, title 19](#), Idaho Code.

(3) Subsection (2) of this section shall not imply that peace officers may routinely perform their law enforcement duties outside their jurisdiction in the course and scope of their employment.

(4) Cities or political subdivisions may enter into mutual assistance compacts with other cities or political subdivisions of this state or of states immediately adjacent. In the case of a mutual assistance compact between cities or political subdivisions, the original, employing agency shall be responsible for any liability arising from the acts of its employees participating in such compact. Any mutual assistance compact between a city or political subdivision of this state with a city or

political subdivision of any other state shall include a written statement of assumption of liability consistent with the requirements of this section.

(5) Circumstances surrounding any actual exercise of peace officer authority outside the territorial limits of the city, county, or political subdivision of their employment shall be reported, as soon as safety conditions allow, to the law enforcement agency having jurisdiction where the authority granted herein is exercised and the officer shall relinquish authority and control over any event to the authority having jurisdiction.

(6) The state of Idaho and its agencies or departments shall not be liable for the acts of police officers, other than its own employees, commissioned by the director of the Idaho state police, for acts done under a mutual assistance compact created under this section.

67-2338. EXTRATERRITORIAL BENEFITS OF PUBLIC OFFICERS. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, worker's compensation insurance, and other benefits that apply to the activity of officers, agents, or employees of any city or political subdivision, when performing their respective functions within the territorial limits of their respective cities or political subdivisions, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially.

67-2339. MUTUAL AID BY STATE AGENCIES. State agencies may provide mutual aid, including personnel, equipment, detention facilities, including the state penitentiary and other available resources, to assist cities or political subdivisions in accordance with mutual aid agreements or at the direction of the governor.

67-2348. PREFERENCE FOR IDAHO DOMICILED CONTRACTORS ON PUBLIC WORKS. To the extent permitted by federal laws and regulations, whenever the state of Idaho, or any department, division, bureau or agency thereof, or any city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood district, or other public body, shall let for bid any contract to a contractor for any public works, the contractor domiciled outside the boundaries of Idaho shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible contractor domiciled in Idaho as would be required for such an Idaho domiciled contractor to succeed over the bidding contractor domiciled outside Idaho on a like contract being let in his domiciliary state.

67-2349. PREFERENCE FOR IDAHO SUPPLIERS AND RECYCLED PAPER PRODUCTS FOR PURCHASES.

(1) To the extent permitted by federal laws and regulations, whenever the state of Idaho, or any department, division, bureau or agency thereof, or any city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood

district, or other public body, shall let for bid any contract for purchase of any materials, supplies, services or equipment, the bidder domiciled outside the boundaries of Idaho shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible bidder domiciled in Idaho as would be required for such an Idaho domiciled bidder to succeed over the bidder domiciled outside Idaho on a like contract being let in his domiciliary state.

For the purposes of this section, any bidder domiciled outside the boundaries of the state of Idaho may be considered as an Idaho domiciled bidder, provided that there exists for a period of one (1) year preceding the date of the bid a significant Idaho economic presence as defined herein. A significant economic presence shall consist of the following:

(a) That the bidder maintain in Idaho fully staffed offices, or fully staffed sales offices or divisions, or fully staffed sales outlets, or manufacturing facilities, or warehouses or other necessary related property; and

(b) If a corporation be registered and licensed to do business in the state of Idaho with the office of the secretary of state.

(2) In the evaluation of paper product bids, those items that meet recycled content standards may be given not more than a five percent (5%) purchasing preference. As such, those qualifying paper products may be considered to cost five percent (5%) less when choosing the lowest responsible bidder.

TITLE 67, CHAPTER 26
DEPARTMENT OF SELF-GOVERNING AGENCIES

67-2601.DEPARTMENT CREATED -- ORGANIZATION -- DIRECTOR -- BUREAU OF OCCUPATIONAL LICENSES CREATED.

(1) There is hereby created the department of self-governing agencies. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of the state government.

(2) The department shall consist of the following:

(a) Agricultural commodity commissions: Idaho apple commission, as provided by [chapter 36, title 22](#), Idaho Code; Idaho bean commission, as provided by [chapter 29, title 22](#), Idaho Code; Idaho beef council, as provided by [chapter 29, title 25](#), Idaho Code; Idaho cherry commission, as provided by [chapter 37, title 22](#), Idaho Code; Idaho dairy products commission, as provided by [chapter 31, title 25](#), Idaho Code; Idaho pea and lentil commission, as provided by [chapter 35, title 22](#), Idaho Code; Idaho potato commission, as provided by [chapter 12, title 22](#), Idaho Code; the Idaho wheat commission, as provided by [chapter 33, title 22](#), Idaho Code; the Idaho aquaculture commission, as provided by [chapter 44, title 22](#), Idaho Code; and the Idaho alfalfa and clover seed commission, as provided in [chapter 42, title 22](#), Idaho Code.

(b) Professional and occupational licensing boards: Idaho state board of accountancy, as provided by [chapter 2, title 54](#), Idaho Code; board of acupuncture, as provided by [chapter 47, title 54](#), Idaho Code; board of architectural examiners, as provided by [chapter 3, title 54](#), Idaho Code; state athletic commission, as provided by [chapter 4, title 54](#), Idaho Code; board of barber examiners, as provided by [chapter 5, title 54](#), Idaho Code; board of commissioners of the Idaho state bar, as provided by [chapter 4, title 3](#), Idaho Code; board of chiropractic physicians, as provided by [chapter 7, title 54](#), Idaho Code; Idaho board of cosmetology, as provided by [chapter 8, title 54](#), Idaho Code; Idaho state licensing board of professional counselors and marriage and family therapists, as provided by [chapter 34, title 54](#), Idaho Code; state board of dentistry, as provided by [chapter 9, title 54](#), Idaho Code; state board of dentistry, as provided by [chapter 33, title 54](#), Idaho Code; Idaho board of licensure of professional engineers and professional land surveyors, as provided by [chapter 12, title 54](#), Idaho Code; state board of registration for professional geologists, as provided by [chapter 28, title 54](#), Idaho Code; speech and hearing services licensure board, as provided by [chapter 29, title 54](#), Idaho Code; Idaho physical therapy licensure board, as provided by [chapter 22, title 54](#), Idaho Code; Idaho state board of landscape architects, as provided by [chapter 30, title 54](#), Idaho Code; liquefied petroleum gas safety board, as provided by [chapter 53, title 54](#), Idaho Code; state board of medicine, as provided by [chapter 18, title 54](#), Idaho Code; state board of morticians, as provided by [chapter 11, title 54](#), Idaho Code; board of naturopathic medical examiners, as provided by [chapter 51, title 54](#), Idaho Code; board of nursing, as provided by [chapter 14, title 54](#), Idaho Code; board of examiners of nursing home administrators, as provided by [chapter 16, title 54](#), Idaho Code; state board of optometry, as provided by [chapter 15, title 54](#), Idaho Code; Idaho outfitters and guides licensing board, as provided by [chapter 21, title 36](#), Idaho Code; board of pharmacy, as provided by [chapter 17, title 54](#), Idaho Code; state board of podiatry, as provided by [chapter 6, title 54](#), Idaho Code; Idaho state board of psychologist examiners, as provided by [chapter 23, title 54](#), Idaho Code; Idaho real estate commission, as provided by [chapter 20, title 54](#), Idaho Code; real estate appraiser board, as provided by [chapter 41, title 54](#), Idaho Code; board of social work examiners, as provided by

[chapter 32, title 54](#), Idaho Code; the board of veterinary medicine, as provided by [chapter 21, title 54](#), Idaho Code; the board of examiners of residential care facility administrators, as provided by [chapter 42, title 54](#), Idaho Code; the certified shorthand reporters board, as provided by [chapter 31, title 54](#), Idaho Code; the driving businesses licensure board, as provided by [chapter 54, title 54](#), Idaho Code; the board of drinking water and wastewater professionals, as provided by [chapter 24, title 54](#), Idaho Code; and the board of midwifery, as provided by [chapter 55, title 54](#), Idaho Code.

(c) The board of examiners, pursuant to section [67-2001](#), Idaho Code.

(d) The division of building safety: building code board, [chapter 41, title 39](#), Idaho Code; electrical board, [chapter 10, title 54](#), Idaho Code; public works contractors license board, [chapter 19, title 54](#), Idaho Code; plumbing board, [chapter 26, title 54](#), Idaho Code; public works construction management, [chapter 45, title 54](#), Idaho Code; the heating, ventilation and air conditioning board, [chapter 50, title 54](#), Idaho Code; and factory built structures advisory board, [chapter 43, title 39](#), Idaho Code.

(e) The division of veterans services to be headed by a division administrator who shall be a nonclassified employee exempt from the provisions of [chapter 53, title 67](#), Idaho Code. The administrator of the division shall administer the provisions of [chapter 2, title 65](#), Idaho Code, and [chapter 9, title 66](#), Idaho Code, with the advice of the veterans affairs commission established under [chapter 2, title 65](#), Idaho Code, and shall perform such additional duties as are imposed upon him by law.

(f) The board of library commissioners, pursuant to section [33-2502](#), Idaho Code.

(g) The Idaho state historical society, pursuant to section [67-4123](#), Idaho Code.

(h) The state public defense commission, pursuant to section [19-849](#), Idaho Code.

(3) The bureau of occupational licenses is hereby created within the department of self-governing agencies.

TITLE 67, CHAPTER 28
PURCHASING BY POLITICAL SUBDIVISIONS

67-2801. LEGISLATIVE INTENT. Efficient and cost-effective procurement of goods, services and public works construction is an important aspect of local government operations. Local public agencies should endeavor to buy goods, services and public works construction by way of a publicly accountable process that respects the shared goals of economy and quality. Political subdivisions of the state shall endeavor to purchase goods and services from vendors with a significant Idaho economic presence.

67-2802. APPLICABILITY. The provisions of this chapter establish procurement requirements for all political subdivisions of the state of Idaho. The public works construction procurement process set forth in this chapter shall function in a complementary manner with the public works contractors license board and the procedures which that board administers. Any general procurement procedures set forth in this chapter shall be supplemented by the provisions of any specific statute pertaining to the awarding of any contract for the purchase or acquisition of any service, commodity or thing made expressly applicable to any particular political subdivision or by means of any additional administrative process that otherwise establishes additional express requirements. No provisions of this chapter shall be deemed to preclude the use of procurement procedures otherwise authorized by law.

67-2803. EXCLUSIONS.

The procurement requirements established in this chapter shall not be applicable to:

- (1) The acquisition of personal property when the procurement duplicates the price and substance of a contract for like goods or services that has been competitively bid by the state of Idaho, one (1) of its political subdivisions, or an agency of the federal government;
- (2) Contracts or purchases wherein expenditures are less than twenty-five thousand dollars (\$25,000), provided such contracts or purchases shall be guided by the best interests of the political subdivision procuring the goods and services as determined by the governing board;
- (3) Disbursement of wages or compensation to any employee, official or agent of a political subdivision for the performance of personal services for the political subdivision;
- (4) Procurement of personal or professional services to be performed by an independent contractor for the political subdivision;
- (5) Procurement of an interest in real property;
- (6) Procurement of insurance;
- (7) Costs of participation in a joint powers agreement with other units of government;
- (8) Procurement of used personal property by irrigation districts, drainage districts and their boards of control;
- (9) Federal government general services administration (GSA) schedules or federal multiple award schedules (MAS); or
- (10) The acquisition of personal property or services through contracts entered into by the division of purchasing of the department of administration of the state of Idaho.

67-2804. WAIVER.

(1) Whenever the provisions of this chapter require a public works contractor's license to bid upon a public construction project, such requirement shall be deemed waived whenever federal law prohibits requiring licensure as a precondition for submitting a bid.

(2) Nothing in this section shall be deemed to prohibit a political subdivision from performing construction or repair work on the political subdivision's own facilities.

(3) Whenever this chapter provides time limits for objection or appeal, any objection or appeal not perfected within such time limitations shall be deemed to constitute a waiver of any rights to raise such objection or appeal thereafter.

67-2805. PROCUREMENT OF PUBLIC WORKS CONSTRUCTION.

(1) For any contemplated public works construction project with an estimated total cost of less than fifty thousand dollars (\$50,000), where the political subdivision determines that there may be a lack of available licensed contractors, a political subdivision may publish a notice of intent to procure in its official newspaper, concurrently sending such notice to the public works contractors license board, in order to solicit statements of interest from licensed public works contractors to determine whether one (1) or more licensed contractors is interested in submitting bids. Such notice of intent to procure shall be provided by the same means required for published solicitation of competitive bids and shall contain essentially the same information as such published notice. If no licensed public works contractor submits a statement of interest, the political subdivision may purchase public works construction from other than a licensed public works contractor by using the same procurement procedures otherwise specified herein.

(2) When a political subdivision contemplates an expenditure to procure public works construction valued in excess of twenty-five thousand dollars (\$25,000) but not to exceed one hundred thousand dollars (\$100,000), the procurement procedures of this subsection (2) shall apply:

(a) The solicitation for bids for the public works construction to be performed shall be supplied to no fewer than three (3) owner-designated licensed public works contractors by written means, either by electronic or physical delivery. The solicitation shall describe the construction work to be completed in sufficient detail to allow an experienced public works contractor to understand the construction project the political subdivision seeks to build.

(b) The solicitation for bids shall describe the electronic or physical delivery method or methods authorized to submit a bid, the date and time by which a bid proposal must be received by the clerk, secretary or other authorized official of the political subdivision, and shall provide a reasonable time to respond to the solicitation, provided that except in the event of an emergency, such time shall not be less than three (3) business days.

(c) Written objections to specifications or bid procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least one (1) business day before the date and time upon which bids are scheduled to be received.

(d) When written bids have been received, by either physical or electronic delivery, they shall be submitted to the governing board or governing board-authorized official which shall approve the responsive bid proposing the lowest procurement price or reject all bids and publish notice for bids, as before.

(e) If the political subdivision finds that it is impractical or impossible to obtain three (3) bids for the proposed public works procurement, the political subdivision may acquire the work in any manner the political subdivision deems best from a qualified public works contractor quoting the lowest price. When fewer than three (3) bids are considered, a description of the efforts undertaken to procure at least three (3) bids shall be documented by the political subdivision and such documentation shall be maintained for at least six (6) months after the procurement decision is made. If two (2) or more price quotations offered by different licensed public works contractors are the same and the lowest responsive bids, the governing board or governing-board authorized official may accept the one (1) it chooses.

(3) When a political subdivision contemplates an expenditure to purchase public works construction valued in excess of one hundred thousand dollars (\$100,000), the procurement procedures of this subsection (3) shall apply. The purchase of construction services shall be made pursuant to a competitive sealed bid process with the purchase to be made from the qualified public works contractor submitting the lowest bid price complying with bidding procedures and meeting the prequalifications, if any are provided, established by the bid documents. Competitive bidding for public works may proceed through either of two (2) alternative procedures as set forth below:

(a) Category A. Competitive bidding procedures shall be open to receipt of bids from any licensed public works contractor desiring to bid upon a public works project. For a category A bid, the political subdivision may only consider the amount bid, bidder compliance with administrative requirements of the bidding process, and whether the bidder holds the requisite license, and shall award the bid to the qualified bidder submitting the lowest responsive bid.

(i) The request for bids for a category A procurement shall set a date and place for the public opening of bids. Two (2) notices soliciting bids shall be published in the official newspaper of the political subdivision. The first notice shall be published at least two (2) weeks before the date for opening bids, with the second notice to be published in the succeeding week at least seven (7) days before the date that bids are scheduled to be opened. The notice shall succinctly describe the project to be constructed. Copies of specifications, bid forms, bidder's instructions, contract documents, and general and special instructions shall be made available upon request and payment of a reasonable plan copy fee by any interested bidder.

(ii) Written objections to specifications or bidding procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least three (3) business days before the date and time upon which bids are scheduled to be opened. The administrative officer or governing board supervising the bidding process shall respond to any such objection in writing and communicate such response to the objector and all other plan holders, adjusting bidding timeframes if necessary.

(iii) All bids shall be presented or otherwise delivered under sealed cover to the clerk of the political subdivision or other authorized agent of the political subdivision designated by the information provided to bidders by the political subdivision with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains.

(iv) If the political subdivision deems it is in the political subdivision's best interest, it may require the bidder to provide bid security in an amount equal to at least five percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is enclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the political subdivision. The political subdivision may require that the bid security be in one (1) of the following forms:

(A) Cash;
(B) A cashier's check made payable to the political subdivision;
(C) A certified check made payable to the political subdivision; or
(D) A bidder's bond executed by a qualified surety company, made payable to the political subdivision.

(v) Any bid received by the political subdivision may not be withdrawn after the date and time set in the notice for opening of bids. When sealed bids have been received, they shall be opened in public at a designated place and time, thereafter to be compiled and submitted to the governing board for award.

(vi) If the successful bidder fails to execute the contract, the amount of his bidder's security may be forfeited to the political subdivision at the sole discretion of the political subdivision and the proceeds shall be deposited in a designated fund out of which the expenses of procuring substitute performance are paid.

(vii) The political subdivision may, on the refusal or failure of the successful bidder to execute the contract, award the contract to the qualified bidder submitting the next lowest responsive bid. If the governing board awards the contract to the next lowest qualified bidder, the amount of the lowest qualified bidder's security may be applied by the political subdivision to the difference between the lowest responsive bid and the next lowest responsive bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used, less reasonable administrative costs not to exceed twenty-five percent (25%) of the amount of the bidder's security to the owner.

(viii) In its discretion, the governing board may reject all bids presented and re-bid, or the governing board may, after finding it to be a fact, pass a resolution declaring that the project sought to be accomplished by the expenditure can be performed more economically by purchasing goods and services on the open market. If identical bids are received, the governing board may choose the bidder it prefers. If no bids are received, the governing board may procure the goods or services without further competitive bidding procedures.

(ix) If the governing board of any political subdivision chooses to award a competitively bid contract involving the procurement of public works construction to a bidder other than the apparent low bidder, the political subdivision shall declare its reason or reasons on

the record and shall communicate such reason or reasons in writing to all persons who have submitted a competing bid.

(x) If any participating bidder objects to such award, such bidder shall respond in writing to the notice from the political subdivision within seven (7) calendar days of the date of transmittal of the notice, setting forth in such response the express reason or reasons that the award decision of the governing board is in error. Thereafter, staying performance of any procurement until after addressing the contentions raised by the objecting bidder, the governing board shall review its decision and determine whether to affirm its prior award, modify the award, or choose to re-bid, setting forth its reason or reasons therefor. After completion of the review process, the political subdivision may proceed as it deems to be in the public interest.

(b) Category B. Competitive bidding procedures shall be open to licensed public works contractors only after meeting preliminary supplemental qualifications established by the political subdivision. The solicitation for bids in a category B procurement shall consist of two (2) stages, an initial stage determining supplemental prequalifications for licensed contractors, either prime or specialty contractors, followed by a stage during which bid prices will be accepted only from prequalified contractors.

(i) Notice of the prequalification stage of the category B competitive bidding process shall be given in the same manner that notice of competitive bidding is provided for a category A competitive bid request, providing a specific date and time by which qualifications statements must be received. Political subdivisions may establish prequalification standards premised upon demonstrated technical competence, experience constructing similar facilities, prior experience with the political subdivision, 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. Such request must include the standards for evaluating the qualifications of prospective bidders.

(ii) During the initial stage of the category B bidding process, licensed contractors desiring to be prequalified to bid on a project must submit a written response to a political subdivision's request for qualifications.

(iii) Written objections to prequalification procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least three (3) business days before the date and time upon which prequalification statements are due. The administrative officer or governing board supervising the bidding process shall respond to any such objection in writing and communicate such response to the objector and all other contractors seeking to prequalify, adjusting bidding timeframes if necessary. After a review of qualification submittals, the political subdivision may select licensed contractors that meet the prequalification standards. If any licensed contractor submits a statement of qualifications but is not selected as a qualified bidder, the political subdivision shall supply a written statement of the reason or reasons why the contractor failed to meet prequalification standards.

(iv) Any licensed contractor that fails the prequalification stage can appeal any such determination to the governing board within seven (7) days after transmittal of the

prequalification results to contest the determination. If the governing board sustains the decision that a contractor fails to meet prequalification standards, it shall state its reason or reasons for the record. A governing board decision concerning prequalification may be appealed to the public works contractors license board no more than fourteen (14) days following any decision on appeal made by the governing board. The public works contractors license board shall decide any such appeal within thirty-five (35) days of the filing of a timely appeal. The public works contractors license board shall allow participation, written or oral, by the appealing contractor and the political subdivision, either by employing a hearing officer or otherwise. The public works contractors license board shall not substitute its judgment for that of the political subdivision, limiting its review to determining whether the decision of the governing board is consistent with the announced prequalification standards, whether the prequalification standards comport with the law and whether the governing board's decision is supported by the entirety of the record. The decision of the public works contractors license board shall be written and shall state the reason or reasons for the decision. Category B prequalification procedures that are appealed shall be stayed during the pendency of the prequalification appeal until the public works contractors license board completes its review, but in no instance more than forty-nine (49) days after the appellate decision of the governing board regarding prequalification. Any licensed public works contractor affected by a decision on appeal by the public works contractors license board may, within twenty-eight (28) days of the final decision, seek judicial review as provided by [chapter 52, title 67](#), Idaho Code.

(v) Following the conclusion of the prequalification administrative procedures, the bidding stage shall proceed by the setting of a time, date and place for the public opening of bids. In circumstances involving prequalified prime contractors, a notice soliciting bids shall be transmitted to prequalified bidders at least fourteen (14) days before the date of opening the bids. In circumstances involving prequalified specialty or subordinate contractors, the notice soliciting bids shall be published in the same manner applicable to category A bids. The notice shall succinctly describe the project to be constructed. Copies of specifications, bid forms, bidder's instructions, contract documents, and general and special instructions shall be made available upon request and payment of a reasonable plan copy fee by any eligible bidder.

(vi) Written objections to specifications or bidding procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least three (3) business days before the date and time upon which bids are scheduled to be opened.

(vii) All category B bids shall be presented or otherwise delivered under sealed cover to the clerk or other authorized agent of the political subdivision designated by the instructions to bidders with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains.

(viii) If the political subdivision deems it is in the political subdivision's best interest, it may require the bidder to provide bid security in an amount equal to at least five percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is enclosed with it, and unless the bid is submitted in a form which substantially complies

with the form provided by the political subdivision. The political subdivision may require that the bid security be in one (1) of the following forms:

- (A) Cash;
- (B) A cashier's check made payable to the political subdivision;
- (C) A certified check made payable to the political subdivision; or
- (D) A bidder's bond executed by a qualified surety company, made payable to

the political subdivision.

(ix) Any category B bid received by a political subdivision may not be withdrawn after the date and time set in the notice for opening of bids. When sealed bids have been received, they shall be opened in public at a designated place and time, thereafter to be compiled and submitted to the governing board for award. If identical bids are received, the governing board may choose the bidder it prefers. If the successful bidder fails to execute the contract, the amount of his bidder's security may be forfeited to the political subdivision, in the sole discretion of the political subdivision, and the proceeds shall be deposited in a designated fund out of which the expenses for procuring substitute performance are paid.

(x) The political subdivision may, on the refusal or failure of the successful bidder to execute the contract, award the contract to the qualified bidder submitting the next lowest responsive bid. If the governing board awards the contract to the next lowest qualified bidder, the amount of the lowest qualified bidder's security, if forfeited, shall be applied by the political subdivision to the difference between the lowest responsive bid and the next lowest responsive bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used, less reasonable administrative costs not to exceed twenty-five percent (25%) of the amount of the bidder's security.

(xi) In its discretion, the governing board may reject all bids presented and re-bid, or the governing board may, after finding it to be a fact, pass a resolution declaring that the project sought to be accomplished by the expenditure can be performed more economically by purchasing goods and services on the open market. If no bids are received, the governing board may make the expenditure without further competitive bidding procedures.

(xii) If the governing board of any political subdivision chooses to award a competitively bid contract involving the procurement of public works construction to a bidder other than the apparent low bidder, the political subdivision shall declare its reason or reasons on the record and shall communicate such reason or reasons in writing to all persons who have submitted a competing bid.

(xiii) If any participating bidder objects to such award, such bidder shall respond in writing to the notice from the political subdivision within seven (7) calendar days of the date of transmittal of the notice, setting forth in such response the express reason or reasons that the award decision of the governing board is in error. Thereafter, staying performance of any procurement until after addressing the contentions raised by the objecting bidder, the governing board shall review its decision and determine whether to affirm its prior award, modify the award, or choose to re-bid, setting forth its reason or reasons therefor. After completion of the review process, the political subdivision may proceed as it deems to be in the public interest.

67-2806. PROCURING SERVICES OR PERSONAL PROPERTY.

(1) When a political subdivision contemplates an expenditure to purchase or lease personal property or to procure services, other than those services excluded pursuant to section [67-2803](#), Idaho Code, valued in excess of twenty-five thousand dollars (\$25,000) but not to exceed fifty thousand dollars (\$50,000), the procurement procedures of this subsection (1) shall apply.

(a) The solicitation for bids shall be supplied to no fewer than three (3) vendors by written means, either by electronic or physical delivery. The solicitation shall describe the personal property or services to be purchased or leased in sufficient detail to allow a vendor dealing in such goods or services to understand what the political subdivision seeks to procure.

(b) The solicitation for bids shall describe the electronic or physical delivery method or methods authorized to submit a bid, the date and time by which a bid proposal must be received by the clerk, secretary or other authorized official of the political subdivision, and shall provide a reasonable time to respond to the solicitation, provided that except in the event of an emergency, such time shall not be less than three (3) business days.

(c) Written objections to specifications or bid procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least one (1) business day before the date and time upon which bids are scheduled to be received.

(d) When written bids have been received, by either physical or electronic delivery, they shall be compiled and submitted to the governing board or governing board-authorized official which shall approve the responsive bid proposing the lowest procurement price or reject all bids and publish notice for bids, as before.

(e) If the political subdivision finds that it is impractical or impossible to obtain three (3) bids for the proposed procurement, the political subdivision may acquire the property in any manner the political subdivision deems best from a qualified vendor quoting the lowest price. When fewer than three (3) bids are considered, a description of the efforts undertaken to procure at least three (3) bids shall be documented by the political subdivision and such documentation shall be maintained for at least six (6) months after any such procurement is made. If two (2) or more price quotations are the same and the lowest responsive bids, the authorized decision maker may accept the one (1) it chooses.

(2) When a political subdivision contemplates an expenditure to purchase or lease personal property or to procure services, other than those services excluded pursuant to section [67-2803](#), Idaho Code, valued in excess of fifty thousand dollars (\$50,000), the procurement procedures of this subsection (2) shall apply.

(a) The purchase or lease shall be made pursuant to an open competitive sealed bid process with the procurement to be made from the qualified bidder submitting the lowest bid price complying with bidding procedures and meeting the specifications for the goods and/or services sought to be procured.

(b) The request for bids shall set a date, time and place for the opening of bids. Two (2) notices soliciting bids shall be published in the official newspaper of the political subdivision. The

first notice shall be published at least two (2) weeks before the date for opening bids, with the second notice to be published in the succeeding week at least seven (7) days before the date that bids are scheduled to be opened. The notice shall succinctly describe the personal property and/or service to be procured. Copies of specifications, bid forms, bidder's instructions, contract documents, and general and special instructions shall be made available upon request by any interested bidder.

(c) Written objections to specifications or bidding procedures must be received by the clerk, secretary or other authorized official of the political subdivision at least three (3) business days before the date and time upon which bids are scheduled to be opened.

(d) If the political subdivision deems it is in the political subdivision's best interest, it may require the bidder to provide bid security in an amount equal to at least five percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is enclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the political subdivision. The political subdivision may require that the bid security be in one (1) of the following forms:

- (i) Cash;
- (ii) A cashier's check made payable to the political subdivision;
- (iii) A certified check made payable to the political subdivision; or
- (iv) A bidder's bond executed by a qualified surety company, made payable to the political subdivision.

(e) Any bid received by the political subdivision may not be withdrawn after the time set in the notice for opening of bids. When sealed bids have been received, they shall be opened in public at a designated place and time, thereafter to be compiled and submitted to the governing board.

(f) If the successful bidder fails to execute the contract, the amount of his bidder's security may be forfeited to the political subdivision at the sole discretion of the governing board and thereafter the proceeds may be deposited in a designated fund out of which the reasonable expenses for procuring substitute performance are paid.

(g) The political subdivision may, on the refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest qualified bidder. If the governing board awards the contract to the next lowest qualified bidder, the amount of the lowest qualified bidder's security may be applied by the political subdivision to the difference between the lowest responsive bid and the next lowest responsive bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used, less reasonable administrative costs not to exceed twenty-five percent (25%) of the amount of the bidder's security.

(h) In its discretion, the governing board may reject all bids presented and re-bid, or the governing board may, after finding it to be a fact, pass a resolution declaring that the subject goods or services can be procured more economically on the open market. If two (2) or more bids are the same and the lowest responsive bids, the governing board may accept the one (1) it chooses. In its

discretion, the governing board of a political subdivision may preauthorize the purchase of equipment at a public auction.

(i) If the governing board of any political subdivision chooses to award a competitively bid contract involving the procurement of personal property or services to a bidder other than the apparent low bidder, the political subdivision shall declare its reason or reasons on the record and shall communicate such reason or reasons in writing to all who have submitted a competing bid.

(j) If any participating bidder objects to such award, such bidder shall respond in writing to the notice from the political subdivision within seven (7) calendar days of the date of transmittal of the notice, setting forth in such response the express reason or reasons that the award decision of the governing board is in error. Thereafter, staying performance of any procurement until after addressing the contentions raised by the objecting bidder, the governing board shall review its decision and determine whether to affirm its prior award, modify the award, or choose to re-bid, setting forth its reason or reasons therefor. After completion of the review process, the political subdivision may proceed as it deems to be in the public interest.

67-2807. JOINT PURCHASING AGREEMENTS -- NOT-FOR-PROFIT ASSOCIATIONS.

(1) Political subdivisions may enter into joint purchasing agreements with the state of Idaho or other political subdivisions and may participate in joint purchasing agreements through a joint purchase program established by any not-for-profit association of political subdivisions. Personal property procured pursuant to such joint purchase agreements shall be acquired in accordance with the provisions of this chapter, provided such authority does not preclude or limit political subdivisions from entering into purchase agreements as otherwise provided by statute.

(2) Political subdivisions may participate in a program established by any not-for-profit association of which they become a member to assist such political subdivisions in bidding and negotiating joint purchase contracts and discount purchase agreements. Participation in any such program does not obligate a political subdivision to purchase goods or services through the program or through an agreement negotiated by the program administrator or its board. Political subdivisions shall only be obligated to pay for goods or services where the governing board has approved the purchase. Any not-for-profit association operating such a procurement program shall cause an independent, certified audit of the program to be performed annually. The audit shall be made available to the legislature upon request and a copy shall be made available for public inspection.

67-2808. EMERGENCY EXPENDITURES -- SOLE SOURCE EXPENDITURES.

(1) Emergency expenditures.

(a) The governing board of a political subdivision may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money if:

(i) There is a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster;

(ii) It is necessary to do emergency work to prepare for the national or local defense;

or

(iii) It is necessary to do emergency work to safeguard life, health or property.

(b) Upon making the declaration of emergency, any sum required in the emergency may be expended without compliance with formal bidding procedures.

(2) Sole source expenditures.

(a) The governing board of a political subdivision may declare that there is only one (1) vendor if there is only one (1) vendor for the public works construction, services or personal property to be acquired. For purposes of this subsection, only one (1) vendor shall refer to situations where there is only one (1) source reasonably available and shall include, but not be limited to, the following situations:

(i) Where public works construction, services or personal property is required to respond to a life-threatening situation or a situation which is immediately detrimental to the public welfare or property;

(ii) Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration;

(iii) Where a sole supplier's item is needed for trial use or testing;

(iv) The purchase of mass-produced movies, videos, books or other copyrighted materials;

(v) The purchase of public works construction, services or personal property for which it is determined there is no functional equivalent;

(vi) The purchase of public utility services;

(vii) The purchase of products, merchandise or trademarked goods for resale at a political subdivision facility; or

(viii) Where competitive solicitation is impractical, disadvantageous or unreasonable under the circumstances.

(b) Upon making the declaration that there is only one (1) vendor for public works construction, services or personal property, unless the public works construction, services or personal property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source procurement shall be published in the official newspaper of the political subdivision at least fourteen (14) calendar days prior to the award of the contract.

67-2809. LEGISLATIVE INTENT -- PUBLIC WORKS -- AGREEMENTS -- SAVINGS -- SEVERABILITY.

(1) It is the intent of the legislature to provide for the efficient and cost-effective procurement of goods and services by political subdivisions as market participants.

(2) Notwithstanding any other provision found in [chapter 10, title 44](#), Idaho Code, [chapter 28, title 67](#), Idaho Code, and [chapter 57, title 67](#), Idaho Code, the following shall apply:

(a) This act shall be known as the "Open Access to Work Act."

(b) For purposes of this section, the following terms have the following meanings:

(i) "Political subdivision" means the state of Idaho, or any county, city, school district, sewer district, fire district or any other taxing subdivision or district of any public or quasi-public corporation of the state, or any agency thereof, or with any other public board, body, commission, department or agency, or officer or representative thereof;

(ii) "Public works" shall have the same meaning as that provided for "public works construction" in section [54-1901](#), Idaho Code.

(c) (i) Except as provided in subsection (2)(c)(ii) of this section or as required by federal or state law, the state or any political subdivision that contracts for the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works shall not require that a contractor, subcontractor, material supplier or carrier engaged in the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works pay its employees:

1. A predetermined amount of wages or wage rate; or
2. A type, amount or rate of employee benefits.

(ii) Subsection (2)(c)(i) of this section shall not apply when federal law requires the payment of prevailing or minimum wages to persons working on projects funded in whole or in part by federal funds.

(d) The state or any political subdivision that contracts for the construction, alteration, equipping, furnishing, maintenance, repair or improvement of public works or obligates funds pursuant to such a contract shall ensure that neither the awarding governmental entity nor any construction manager acting on the governmental entity's behalf shall:

(i) In its bid documents, specifications, project agreements or other controlling documents for a public works construction contract, require or prohibit bidders, offerors, contractors, subcontractors or material suppliers to enter into or adhere to prehire agreements, project labor agreements, collective bargaining agreements or any other agreement with one (1) or more labor organizations on the same or other related construction projects; or

(ii) Discriminate against, or treat differently, bidders, offerors, contractors, subcontractors or material suppliers for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one (1) or more labor organizations on the same or other related construction projects.

Nothing in subsection (2)(d) of this section shall prohibit bidders, offerors, contractors, subcontractors or material suppliers from voluntarily entering into agreements described in subparagraph (i) of this paragraph.

(e) Any interested party, which shall include a bidder, offeror, contractor, subcontractor or taxpayer, shall have standing to challenge any bid award, specification, project agreement, controlling document, grant or cooperative agreement that violates the provisions of

this section, and such interested party shall be awarded costs and attorney's fees in the event that such challenge prevails.

(f) The provisions of this section apply to any contract executed after the effective date of this act.

(3) This act does not prohibit or interfere with the rights of employers or other parties to enter into agreements or engage in any other activity protected by the national labor relations act, 29 U.S.C. section 151, et seq.

(4) The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

**TITLE 67, CHAPTER 52
IDAHO ADMINISTRATIVE PROCEDURE ACT**

67-5203. PUBLICATION OF ADMINISTRATIVE BULLETIN.

(1) All documents required or authorized in this chapter or by other provision of law to be published shall initially be published electronically in the bulletin. The bulletin shall be published electronically by the administrative rules coordinator not less frequently than the first Wednesday of each calendar month, but not more frequently than every other week.

(2) The bulletin shall contain all previously unpublished documents filed with the coordinator in compliance with a publication schedule established by the coordinator.

(3) Each issue of the bulletin shall contain a table of contents. A cumulative index shall be published at least every three (3) months.

(4) The following documents, if not required to be otherwise published, shall be published in the bulletin:

(a) All executive orders of the governor;

(b) Agency notices of intent to promulgate rules, notices of proposed rules, and the text of all proposed and pending rules, together with any explanatory material supplied by the agency;

(c) All agency documents required by law to be published in the bulletin; and

(d) Any legislative documents affecting a final agency rule

(5) The text of all documents published electronically in the bulletin shall be the official text of that document until the document has been published in the administrative code. Judicial notice shall be taken of all documents published electronically in the bulletin.

67-5204. PUBLICATION OF ADMINISTRATIVE CODE.

(1) The administrative rules coordinator shall every year publish electronically a publication to be known as the "Idaho Administrative Code."

(2) The administrative code shall be a codification of:

(a) All executive orders of the governor that have been published in the bulletin and have not been rescinded;

(b) The text of all final rules;

(c) Any legislative documents affecting a final agency rule; and

(d) All documents required by law to be published in the administrative code.

(3) The text of all documents published electronically in the administrative code shall be the official text of that document. Judicial notice shall be taken of all documents published electronically in the administrative code.

67-5205. FORMAT -- COSTS -- DISTRIBUTION -- FUNDS.

(1) The administrative code and the permanent supplements thereto shall be published in such a manner that every agency has an opportunity to procure at reasonable cost from the

coordinator, individual electronic copies of the rules and statements of policy of such agency published by authority of this chapter. No administrative rule or statement of policy published in the administrative code or the permanent supplements shall be reset or otherwise reprinted at public expense upon a format distinct from that of the administrative code without a certification by the coordinator that such special format is necessary for the effective performance by the agency of its functions.

(2) The prices to be charged for individual electronic copies of and subscriptions to the administrative code, the permanent supplements thereto and the bulletin, and for rules and statements of policy, which prices may be fixed without reference to the restrictions placed upon and fixed for the sale of other publications of the state shall be set by rules promulgated by the coordinator. The coordinator may set prices without reference to the restrictions placed upon the sale of other publications of the state.

(3) The coordinator shall provide to the legislature free electronic copies of all rules subject to review by the legislature pursuant to section [67-5291](#), Idaho Code, and may distribute other free electronic copies for official use.

(4) Without limiting the generality of the provisions of subsection (2) of this section, the rules of the coordinator may provide for volume discounts to be available to established law book publishers who agree to incorporate fully administrative rules, the permanent supplements thereto and the bulletin into their general scheme of promotion and distribution, and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. The provisions of this section include the authority to exchange, display, access and publish texts through electronic media.

(5) There is hereby created in the state treasury the administrative code fund. All moneys received from the production of rules, the sale of the administrative code, the permanent supplements thereto, or the bulletin, and for providing electronic access, shall be deposited in the fund. All agencies which have any material published electronically in the bulletin, administrative code or supplements thereto, or newspapers, are hereby authorized and directed to pay out of their appropriations to the coordinator their respective shares of the costs of such publication and distribution of such material. All moneys placed in the fund may be appropriated to the coordinator for the administration of the provisions of this chapter, and for the publication and distribution of the bulletin, administrative code or supplements thereto, as authorized in this chapter.

The coordinator shall charge an annual fee to each participating agency for each page published electronically in the administrative code not to exceed fifty-six dollars (\$56.00) per page. In addition, the coordinator shall charge a fee to each participating agency for each page published electronically in the bulletin not to exceed sixty-one dollars (\$61.00) per page. A fee per page may be charged even though less than a full page of publication is required, and each participating agency shall promptly pay into the administrative code fund such charge.

**TITLE 67, CHAPTER 77
BINGO AND RAFFLES**

67-7710. RAFFLES -- DUCK RACES. (1) It is lawful for any charitable or nonprofit organization to conduct raffles in accordance with the provisions of this chapter. Any charitable or nonprofit organization or any person that conducts a raffle in violation of any provision of this chapter may be assessed a civil penalty not in excess of ten thousand dollars (\$10,000) per violation. Additionally, any person knowingly conducting a raffle in violation of any provision of this chapter or rule of the state lottery commission may be charged under the gambling laws of the state contained in [chapter 38, title 18](#), Idaho Code, and may be assessed a civil penalty by the lottery not in excess of ten thousand dollars (\$10,000) per violation. It shall not constitute a violation of state law to advertise a charitable raffle conducted pursuant to this section. It is lawful to participate in a charitable raffle conducted pursuant to this chapter. A charitable raffle conducted lawfully pursuant to this chapter is not gambling for purposes of [chapter 38, title 18](#), Idaho Code.

(2) Raffle drawings must be held in Idaho and shall be limited to twelve (12) per charitable or nonprofit organization per year, provided that this limitation shall not apply to public or private elementary schools, secondary schools or higher education institutions located in this state. The maximum aggregate value of cash prize(s) that may be offered or paid for any one (1) raffle, which is not a duck race is one thousand dollars (\$1,000) and if merchandise is used as a prize and it is not redeemable for cash, there shall be no limit on the maximum amount of value for the merchandise. For duck races, there shall be no limit on the maximum amount of the value of a cash prize if the cash prize is underwritten by insurance. If a duck race offers a cash prize that is not underwritten by insurance, the maximum aggregate value of the cash prize(s) is one thousand dollars (\$1,000). There shall be no limit on the maximum of value for merchandise used as a prize in a duck race if the merchandise is not redeemable for cash.

(3) As used in this subsection, "net proceeds of a charitable raffle" means the gross receipts less the cost of prizes awarded. "Net proceeds of a duck race" shall mean gross receipts, less the cost of prizes awarded and the rental cost of the ducks used in the race. No less than eighty percent (80%) of the net proceeds of a raffle shall be used by the charitable or nonprofit organization for charitable, religious, educational, civic or other charitable purposes.

(4) Any licensed charitable or nonprofit organization conducting raffles pursuant to this chapter shall prepare a statement at the close of its license year and shall file such statement with the state lottery. The statement shall be prepared on a form prescribed by the lottery commission and shall include, at a minimum, the following information:

- (a) The number of raffles conducted or sponsored by the charitable or nonprofit organization;
- (b) The location and date at which each raffle was conducted;
- (c) The gross revenues of each raffle;
- (d) The fair market value of any prize given at each raffle;
- (e) The amount paid in prizes at each raffle;

(f) The amount paid to the charitable or nonprofit organization;

(g) An accounting of all gross revenues and the disbursements required by statute and rule of the state lottery commission that shall be retained in the organization's records for a period of five (5) years.

(5) Every charitable or nonprofit organization whose annual gross revenues exceed two hundred thousand dollars (\$200,000) from the operation of raffle events shall provide the state lottery with a copy of an annual audit of the raffle events. The audit shall be performed by a certified public accountant who is licensed in the state of Idaho and who meets the peer review requirements set forth by the Idaho state board of accountancy. The audit shall be submitted to the Idaho state lottery within ninety (90) days after the end of the license year.

67-7711. LICENSING PROCEDURE. (1) Any charitable or nonprofit organization not exempt pursuant to section [67-7713](#), Idaho Code, desiring to operate bingo sessions or games or charitable raffles shall make application for a license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application if it determines that the applicant has not met requirements for an application imposed in this chapter and rules promulgated pursuant to this chapter or upon any ground for which an application for renewal of a license could be denied or for which an existing licensee's license could be revoked or suspended. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When a license application is approved by the state lottery, the state lottery shall issue a license to the applicant. No person or charitable or nonprofit organization, except those exempt pursuant to section [67-7713](#), Idaho Code, shall operate or conduct a bingo session or game or charitable raffle until it has received a license from the state lottery. The license shall expire one (1) year after the date it was issued.

(2) Each application and renewal application shall contain the following information:

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, association or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the organization as well as the name and address of the directors, or other persons similarly situated, of the organization;

(b) The name, home address, date of birth, driver's license number and social security number of each of the person or persons responsible for managing the bingo session or game or raffle;

(c) (i) In the case of charitable organizations, a copy of the application for recognition of exemptions and a determination letter from the internal revenue service that indicates that the organization is a charitable organization and stating the section under which that exemption is granted, except that if the organization is a state or local branch, lodge, post or chapter of a national organization, a copy of the determination letter of the national organization shall satisfy this requirement; and

(ii) In the case of incorporated nonprofit organizations, a copy of a certificate of existence issued by the secretary of state pursuant to [chapter 3, title 30](#), Idaho Code, establishing the organization's good standing in the state.

(d) The location at which the applicant will conduct the bingo session or games or drawings for the raffles.

(3) The operation of bingo sessions or games or charitable raffles shall be the direct responsibility of, and controlled by, the governing body of the organization and the members of the governing body shall be held responsible for the conduct of the bingo sessions or games or raffles. No directors or officers of an organization or persons related to them either by marriage or blood within the second degree shall receive any compensation derived from the proceeds of a bingo session or raffle regulated under the provisions of this chapter. An organization shall not contract with any person for the purpose of conducting a bingo session or providing bingo services or conducting a raffle on the organization's behalf, provided that this prohibition does not prevent a bingo organization from hiring employees and paying wages as provided in section [67-7709\(1\)\(d\)\(ii\)](#), Idaho Code. However, if the state lottery commission has entered into an agreement or contract with another state for the operation or promotion of joint bingo sessions, the charitable or nonprofit organization may participate in that contract or agreement.

(4) Different chapters of an organization may apply for and share one (1) license to conduct raffles so long as the information required in subsection (2) of this section is provided to the lottery prior to the issuance of the license.

(5) The organization may apply for the license to coincide with the organization's fiscal year.

67-7712. LICENSE FEES -- SUSPENSION OR REVOCATION. (1) Each organization that applies to the state lottery for a license pursuant to this chapter shall pay annually to the state lottery a nonrefundable license fee which shall be due upon submission of the application. License fees shall be based on the organization's gross revenues from bingo or raffle operations as required to be reported by statute or rule of the commission. Organizations with gross revenues of twenty-five thousand dollars (\$25,000) or less shall pay a fee of one hundred dollars (\$100). Organizations with gross revenues of twenty-five thousand dollars (\$25,000) to seventy-five thousand dollars (\$75,000) shall pay a fee of two hundred dollars (\$200). Organizations with gross revenues exceeding seventy-five thousand dollars (\$75,000) shall pay a fee of three hundred dollars (\$300). New organizations with no history of gross revenues shall pay a fee of one hundred dollars (\$100), and the gross revenues indicated in the organization's first annual report shall determine the license renewal fee.

(2) Any license issued pursuant to this chapter may be suspended or revoked by the state lottery if it is found that the licensee or any person connected with the licensee has violated any provision of this chapter or any rule of the lottery commission or ordinance of a county adopted pursuant to this chapter or:

(a) Has continued to operate bingo sessions or games after losing its tax exempt or nonprofit status or ceases to exercise independent control over its activities or budget as required under the provisions of this chapter;

(b) Has violated or has failed or refused to comply with the provisions of this chapter, or has violated the provisions of a rule of the lottery commission or has allowed such a violation to occur upon premises over which the licensee has substantial control;

(c) Has knowingly caused, aided or abetted, or conspired with another to cause, any person to fail or refuse to comply with the provisions, requirements, conditions, limitation or duties imposed in this chapter, or to fail or refuse to comply with a rule adopted by the state lottery commission;

(d) Has obtained a license or permit by fraud, misrepresentation or concealment, or through inadvertence or mistake;

(e) Has been convicted, forfeited bond, or has been granted a withheld judgment, upon a charge involving forgery, theft, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports to a governmental agency, or any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving gambling activity, physical injury to individuals or moral turpitude;

(f) Denies the state lottery access to any place where a licensed game is conducted, denies access to any law enforcement officer, or fails promptly to produce for inspection or audit any records or items as required by law;

(g) Fails to have the license available for verification where the licensed game is conducted;

(h) Misrepresents or fails to disclose to the state lottery or any investigating law enforcement officer any material fact;

(i) Fails to demonstrate to the state lottery by clear and convincing evidence, qualifications for the license according to state law and the rules of the state lottery establishing such qualifications;

(j) Is subject to current prosecution or pending charges, or to a conviction regardless of whether it has been appealed, for any offense described in paragraph (e) of this subsection. At the request of an applicant for an original license, the state lottery may defer decision upon the application during the pendency of the prosecution or appeal;

(k) Has pursued or is pursuing economic gain in a manner or context which violates criminal or civil public policy of this state and creates a reasonable belief that the participation of the person in gaming operations by charitable or nonprofit organizations would be harmful to the proper operation of a lawful bingo or raffle.

(3) The state lottery may, upon its own motion or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized in this chapter. If the state lottery has reasonable cause to believe that any gaming as described in this chapter violates any of the provisions of this chapter or rules promulgated pursuant to this chapter, it may, in its

discretion, place in probationary status, revoke, cancel, rescind or suspend any license. The state lottery may refuse to grant a renewal of the license or it may take other action as may be appropriate under this chapter and any rules promulgated pursuant to this chapter. If the state lottery shall refuse to grant a license or refuse to grant a renewal of a license or revoke, cancel, rescind or suspend a license, it shall give the applicant or licensee fifteen (15) calendar days' written notice of its intended action stating generally the basis for its action. Within the fifteen (15) calendar day notice period, the applicant or licensee shall indicate its acceptance of the decision of the state lottery or shall request a hearing to be held in the same manner as hearings in contested cases pursuant to [chapter 52, title 67](#), Idaho Code. The hearing shall be conducted within twenty-one (21) days of the request. The applicant or licensee may appeal the decision of the state lottery after the hearing within the same time and manner as provided for judicial review of actions pursuant to [chapter 52, title 67](#), Idaho Code. Failure to make the request for a hearing as provided herein, shall render the decision of the state lottery final and not subject to further appeal.

67-7713. LICENSURE REQUIREMENTS. A charitable or nonprofit organization conducting a bingo game shall be required to obtain a license if the gross annual bingo sales are ten thousand dollars (\$10,000) or more. A charitable or nonprofit organization conducting a raffle shall be required to obtain a license if the maximum aggregate value of merchandise exceeds five thousand dollars (\$5,000).

67-7714. RULES AND FORMS. The state lottery commission is authorized to promulgate rules consistent with this act in compliance with [chapter 52, title 67](#), Idaho Code, to implement the provisions of this act and shall prescribe standardized forms for implementation of this act.

67-7715. VENDORS -- LICENSING -- FEES. (1) No person or entity shall manufacture, sell, distribute, furnish or supply to any person or entity any gaming device, equipment or material, in this state or for use in this state, without first obtaining a vendor's license from the state lottery commission. Vendor licenses shall not be issued by the state lottery except respecting devices, equipment or material designed and permitted to be used in connection with activities authorized under this chapter. Provided however, that this licensing requirement shall apply only insofar as the state lottery commission has adopted rules implementing it as to particular categories of gaming devices and related material and equipment.

(2) Any person or entity that manufactures, sells, distributes, furnishes or supplies any gaming device, equipment or material, in this state or for use in this state shall make application for a vendor license to the state lottery. The state lottery shall review the license application and shall approve or deny the issuing of a license within fifteen (15) calendar days of receipt of the license application. The state lottery may deny the application if it determines that the applicant has not met the requirements imposed in this chapter and rules promulgated pursuant to this chapter. Whenever an application is denied, it shall be returned to the applicant by the state lottery with specific reasons for the denial. When the license application is approved by the state lottery,

the state lottery shall issue a license to the applicant.

(3) Each application and renewal application shall contain the following information:

(a) The name, address, date of birth, driver's license number and social security number of the applicant and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated.

(b) The locations or persons with which the applicant will provide any gaming device, equipment or material in this state or for use in this state.

(4) Each applicant shall pay annually to the state lottery a nonrefundable license fee of five hundred dollars (\$500) which shall be due upon submission of the application.

(5) Each licensed vendor shall maintain records of all sales to organizations in Idaho for a period of five (5) years. Such records shall be provided to the lottery upon request.

(6) Any license issued pursuant to this section shall be suspended or revoked by the state lottery and the licensee may be assessed a civil penalty by the state lottery up to ten thousand dollars (\$10,000) per violation if it is found that the licensee or any person connected with the licensee has violated any provision of this chapter, particularly those in section [67-7712](#), Idaho Code, or any rule of the lottery commission.

**TITLE 74, CHAPTER 1
PUBLIC RECORDS ACT**

74-101. DEFINITIONS. As used in this chapter:

(1) "Applicant" means any person formally seeking a paid or volunteer position with a public agency. "Applicant" does not include any person seeking appointment to a position normally filled by election.

(2) "Copy" means transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means so long as the public record is not altered or damaged.

(3) "Custodian" means the person having personal custody and control of the public records in question. If no such designation is made by the public agency or independent public body corporate and politic, then custodian means any public official having custody of, control of, or authorized access to public records and includes all delegates of such officials, employees or representatives.

(4) "Independent public body corporate and politic" means the Idaho housing and finance association as created in [chapter 62, title 67](#), Idaho Code.

(5) "Inspect" means the right to listen, view and make notes of public records as long as the public record is not altered or damaged.

(6) "Investigatory record" means information with respect to an identifiable person, group of persons or entities compiled by a public agency or independent public body corporate and politic pursuant to its statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct over which the public agency or independent public body corporate and politic has regulatory authority or law enforcement authority.

(7) "Law enforcement agency" means any state or local agency given law enforcement powers or which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.

(8) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

(9) "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.

(10) "Prisoner" means a person who has been convicted of a crime and is either incarcerated or on parole for that crime or who is being held in custody for trial or sentencing.

(11) "Public agency" means any state or local agency as defined in this section.

(12) "Public official" means any state, county, local district, independent public body corporate and politic or governmental official or employee, whether elected, appointed or hired.

(13) "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics.

(14) "Requester" means the person requesting examination and/or copying of public records pursuant to section [74-102](#), Idaho Code.

(15) "State agency" means every state officer, department, division, bureau, commission and board or any committee of a state agency including those in the legislative or judicial branch, except the state militia and the Idaho state historical society library and archives.

(16) "Writing" includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

74-102. PUBLIC RECORDS -- RIGHT TO EXAMINE.

(1) Every person has a right to examine and take a copy of any public record of this state and there is a presumption that all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute.

(2) The right to copy public records shall include the right to make photographs or photographic or other copies while the records are in the possession of the custodian of the records using equipment provided by the public agency or independent public body corporate and politic or using equipment designated by the custodian.

(3) Additionally, the custodian of any public record shall give the person, on demand, a certified copy of it if the record is of a nature permitting such copying or shall furnish reasonable opportunity to inspect or copy such record.

(4) A public agency or independent public body corporate and politic may require that a request for public records be submitted to it in a writing that provides the requester's name, mailing address, e-mail address and telephone number. A request for public records and delivery of the public records may be made by electronic mail.

(5) The custodian shall make no inquiry of any person who requests a public record, except:

(a) To verify the identity of the requester in accordance with section [74-113](#), Idaho Code; or

(b) To ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by section [74-120](#), Idaho Code, or as otherwise provided by law; or

(c) As required for purposes of protecting personal information from disclosure under [chapter 2, title 49](#), Idaho Code, and federal law.

(6) The custodian shall not review, examine or scrutinize any copy, photograph or memoranda in the possession of any such person and shall extend to the person all reasonable comfort and facility for the full exercise of the right granted under this act.

(7) Nothing herein contained shall prevent the custodian from maintaining such vigilance as is required to prevent alteration of any public record while it is being examined.

(8) Examination of public records under the authority of this section must be conducted

during regular office or working hours unless the custodian shall authorize examination of records in other than regular office or working hours. In this event, the persons designated to represent the custodian during such examination shall be entitled to reasonable compensation to be paid to them by the public agency or independent public body corporate and politic having custody of such records, out of funds provided in advance by the person examining such records, at other than regular office or working hours.

(9) The public agency or independent public body corporate and politic may provide the requester information to help the requester narrow the scope of the request or to help the requester make the request more specific when the response to the request is likely to be voluminous or require payment as provided in subsection (10) of this section.

(10) (a) Except for fees that are authorized or prescribed under other provisions of Idaho law, no fee shall be charged for the first two (2) hours of labor in responding to a request for public records, or for copying the first one hundred (100) pages of paper records that are requested.

(b) A public agency or independent public body corporate and politic or public official may establish fees to recover the actual labor and copying costs associated with locating and copying documents if:

(i) The request is for more than one hundred (100) pages of paper records; or
(ii) The request includes records from which nonpublic information must be deleted; or
(iii) The actual labor associated with responding to requests for public records in compliance with the provisions of this chapter exceeds two (2) person hours.

(c) A public agency or independent public body corporate and politic or public official may establish a copying fee schedule. The fee may not exceed the actual cost to the agency of copying the record if another fee is not otherwise provided by law.

(d) For providing a duplicate of a computer tape, computer disc, microfilm or similar or analogous record system containing public record information, a public agency or independent public body corporate and politic or public official may charge a fee, uniform to all persons that does not exceed the sum of the following:

(i) The agency's direct cost of copying the information in that form;
(ii) The standard cost, if any, for selling the same information in the form of a publication;
(iii) The agency's cost of conversion, or the cost of conversion charged by a third party, if the existing electronic record is converted to another electronic form.

(e) Fees shall not exceed reasonable labor costs necessarily incurred in responding to a public records request. Fees, if charged, shall reflect the personnel and quantity of time that are reasonably necessary to process a request. Fees for labor costs shall be charged at the per hour pay rate of the lowest paid administrative staff employee or public official of the public agency or independent public body corporate and politic who is necessary and qualified to process the request. If a request requires redactions to be made by an attorney who is employed by the public agency or independent public body corporate and politic, the rate charged shall be no more than the per hour rate of the lowest paid attorney within the public agency or independent public body corporate and politic who is necessary and qualified to process the public records request. If a

request is submitted to a public agency or independent public body corporate and politic that does not have an attorney on staff, and requires redactions by an attorney, the rate shall be no more than the usual and customary rate of the attorney who is retained by the public agency or independent public body corporate and politic for that purpose.

(f) The public agency or independent public body corporate and politic shall not charge any cost or fee for copies or labor when the requester demonstrates that the requester's examination and/or copying of public records:

(i) Is likely to contribute significantly to the public's understanding of the operations or activities of the government;

(ii) Is not primarily in the individual interest of the requester including, but not limited to, the requester's interest in litigation in which the requester is or may become a party; and

(iii) Will not occur if fees are charged because the requester has insufficient financial resources to pay such fees.

(g) Statements of fees by a public agency or independent public body corporate and politic shall be itemized to show the per page costs for copies, and hourly rates of employees and attorneys involved in responding to the request, and the actual time spent on the public records request. No lump sum costs shall be assigned to any public records request.

(11) A requester may not file multiple requests for public records solely to avoid payment of fees. When a public agency or independent public body corporate and politic reasonably believes that one (1) or more requesters is segregating a request into a series of requests to avoid payment of fees authorized pursuant to this section, the public agency or independent public body corporate and politic may aggregate such requests and charge the appropriate fees. The public agency or independent public body corporate and politic may consider the time period in which the requests have been made in its determination to aggregate the related requests. A public agency or independent public body corporate and politic shall not aggregate multiple requests on unrelated subjects from one (1) requester.

(12) The custodian may require advance payment of fees authorized by this section. Any money received by the public agency or independent public body corporate and politic shall be credited to the account for which the expense being reimbursed was or will be charged, and such funds may be expended by the agency as part of its appropriation from that fund. Any portion of an advance payment in excess of the actual costs of labor and copying incurred by the agency in responding to the request shall be returned to the requester.

(13) A public agency or independent public body corporate and politic shall not prevent the examination or copying of a public record by contracting with a nongovernmental body to perform any of its duties or functions.

(14) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from disclosing statistical information that is descriptive of an identifiable person or persons, unless prohibited by law.

(15) Nothing contained herein shall prevent a public agency or independent public body corporate and politic from providing a copy of a public record in electronic form if the record is

available in electronic form and if the person specifically requests an electronic copy.

74-103. RESPONSE TO REQUEST FOR EXAMINATION OF PUBLIC RECORDS.

(1) A public agency or independent public body corporate and politic shall either grant or deny a person's request to examine or copy public records within three (3) working days of the date of the receipt of the request for examination or copying. If it is determined by employees of the public agency or independent public body corporate and politic that a longer period of time is needed to locate or retrieve the public records, the public agency or independent public body corporate and politic shall so notify in writing the person requesting to examine or copy the records and shall provide the public records to the person no later than ten (10) working days following the person's request. Provided however, if it is determined the existing electronic record requested will first have to be converted to another electronic format by the agency or by a third party and that such conversion cannot be completed within ten (10) working days, the agency shall so notify in writing the person requesting to examine or copy the records. The agency shall provide the converted public record at a time mutually agreed upon between the agency and the requester, with due consideration given to any limitations that may exist due to the process of conversion or due to the use of a third party to make the conversion.

(2) If the public agency or independent public body corporate and politic fails to respond, the request shall be deemed to be denied within ten (10) working days following the request.

(3) If the public agency or independent public body corporate and politic denies the person's request for examination or copying the public records or denies in part and grants in part the person's request for examination and copying of the public records, the person legally responsible for administering the public agency or independent public body corporate and politic or that person's designee shall notify the person in writing of the denial or partial denial of the request for the public record.

(4) The notice of denial or partial denial shall state that the attorney for the public agency or independent public body corporate and politic has reviewed the request or shall state that the public agency or independent public body corporate and politic has had an opportunity to consult with an attorney regarding the request for examination or copying of a record and has chosen not to do so. The notice of denial or partial denial also shall indicate the statutory authority for the denial and indicate clearly the person's right to appeal the denial or partial denial and the time periods for doing so.

74-106. RECORDS EXEMPT FROM DISCLOSURE -- PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and

telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

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

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

(4) Records of a personal nature as follows:

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

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

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

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

(e) Vital statistics records; and

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

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

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for people who are elderly, indigent or have mental or physical disabilities, or participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records

are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3)(a), (3)(b) or (3)(d) of section [74-113](#), Idaho Code. Notwithstanding the provisions of section [74-113](#), Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, [chapter 13, title 72](#), Idaho Code, under an assurance of confidentiality. As used in this section and in [chapter 13, title 72](#), Idaho Code, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

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

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

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

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

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

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections [37-2726](#) and [37-2730A](#), Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

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

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

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

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

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

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

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

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

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

(c) Mortgage portfolio loan documents;

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

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

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

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

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

(25) The physical voter registration application on file in the county clerk's office; however, a redacted copy of said application shall be made available consistent with the requirements of this section. Information from the voter registration application maintained in the

statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon a showing that the voter comes within the provisions of subsection (30) of this section or upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

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

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

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

(28) Except as otherwise provided by law relating to the release of information to a governmental entity or law enforcement agency, any personal information including, but not limited to, names, personal and business addresses and phone numbers, sex, height, weight, date of birth, social security and driver's license numbers, or any other identifying numbers and/or information related to any Idaho fish and game licenses, permits and tags unless written consent is obtained from the affected person.

(29) Documents and records related to alternatives to discipline that are maintained by the Idaho board of veterinary medicine under the provisions of section [54-2118\(1\)\(b\)](#), Idaho Code, provided the requirements set forth therein are met.

(30) The Idaho residential street address and telephone number of an eligible law enforcement officer and such officer's residing household member(s) as provided for in [chapter 58, title 19](#), Idaho Code, except under the following circumstances:

- (a) If directed by a court order, to a person identified in the court order;
- (b) If requested by a law enforcement agency, to the law enforcement agency;
- (c) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or
- (d) If the law enforcement officer provides written permission for disclosure of such information.

(31) All information exchanged between the Idaho transportation 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, pursuant to section [49-1234](#), Idaho Code.

(32) Nothing in this section shall prohibit the release of information to the state controller as the state social security administrator as provided in section [59-1101A](#), Idaho Code.

(33) Personal information including, but not limited to, property values, personal and business addresses, phone numbers, dates of birth, social security and driver's license numbers or any other identifying numbers or information maintained by the administrator of the unclaimed property law set forth in [chapter 5, title 14](#), Idaho Code. Nothing in this subsection shall prohibit

the release of names, last known city of residence, property value ranges and general property information by the administrator for the purpose of reuniting unclaimed property with its owner.

74-108. EXEMPTIONS FROM DISCLOSURE -- ARCHAEOLOGICAL, ENDANGERED SPECIES, LIBRARIES, LICENSING EXAMS. The following records are exempt from disclosure:

(1) Records, maps or other records identifying the location of archaeological or geophysical sites or endangered species, if not already known to the general public.

(2) Archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation, when such records are required to be filed by statute for the time provided by statute.

(3) The records of a library which, when examined alone, or when examined with other public records, would reveal the identity of the library patron checking out, requesting, or using an item from a library.

(4) The material of a library, museum or archive that has been contributed by a private person, to the extent of any limitation that is a condition of the contribution.

(5) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(6) Land management plans required for voluntary stewardship agreements entered into pursuant to law and written agreements relating to the conservation of all species of sage grouse entered into voluntarily by owners or occupiers of land with a soil conservation district.

74-109. RECORDS EXEMPT FROM DISCLOSURE -- DRAFT LEGISLATION AND SUPPORTING MATERIALS, TAX COMMISSION, UNCLAIMED PROPERTY, PETROLEUM CLEAN WATER TRUST FUND. The following records are exempt from disclosure:

(1) Records consisting of draft legislation and documents specifically related to such draft legislation or research requests submitted to the legislative services office by a member of the Idaho legislature for the purpose of placing such draft legislation into a form suitable for introduction as official proposed legislation of the legislature of the state of Idaho, unless the individual legislator having submitted or requested such records or research agrees to waive the provisions of confidentiality provided by this subsection.

(2) All papers, physical and electronic records and correspondence or other supporting materials comprising the work papers in the possession of the legislative services office or the director of legislative performance evaluations prior to release of the related final audit and all other records or materials in the possession of the legislative services office or the director of

legislative performance evaluations that would otherwise be confidential or exempt from disclosure.

(3) Records consisting of draft congressional and legislative redistricting plans and documents specifically related to such draft redistricting plans or research requests submitted to the commission staff by a member of the commission for reapportionment for the purpose of placing such draft redistricting plan into form suitable for presentation to the full membership of the commission, unless the individual commission member having submitted or requested such plans or research agrees to waive the provisions of confidentiality provided by this subsection.

(4) Records that identify the method by which the Idaho state tax commission selects tax returns for audit review.

(5) Records that identify the method by which the administrator of the unclaimed property law set forth in [chapter 5, title 14](#), Idaho Code, selects reports for audit review or conducts audit review of such reports and the identity of individuals or entities under audit.

(6) Underwriting and claims records of the Idaho petroleum clean water trust fund obtained pursuant to section [41-4905](#), [41-4909](#), [41-4911A](#), [41-4912](#) or [41-4912A](#), Idaho Code. Provided however, that this subsection shall not prevent the Idaho petroleum clean water trust fund's submittal to the Idaho department of environmental quality, or other regulatory agencies of information necessary to satisfy an insured's corrective action requirement under applicable federal or state standards in the event of a release into the environment from a petroleum storage tank; and provided further that nothing in this subsection shall prevent the Idaho petroleum clean water trust fund from providing auditing, reporting, or actuarial information as otherwise required of it pursuant to section [41-4919](#), [41-4925A](#), [41-4928](#), [41-4930](#), [41-4932](#), [41-4937](#) or [41-4938](#), Idaho Code.

74-112. EXEMPT AND NONEXEMPT PUBLIC RECORDS TO BE SEPARATED. If any public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public agency or independent public body corporate and politic shall, upon receipt of a request for disclosure, separate the exempt and nonexempt material and make the nonexempt material available for examination, provided that a denial of a request to copy nonexempt material in a public record shall not be based upon the fact that such nonexempt material is contained in the same public record as the exempt material.

74-113. ACCESS TO RECORDS ABOUT A PERSON BY A PERSON.

(1) A person may inspect and copy the records of a public agency or independent public body corporate and politic pertaining to that person, even if the record is otherwise exempt from public disclosure.

(2) A person may request in writing an amendment of any record pertaining to that person. Within ten (10) days of the receipt of the request, the public agency or independent public body corporate and politic shall either:

(a) Make any correction of any portion of the record which the person establishes is not

accurate, relevant, or complete; or

(b) Inform the person in writing of the refusal to amend in accordance with the request and the reasons for the refusal, and indicate clearly the person's right to appeal the refusal and the time period for doing so. The procedures for appealing a refusal to amend shall be the same as those set forth in sections [74-115](#) and [74-116](#), Idaho Code, and the court may award reasonable costs and attorney's fees to the prevailing party or parties, if it finds that the request for amendment or refusal to amend was frivolously pursued.

(3) The right to inspect and amend records pertaining to oneself does not include the right to review:

(a) Otherwise exempt investigatory records of a public agency or independent public body corporate and politic if the investigation is ongoing;

(b) Information that is compiled in reasonable anticipation of a civil action or proceeding which is not otherwise discoverable;

(c) The information relates to adoption records;

(d) Information which is otherwise exempt from disclosure by statute or court rule;

(e) Records of a prisoner maintained by the state or local agency having custody of the prisoner or formerly having custody of the prisoner or by the commission of pardons and parole.

74-115. PROCEEDINGS TO ENFORCE RIGHT TO EXAMINE OR TO RECEIVE A COPY OF RECORDS -- RETENTION OF DISPUTED RECORDS.

(1) The sole remedy for a person aggrieved by the denial of a request for disclosure is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency or independent public body corporate and politic to make the information available for public inspection in accordance with the provisions of this chapter. The petition contesting the public agency's or independent public body corporate and politic's decision shall be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency or independent public body corporate and politic. In cases in which the records requested are claimed as exempt pursuant to section [74-107](#)(1) or (24), Idaho Code, the petitioner shall be required to name as a party and serve the person or entity that filed or provided such documents to the agency, and such person or entity shall have standing to oppose the request for disclosure and to support the decision of the agency to deny the request. The time for responsive pleadings and for hearings in such proceedings shall be set by the court at the earliest possible time, or in no event beyond twenty-eight (28) calendar days from the date of filing.

(2) The public agency or independent public body corporate and politic shall keep all documents or records in question until the end of the appeal period, until a decision has been rendered on the petition, or as otherwise statutorily provided, whichever is longer.

(3) Nothing contained in this chapter shall limit the availability of documents and records for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and rules of evidence and of discovery governing such proceedings. Additionally, in

any criminal appeal or post-conviction civil action, this chapter shall not make available the contents of prosecution case files where such material has previously been provided to the defendant nor shall this chapter be available to supplement, augment, substitute or supplant discovery procedures in any other federal, civil or administrative proceeding.

74-116. ORDER OF THE COURT -- COURT COSTS AND ATTORNEY FEES.

(1) Whenever it appears that certain public records are being improperly withheld from a member of the public, the court shall order the public official charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the pleadings filed by the parties and such oral arguments and additional evidence as the court may allow. The court may examine the record in camera in its discretion.

(2) If the court finds that the public official's decision to refuse disclosure is not justified, it shall order the public official to make the requested disclosure. If the court determines that the public official was justified in refusing to make the requested record available, he shall return the item to the public official without disclosing its content and shall enter an order supporting the decision refusing disclosure. In any such action, the court shall award reasonable costs and attorney fees to the prevailing party or parties, if it finds that the request or refusal to provide records was frivolously pursued.

74-117. ADDITIONAL PENALTY. If the court finds that a public official has deliberately and in bad faith improperly refused a legitimate request for inspection or copying, a civil penalty shall be assessed against the public official in an amount not to exceed one thousand dollars (\$1,000), which shall be paid into the general account.

74-118. IMMUNITY. No public agency or independent public body corporate and politic, public official, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record governed by the provisions of this chapter if the public agency or independent public body corporate and politic, public official or custodian acted in good faith in attempting to comply with the provisions of this chapter.

74-119. AGENCY GUIDELINES. By January 1, 2016, every state agency or independent public body corporate and politic shall adopt guidelines that identify the general subject matter of all public records kept or maintained by the state agency or independent public body corporate and politic, the custodian, and the physical location of such documents.

74-120. PROHIBITION ON DISTRIBUTION OR SALE OF MAILING OR TELEPHONE NUMBER LISTS -- PENALTY.

(1) Except as provided in subsections (2), (3), (4), (5), (6), (7), (8) and (9) of this section, in order to protect the privacy of those who deal with public agencies or an independent public body corporate and politic:

(a) No agency or independent public body corporate and politic may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list; and

(b) No list of persons prepared by the agency or independent public body corporate and politic may be used as a mailing list or a telephone number list except by the agency or independent public body corporate and politic or another agency without first securing the permission of those on the list.

(2) Except as may be otherwise provided in this chapter, this section does not prevent an individual from compiling a mailing list or a telephone number list by examination or copying of public records, original documents or applications which are otherwise open to public inspection.

(3) The provisions of this section do not apply to the lists of registered electors compiled pursuant to [title 34](#), Idaho Code, or to lists of the names of employees governed by [chapter 53, title 67](#), Idaho Code.

(4) The provisions of this section shall not apply to agencies which issue occupational or professional licenses.

(5) This section does not apply to the right of access either by Idaho law enforcement agencies or, by purchase or otherwise, of public records dealing with motor vehicle registration.

(6) This section does not apply to a corporate information list developed by the office of the secretary of state containing the name, address, registered agent, officers and directors of corporations authorized to do business in this state or to a business information list developed by the department of commerce containing the name, address, telephone number or other relevant information of Idaho businesses or individuals requesting information regarding the state of Idaho or to business lists developed by the department of agriculture, division of marketing and development, used to promote food and agricultural products produced in Idaho.

(7) This section does not apply to lists to be used for ordinary utility purposes which are requested by a person who supplies utility services in this state. Ordinary utility purposes, as used in this chapter only, do not include marketing or marketing research.

(8) This section does not apply to lists to be used to give notice required by any statute, ordinance, rule, law or by any governing agency.

(9) This section does not apply to student directory information provided by colleges, universities, secondary schools and school districts to military recruiters for military recruiting purposes pursuant to the requirements of federal laws.

(10) Nothing in this section shall prohibit the release of information to the state controller as the state social security administrator as provided in section [59-1101A](#), Idaho Code.

(11) If a court finds that a person or public official has deliberately and in bad faith violated the provisions of subsection (1)(a) or (1)(b) of this section, the person or public official shall be liable for a civil penalty assessed by the court in an amount not in excess of one thousand dollars (\$1,000) which shall be paid into the general account.

74-121. REPLEVIN -- PUBLIC RECORDS -- IMPROPER OR UNLAWFUL TRANSFER OR REMOVAL.

(1) Public records of the state and/or territory of Idaho are the property of the citizens of the state in perpetuity and they may not be improperly or unlawfully transferred or removed from their proper custodian. For purposes of this section, the terms "public record" and "record," or plurals thereof, shall have the same meaning as "public record" as provided in section [74-101](#), Idaho Code.

(2) For the purpose of this section, where public records of a county, local district, or independent public body corporate and politic thereof are involved, all references to the state archivist also refer to any responsible public official or records custodian and all references to the attorney general also refer to county prosecutors.

(3) Whenever the state archivist or their designee has reasonable grounds to believe that records belonging to the state, county, local district, or independent public body corporate and politic thereof, are in the possession of a person or entity not authorized by law to possess those records, and such possession was acquired on or after July 1, 2011, he or she may issue a written notice demanding that person or entity to do either of the following within ten (10) calendar days of receiving the notice:

- (a) Return the records to the office of origin or the Idaho state archives; or
- (b) Respond in writing and declare why the records do not belong to the state or a local agency.

(4) The notice and demand shall identify the records claimed to belong to the state or local agency with reasonable specificity, and shall specify that the state archivist may undertake legal action to recover the records if the person or entity fails to respond in writing within the required time or does not adequately demonstrate that the records do not belong to the state or a local agency.

(5) If a person or entity that receives a written notice and demand from the state archivist pursuant to this chapter fails to deliver the described records, fails to respond to the notice and demand within the required time, or does not adequately demonstrate that the records do not belong to the state or a local agency, the state archivist may ask the attorney general to petition a court of competent jurisdiction for an order requiring the return of the records.

(6) The court may issue any order necessary to protect the records from destruction, alteration, transfer, conveyance or alienation by the person or entity in possession of the records, and may order that the records be surrendered into the custody of the state archivist pending the court's decision on the petition.

(7) After a hearing, and upon a finding that the specified records are in the possession of a person or entity not authorized by law to possess the records, the court shall order the records to be delivered to the state archivist or other official designated by the court.

(8) If the attorney general recovers a record under this section, the court may award attorney's fees and court costs.

(9) Notwithstanding any other provision of this section, any public record that is in the

custody of an organization or institution shall not be subject to the provisions of this section provided:

(a) That professional standards recognized by the society of American archivists for the management and preservation of historical records are maintained; and

(b) Such records are accessible to the public in a manner consistent with this chapter.

(10) When a record is returned pursuant to subsection (3)(a) of this section, upon the request of the person, organization or institution that returned the record, the record custodian that receives the record shall issue to that person, organization or institution a copy or digital image of the record which shall be certified as a true copy of the record that was returned to the state or local agency, and dated on the same day the record was returned.

74-122. CONFIDENTIALITY LANGUAGE REQUIRED IN THIS CHAPTER. On and after January 1, 2016, any statute which is added to the Idaho Code and provides for the confidentiality or closure of any public record or class of public records shall be placed in this chapter. Any statute which is added to the Idaho Code on and after January 1, 2016, and which provides for confidentiality or closure of a public record or class of public records and is located at a place other than this chapter shall be null, void and of no force and effect regarding the confidentiality or closure of the public record and such public record shall be open and available to the public for inspection as provided in this chapter.

74-123.IDAHO CODE IS PROPERTY OF THE STATE OF IDAHO.

(1) The Idaho Code is the property of the state of Idaho, and the state of Idaho and the taxpayers shall be deemed to have a copyright on the Idaho Code. If a person reproduces or distributes the Idaho Code for the purpose of direct or indirect commercial advantage, the person shall owe to the Idaho code commission, as the agent of the state of Idaho, a royalty fee in addition to the fee charged for copying the Idaho Code. Any person who reproduces or distributes the Idaho Code in violation of the provisions of this section, shall be deemed to be an infringer of the state of Idaho's copyright. The Idaho code commission, through the office of the attorney general, is entitled to institute an action for any infringement of that particular right committed while the Idaho code commission or its designated agent has custody of the Idaho Code.

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

(3) An infringer of the state of Idaho's copyright pursuant to this section is liable for any profits the infringer has incurred by obtaining the Idaho Code for commercial purposes or is liable for statutory damages as provided in subsection (4) of this section.

(4) The Idaho code commission, as agent of the copyright owner, may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to the Idaho Code for

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

(5) In any civil action under this section, the court may allow the recovery of full costs by or against any party and may also award reasonable attorney's fees to the prevailing party as part of the costs.

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

74-126.SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

**TITLE 74, CHAPTER 2
OPEN MEETINGS LAW**

74-201.FORMATION OF PUBLIC POLICY AT OPEN MEETINGS. The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.

74-202.OPEN PUBLIC MEETINGS -- DEFINITIONS. As used in this chapter:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with this chapter.

(2) "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.

(3) "Executive session" means any meeting or part of a meeting of a governing body which is closed to any persons for deliberation on certain matters.

(4) "Public agency" means:

(a) any state board, commission, department, authority, educational institution or other state agency which is created by or pursuant to statute, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;

(b) any regional board, commission, department or authority created by or pursuant to statute;

(c) any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho;

(d) any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act.

(5) "Governing body" means the members of any public agency which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

(6) "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

(a) "regular meeting" means the convening of a governing body of a public agency on the date fixed by law or rule, to conduct the business of the agency.

(b) "special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.

74-203. GOVERNING BODIES -- REQUIREMENT FOR OPEN PUBLIC MEETINGS.

(1) Except as provided below, all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. No decision at a meeting of a governing body of a public agency shall be made by secret ballot.

(2) Deliberations of the board of tax appeals created in [chapter 38, title 63](#), Idaho Code, the public utilities commission and the industrial commission in a fully submitted adjudicatory proceeding in which hearings, if any are required, have been completed, and in which the legal rights, duties or privileges of a party are to be determined are not required by this act to take place in a meeting open to the public. Such deliberations may, however, be made and/or conducted in a public meeting at the discretion of the agency.

(3) Meetings of the Idaho life and health insurance guaranty association established under [chapter 43, title 41](#), Idaho Code, the Idaho insurance guaranty association established under [chapter 36, title 41](#), Idaho Code, and the surplus line association approved by the director of the Idaho department of insurance as authorized under [chapter 12, title 41](#), Idaho Code, are not required by this act to take place in a meeting open to the public.

(4) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

(5) All meetings may be conducted using telecommunications devices which enable all members of a governing body participating in the meeting to communicate with each other. Such devices may include, but are not limited to, telephone or video conferencing devices and similar communications equipment. Participation by a member of the governing body through telecommunications devices shall constitute presence in person by such member at the meeting; provided however, that at least one (1) member of the governing body, or the director of the public agency, or the chief administrative officer of the public agency shall be physically present at the location designated in the meeting notice, as required under section [74-204](#), Idaho Code, to ensure that the public may attend such meeting in person. The communications among members of a governing body must be audible to the public attending the meeting in person and the members of the governing body.

74-204. NOTICE OF MEETINGS -- AGENDAS.

(1) Regular meetings. No less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency, or if no such office exists, at the building where the meeting is to be held.

(2) Special meetings. No special meeting shall be held without at least a twenty-four (24)

hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. The notice required under this section shall include at a minimum the meeting date, time, place and name of the public agency calling for the meeting. The secretary or other designee of each public agency shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If an executive session only will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this section and shall state the reason and the specific provision of law authorizing the executive session.

(4) An agenda shall be required for each meeting. The agenda shall be posted in the same manner as the notice of the meeting. An agenda may be amended, provided that a good faith effort is made to include, in the original agenda notice, all items known to be probable items of discussion.

(a) If an amendment to an agenda is made after an agenda has been posted but forty-eight (48) hours or more prior to the start of a regular meeting, or twenty-four (24) hours or more prior to the start of a special meeting, then the agenda is amended upon the posting of the amended agenda.

(b) If an amendment to an agenda is proposed after an agenda has been posted and less than forty-eight (48) hours prior to a regular meeting or less than twenty-four (24) hours prior to a special meeting but prior to the start of the meeting, the proposed amended agenda shall be posted but shall not become effective until a motion is made at the meeting and the governing body votes to amend the agenda.

(c) An agenda may be amended after the start of a meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in the original agenda posting.

74-205. WRITTEN MINUTES OF MEETINGS.

(1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

(a) All members of the governing body present;

(b) All motions, resolutions, orders, or ordinances proposed and their disposition;

(c) The results of all votes, and upon the request of a member, the vote of each member, by name.

(2) Minutes pertaining to executive sessions. Minutes pertaining to an executive session

shall include a reference to the specific statutory subsection authorizing the executive session and shall also provide sufficient detail to identify the purpose and topic of the executive session but shall not contain information sufficient to compromise the purpose of going into executive session.

74-206.EXECUTIVE SESSIONS -- WHEN AUTHORIZED. [EFFECTIVE UNTIL JULY 1, 2020]

(1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in [chapter 1, title 74](#), Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law;

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or

(j) To consider labor contract matters authorized under section 67-2345A [[74-206A](#)](1)(a) and (b), Idaho Code.

(2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this act to change the subject within the executive session to one not identified within the motion to enter the executive session or to any

topic for which an executive session is not provided.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

(74-206A) 67-2345A. NEGOTIATIONS IN OPEN SESSION. [EFFECTIVE UNTIL JULY 1, 2020]

(1) All negotiations between a governing body and a labor organization shall be in open session and shall be available for the public to attend. This requirement also applies to negotiations between the governing body's designated representatives and representatives of the labor organization. This requirement shall also apply to meetings with any labor negotiation arbitrators, mediators or similar labor dispute meeting facilitators. Provided, however, a governing body or its designated representatives may hold an executive session for the specific purpose of:

(a) Considering a labor contract offer or to formulate a counteroffer; or
(b) Receiving information about a specific employee, when the information has a direct bearing on the issues being negotiated and a reasonable person would conclude that the release of that information would violate that employee's right to privacy.

(2) All documentation exchanged between the parties during negotiations, including all offers, counteroffers and meeting minutes, shall be subject to public writings disclosure laws.

(3) Any other provision of law notwithstanding, including any other provisions to the contrary in sections [33-402](#) and [74-204](#), Idaho Code, the governing body shall post notice of all negotiation sessions at the earliest possible time practicable. This shall be done by the governing body by immediately posting notice of the negotiation session on the front page of its official website. If time permits, the governing body shall also post notice within twenty-four (24) hours at its regular meeting physical posting locations.

(4) Public testimony, if any, shall be posted as an agenda item.

74-207. OPEN LEGISLATIVE MEETINGS REQUIRED. All meetings of any standing, special or select committee of either house of the legislature of the state of Idaho shall be open to the public at all times, except in extraordinary circumstances as provided specifically in the rules of procedure in either house, and any person may attend any meeting of a standing, special or select committee, but may participate in the committee only with the approval of the committee itself.

74-208. VIOLATIONS.

(1) If an action, or any deliberation or decision-making that leads to an action, occurs at any meeting which fails to comply with the provisions of this chapter, such action shall be null and void.

(2) Any member of the governing body governed by the provisions of this chapter, who conducts or participates in a meeting which violates the provisions of this act shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250).

(3) Any member of a governing body who knowingly violates the provisions of this chapter shall be subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500).

(4) Any member of a governing body who knowingly violates any provision of this chapter

and who has previously admitted to committing or has been previously determined to have committed a violation pursuant to subsection (3) of this section within the twelve (12) months preceding this subsequent violation shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500).

(5) The attorney general shall have the duty to enforce this chapter in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this act in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disqualified from proceeding to enforce this act, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose as provided in section [31-2603](#), Idaho Code.

(6) Any person affected by a violation of the provisions of this chapter may commence a civil action in the magistrate division of the district court of the county in which the public agency ordinarily meets, for the purpose of requiring compliance with provisions of this act. No private action brought pursuant to this subsection shall result in the assessment of a civil penalty against any member of a public agency and there shall be no private right of action for damages arising out of any violation of the provisions of this chapter. Any suit brought for the purpose of having an action declared or determined to be null and void pursuant to subsection (1) of this section shall be commenced within thirty (30) days of the time of the decision or action that results, in whole or in part, from a meeting that failed to comply with the provisions of this act. Any other suit brought under the provisions of this section shall be commenced within one hundred eighty (180) days of the time of the violation or alleged violation of the provisions of this act.

(7) (a) A violation may be cured by a public agency upon:

(i) The agency's self-recognition of a violation; or

(ii) Receipt by the secretary or clerk of the public agency of written notice of an alleged violation. A complaint filed and served upon the public agency may be substituted for other forms of written notice. Upon notice of an alleged open meeting violation, the governing body shall have fourteen (14) days to respond publicly and either acknowledge the open meeting violation and state an intent to cure the violation or state that the public agency has determined that no violation has occurred and that no cure is necessary. Failure to respond shall be treated as a denial of any violation for purposes of proceeding with any enforcement action.

(b) Following the public agency's acknowledgment of a violation pursuant to paragraph (a)(i) or (a)(ii) of this subsection, the public agency shall have fourteen (14) days to cure the violation by declaring that all actions taken at or resulting from the meeting in violation of this act void.

(c) All enforcement actions shall be stayed during the response and cure period but may recommence at the discretion of the complainant after the cure period has expired.

(d) A cure as provided in this section shall act as a bar to the imposition of the civil penalty provided in subsection (2) of this section. A cure of a violation as provided in subsection (7)(a)(i)

of this section shall act as a bar to the imposition of any civil penalty provided in subsection (4) of this section.

**TITLE 74, CHAPTER 4
ETHICS IN GOVERNMENT**

74-401.SHORT TITLE. This chapter shall be known and may be cited as the "Ethics in Government Act of 2015."

74-402.POLICY AND PURPOSE. It is hereby declared that the position of a public official at all levels of government is a public trust and it is in the public interest to:

- (1) Protect the integrity of government throughout the state of Idaho while at the same time facilitating recruitment and retention of personnel needed within government;
- (2) Assure independence, impartiality and honesty of public officials in governmental functions;
- (3) Inform citizens of the existence of personal interests which may present a conflict of interest between an official's public trust and private concerns;
- (4) Prevent public office from being used for personal gain contrary to the public interest;
- (5) Prevent special interests from unduly influencing governmental action; and
- (6) Assure that governmental functions and policies reflect, to the maximum extent possible, the public interest.

74-403. DEFINITIONS. For purposes of this chapter:

- (1) "Official action" means any decision on, or proposal, consideration, enactment, defeat, or making of any rule, regulation, rate-making proceeding or policy action or nonaction by a governmental body or any other policy matter which is within the official jurisdiction of the governmental body.
- (2) "Business" means any undertaking operated for economic gain, including, but not limited to, a corporation, partnership, trust, proprietorship, firm, association or joint venture.
- (3) "Business with which a public official is associated" means any business of which the public official or member of his household is a director, officer, owner, partner, employee or holder of stock over five thousand dollars (\$5,000) or more at fair market value.
- (4) "Conflict of interest" means any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit arises out of the following:
 - (a) An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position;
 - (b) Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged;
 - (c) Any interest which the person has by virtue of his profession, trade or occupation where

his interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;

(d) Any action by a public official upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

(5) "Economic gain" means increase in pecuniary value from sources other than lawful compensation as a public official.

(6) "Governmental entity" means:

(a) The state of Idaho and all agencies, commissions and other governmental bodies of the state; and

(b) Counties and municipalities of the state of Idaho, all other political subdivisions including, but not limited to, highway districts, planning and zoning commissions or governmental bodies not specifically mentioned in this chapter.

(7) "Members of a household" means the spouse and dependent children of the public official and/or persons whom the public official is legally obligated to support.

(8) "Person" means an individual, proprietorship, partnership, association, trust, estate, business trust, group or corporation, whether operated for profit or not, and any other legal entity, or agent or servant thereof, or a governmental entity.

(9) "Public office" means any position in which the normal and usual duties are conducted on behalf of a governmental entity.

(10) "Public official" means any person holding public office in the following capacity:

(a) As an elected public official meaning any person holding public office of a governmental entity by virtue of an elected process, including persons appointed to a vacant elected office of a governmental entity, excluding members of the judiciary; or

(b) As an elected legislative public official meaning any person holding public office as a legislator; or

(c) As an appointed public official meaning any person holding public office of a governmental entity by virtue of formal appointment as required by law; or

(d) As an employed public official meaning any person holding public office of a governmental entity by virtue of employment, or a person employed by a governmental entity on a consultive basis.

74-404. REQUIRED ACTION IN CONFLICTS. A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section. Disclosure of a conflict does not affect an elected public official's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the public official requests to be excused from debate and voting at his or her discretion. In order to determine whether a conflict of interest exists relative to any matter within the scope of the official functions of a public official, a public official may seek legal advice from the attorney representing that

governmental entity or from the attorney general or from independent counsel. If the legal advice is that no real or potential conflict of interest exists, the public official may proceed and shall not be subject to the prohibitions of this chapter. If the legal advice is that a real or potential conflict may exist, the public official:

(1) If he is an elected legislative public official, he shall disclose the nature of the potential conflict of interest and/or be subject to the rules of the body of which he/she is a member and shall take all action required under such rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue.

(2) If he is an elected state public official, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall file such statement with the secretary of state prior to acting on the matter. A public official may seek legal advice from the attorney representing that agency or from the attorney general or from independent counsel. The elected public official may then act on the advice of the agency's attorney, the attorney general or independent counsel.

(3) If he is an appointed or employed state public official, he shall prepare a written statement describing the matter to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney general or from the attorney representing that agency. The public official may then act on the advice of the attorney general, the agency's attorney or independent counsel.

(4) If he is an elected public official of a county or municipality, he shall disclose the nature of a potential conflict of interest prior to acting on a matter and shall be subject to the rules of the body of which he/she is a member and take all action required by the rules prior to acting on the matter. If a member requests to be excused from voting on an issue which involves a conflict or a potential conflict, and the body of which he is a member does not excuse him, such failure to excuse shall exempt that member from any civil or criminal liability related to that particular issue. The public official may obtain an advisory opinion from the attorney general or the attorney for the county or municipality or from independent counsel. The public official may then act on the advice of the attorney general or attorney for the county or municipality or his independent counsel.

(5) If he is an appointed or employed public official of a county or municipality, he shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall deliver the statement to his appointing authority. The appointing authority may obtain an advisory opinion from the attorney for the appointing authority, or, if none, the attorney general. The public official may then act on the advice of the attorney general or attorney for the appointing authority or independent counsel.

(6) Nothing contained herein shall preclude the executive branch of state government or a political subdivision from establishing an ethics board or commission to perform the duties and responsibilities provided for in this chapter. Any ethics board or commission so established shall have specifically stated powers and duties including the power to:

- (a) Issue advisory opinions upon the request of a public official within its jurisdiction;
- (b) Investigate possible unethical conduct of public officials within its jurisdiction and conduct hearings, issue findings, and make recommendations for disciplinary action to a public official's appointing authority;
- (c) Accept complaints of unethical conduct from the public and take appropriate action.

74-405. NONCOMPENSATED PUBLIC OFFICIAL -- EXCEPTION. When a person is a public official by reason of his appointment or election to a governing board of a governmental entity for which the person receives no salary or fee as compensation for his service on said board, he shall not be prohibited from having an interest in any contract made or entered into by the board of which he is a member, if he strictly observes the procedure set out in section [18-1361A](#), Idaho Code.

74-406. CIVIL PENALTY.

(1) Any public official who intentionally fails to disclose a conflict of interest as provided for in section [74-404](#), Idaho Code, shall be guilty of a civil offense, the penalty for which may be a fine not to exceed five hundred dollars (\$500), provided that the provisions of this subsection shall not apply to any public official where the governmental entity on which said official serves has put into operation an ethics commission or board described in section [74-404\(6\)](#), Idaho Code.

(2) The penalty prescribed in subsection (1) of this section does not limit the power of either house of the legislature to discipline its own members, nor limit the power of governmental entities, including occupational or professional licensing bodies, to discipline their members or personnel. A violation of the provisions of this chapter shall not preclude prosecution and conviction for any criminal violation that may have been committed.

TITLE 74, CHAPTER 5
PROHIBITIONS AGAINST CONTRACTS WITH OFFICERS

74-501. OFFICERS NOT TO BE INTERESTED IN CONTRACTS. Members of the legislature, state, county, city, district and precinct officers, must not be interested in any contract made by them in their official capacity, or by any body or board of which they are members.

74-502. REMOTE INTERESTS.

(1) A public officer shall not be deemed to be interested in a contract, within the meaning of section [74-501](#), Idaho Code, if he has only a remote interest in the contract and if the fact and extent of such interest is disclosed to the body of which he is an officer and noted in the official minutes or similar records prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section, "remote interest" means:

- (a) That of a nonsalaried officer of a nonprofit corporation; or
- (b) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary; or
- (c) That of a landlord or tenant of a contracting party; or
- (d) That of a holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party.

(2) Although a public official's interest in a contract may be only remote, a public official shall not influence or attempt to influence any other officer of the board of which he is an officer to enter into the contract. Violation of the provisions of this subsection shall be a misdemeanor as provided in section [74-509](#), Idaho Code. Any contract created or entered into in violation of the provisions of this subsection shall be void.

74-503.OFFICERS NOT TO BE INTERESTED IN SALES. State, county, district, precinct and city officers must not be purchasers at any sale nor vendors at any purchase made by them in their official capacity.

74-504.PROHIBITED CONTRACTS VOIDABLE. Every contract made in violation of any of the provisions of this chapter may be avoided at the instance of any party except the officer interested therein.

74-505.DEALING IN WARRANTS PROHIBITED. The state treasurer and state controller, the several county, city, district or precinct officers of this state, their deputies and clerks, are prohibited from purchasing or selling, or in any manner receiving to their own use or benefit, or to the use or benefit of any person or persons, whatever, any state, county, or city warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state, or

any county or city thereof, except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy or clerk, and evidences of the funded indebtedness of such state, county, city, district or corporation.

74-506.AFFIDAVIT OF NONVIOLATION A PREREQUISITE TO ALLOWANCE OF ACCOUNTS. Every officer whose duty it is to audit and allow the accounts of other state, county, district, city or precinct officers, must, before allowing such accounts, require each of such officers to make and file with him an affidavit that he has not violated any of the provisions of this chapter.

74-507.PROVISIONS OF CHAPTER VIOLATED -- DISBURSING OFFICER NOT TO PAY WARRANTS. Officers charged with the disbursement of public moneys must not pay any warrant or other evidence of indebtedness against the state, county, city or district, when the same has been purchased, sold, received or transferred contrary to any of the provisions of this chapter.

74-508.SUSPENSION OF SETTLEMENT OR PAYMENT -- PROSECUTION OF OFFENDERS. Every officer charged with the disbursement of public moneys, who is informed by affidavit that any officer whose account is to be settled, audited, or paid by him, has violated any of the provisions of this chapter, must suspend such settlement or payment, and cause such officer to be prosecuted for such violation.

74-509.VIOLATION. A violation of the provisions of this chapter, unless otherwise provided, is a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or incarceration in the county jail for a period not exceeding one (1) year, or by both such fine and incarceration.

74-510.NONCOMPENSATED PUBLIC OFFICIAL -- EXCEPTION. When a person is a public official by reason of his appointment or election to a governing board of a governmental entity for which the person receives no salary or fee as compensation for his service on said board, he shall not be prohibited from having an interest in any contract made or entered into by the board of which he is a member, if he strictly observes the procedure set out in section [18-1361A](#), Idaho Code.

74-511.VIOLATION RELATING TO PUBLIC CONTRACTS. Officers shall not commit any act prohibited by section [67-9230](#), Idaho Code, violations of which are subject to penalties as provided in section [67-9231](#), Idaho Code, and which prohibitions and penalties shall be deemed to extend to all public officers governed by the provisions of this chapter.

APPENDIX A

IDAHO COMMISSION FOR LIBRARIES
325 WEST STATE STREET
BOISE, IDAHO 83702

2016-2017 Board of Library Commissioners

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Dave Mecham	Eastern Idaho Representative
Pat Raffee	Northern Idaho Representative
Vacant	Congressional District 2 Representative
Mark Alldredge	Southwest Idaho Representative

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APPENDIX B

The following page is an excerpt from the subject index to the Idaho Code pertaining to libraries. It is reprinted with permission from Idaho Code Commission.

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