GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE SECOND REGULAR SESSION OF THE
FORTY-SEVENTH IDAHO LEGISLATURE

Convened January 9, 1984
Adjourned March 31, 1984

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

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Secretary of State
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CHAPTER 1
(S.B. No. 1223)

AN ACT
RELATING TO THE LEGISLATIVE FISCAL OFFICE; AMENDING SECTIONS 67-1911, 67-3502, 67-3503 AND 67-3508, IDAHO CODE, TO CHANGE THE NAME OF THE LEGISLATIVE FISCAL OFFICE TO THE LEGISLATIVE BUDGET OFFICE.

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

SECTION 1. That Section 67-1911, Idaho Code, be, and the same is hereby amended to read as follows:

67-1911. FINANCIAL MANAGEMENT TECHNICAL DEVELOPMENT COMMITTEE. Because accounting, budgeting and financial information programs and policies are vital to the affairs of the legislative as well as the executive branch, there is hereby created a financial management technical development committee consisting of the officers listed below, which committee shall meet not less often than quarterly on the call of the chairman, to review financial information programs and policies and disapprove such programs or policies by a majority vote if deemed appropriate. The members of the committee shall be the administrator of the division of financial management who shall be chairman, the director of the department of state information systems, the director of the personnel commission, the director of the legislative ~~fiscal~~ budget office, and the director of the legislative council, all of whom shall be voting members, and the legislative auditor, whose role shall be advisory.

SECTION 2. That Section 67-3502, Idaho Code, be, and the same is hereby amended to read as follows:

67-3502. BLANKS TO BE FURNISHED. In the preparation of a state budget, the administrator of the division of financial management shall, not later than the fifteenth day of July distribute to all departments and to all offices and institutions of the state government (including the elective officers in the executive department, the judicial department, the legislative department and the state board of education) the proper blanks necessary to the preparation of budget estimates. Such blanks shall be in such form as shall be prescribed by the administrator of the division and the director of the legislative ~~fiscal~~ budget office, to procure the following information:

1. The revenues from all sources including appropriations for the preceding fiscal year and an estimate of the receipts for the current fiscal year. Receipts shall be segregated to show source of income.

2. A statement of expenditures made from appropriations during the preceding fiscal year and an estimate of the amounts to be expended during the current fiscal year. The expenditures to be itemized according to the standard classification set forth in this chapter.

3. A statement of expenditures made of revenues from other sources during the preceding fiscal year and an estimate of the

amounts of such revenues to be expended during the current fiscal year. These expenditures to be itemized according to the standard classification set forth in this chapter.

4. An estimate of the revenues anticipated during the succeeding fiscal year from sources other than appropriations by the legislature, such anticipated revenues to be segregated as to source.

5. A statement of the purposes for which it is expected to expend the revenues anticipated from sources other than appropriations, said statement to show purposes classified according to the standard classification where possible and where not so classified, an explanation of the reasons for failure to so classify.

6. An estimate of appropriations needed for the succeeding fiscal year, said estimate to show each primary program or major objective as a separate item of the request as required by the blanks provided by the administrator of the division, said primary program or major objective to be further itemized according to the standard classification.

7. A report concerning the condition and management of programs, program performance, and progress toward accomplishing program objectives.

SECTION 3. That Section 67-3503, Idaho Code, be, and the same is hereby amended to read as follows:

67-3503. PREPARATION AND RETURN OF ESTIMATES. Each department, office and institution (including elective officers in the executive department and including the state board of education) shall, not later than the fifteenth day of August, except with special permission and agreement of the administrator of the division of financial management and the director of the legislative ~~fiscal~~ budget office, prepare and file in the office of the administrator of the division upon the blanks described in section 67-3502, Idaho Code, its report of receipts from all sources including appropriations made by the legislature, its expenditures of all sums received from all sources, segregated as provided for in the blanks, and its estimates of receipts and expenditures for the current and succeeding fiscal years. The legislative and judicial departments shall, as early as practicable and in any event no later than the first day of November, prepare and file in the office of the governor upon the blanks described in section 67-3502, Idaho Code, a report of receipts from all sources including appropriations made by the legislature; expenditures of all sums received from all sources, segregated as provided for in the blanks, and estimates of receipts and expenditures for the succeeding fiscal year.

SECTION 4. That Section 67-3508, Idaho Code, be, and the same is hereby amended to read as follows:

67-3508. STANDARD CLASSIFICATION. (1) Excepting where the legislature expressly departs from the classification hereinafter set forth in any appropriation bill, all appropriations made by the legislature, and all estimates hereafter made for budget purposes, and all expenditures hereinafter made from appropriations or funds received from

other sources, shall be classified and standardized by items as follows:

(a) Personnel costs, which shall include the salaries or wage expenses of employees and officers, including the monetary value of unused sick leave, as provided by section 67-5339, Idaho Code, whether full-time, part-time, or other irregular or seasonal help and including compensation or honorarium of members of boards or commissions, and shall also include the employer's share of contributions related to those employees and officers, such as retirement, health and life insurance, workmen's compensation, employment security and social security.

(b) Operating expenditures, which shall include all expenses for services, travel, consumable supplies, and minor items of equipment that have an estimated life of less than two (2) years and not otherwise classified under personnel costs or capital outlay, and shall include the governmental overhead charge, including all payments made in the way of refunds of receipts and overpayments erroneously deposited in the state treasury.

(c) Capital outlay, which, when used in an appropriation act, shall include all expenditures for land, highways, buildings including appurtenances, fixtures and fixed equipment, structures, which also includes additions, replacements, major repairs, and renovations to, which materially extends the capital assets' useful life or materially improves or increases its capacity, and shall include salaries and wages of nonagency personnel in connection therewith. Automobiles, domestic animals, machinery, apparatus, equipment and furniture including additions thereto, which will have a useful life or service substantially more than two (2) years, shall also be included.

(d) Trustee and benefit payments, which shall include the cash payments of welfare or retirement benefits to individuals and payments to individuals, persons, or political entities, and not otherwise classified under personnel costs, operating expenditures or capital outlay.

(2) The state auditor is hereby authorized and directed to implement such subclassifications of the standard classifications herein set forth which are necessary for preparation of the state budget, as supplied by the administrator of the division of financial management, the legislative auditor and the director of the legislative ~~fiscal~~ budget office.

An annual review of the subclassifications shall be made by the administrator of the division, the legislative auditor and the director of the legislative ~~fiscal~~ budget office.

The state auditor shall be supplied the changes desired by the administrator, the legislative auditor and the director of the legislative ~~fiscal~~ budget office in the subclassifications which are necessary for the preparation of the state budget or the identification and distribution of expenditures from appropriations no later than sixty (60) days prior to the beginning of any fiscal year to be effective for that fiscal year.

Approved February 10, 1984.

CHAPTER 2
(S.B. No. 1243)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE OFFICE OF THE GOVERNOR, FOR DEPOSIT IN THE GOVERNOR'S EMERGENCY FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the General Account to the Office of the Governor the following amount for deposit in the Governor's Emergency Fund to be expended according to Section 57-1601, Idaho Code.

FOR:	
Trustee and Benefit Payments	$250,000
FROM:	
General Account	$250,000

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 10, 1984.

CHAPTER 3
(S.B. No. 1248)

AN ACT

AMENDING SECTION 3, CHAPTER 278, LAWS OF 1983, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF HEALTH AND WELFARE; EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 3, Chapter 278, Laws of 1983, be, and the same is hereby amended to read as follows:

SECTION 3. There is hereby appropriated to the Department of Health and Welfare, Division of Welfare, the following amounts, to be expended for the designated programs from the listed accounts for the period July 1, 1983 through June 30, 1984:

A. ELIGIBILITY SERVICES

FROM:	
General Account	$ 4,546,600
Cooperative Welfare Account	6,597,000
TOTAL	$ 11,143,600

B. MEDICAL ASSISTANCE PAYMENTS		
FROM:		
General Account	~~$19,500,000~~	20,779,900
Medical Assistance Account		10,000
Liquor Account		650,000
Cooperative Welfare Account	~~41,282,000~~	39,891,200
TOTAL	~~$61,442,000~~	61,331,100
C. ADULT AND A.D.C. ASSISTANCE PAYMENTS		
FROM:		
General Account	~~$9,600,000~~	10,277,500
Cooperative Welfare Account	~~23,001,700~~	22,656,200
TOTAL	~~$32,601,700~~	32,933,700
D. SOCIAL SERVICES		
FROM:		
General Account		$ 1,395,000
Cooperative Welfare Account		13,051,100
TOTAL		$ 14,446,100
DIVISION TOTAL	~~$119,633,400~~	119,854,500

SECTION 2. It is legislative intent that the additional General Account appropriation made in Section 1 hereof is made with the understanding that should the funds not be needed or reimbursement is received, appropriate amounts shall revert to the General Account.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 10, 1984.

CHAPTER 4
(S.B. No. 1320)

AN ACT

RELATING TO DISASTER EMERGENCIES; AMENDING SECTION 46-1008, IDAHO CODE, TO PROVIDE THAT THE GOVERNOR MAY ENTER INTO AGREEMENTS WITH THE FEDERAL GOVERNMENT FOR SHARING CERTAIN DISASTER ASSISTANCE EXPENSES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 46-1008, Idaho Code, be, and the same is hereby amended to read as follows:

46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act, the governor may issue executive orders, proclamations and amend or rescind them. Executive orders and proclamations have the force and effect of law.

(2) A disaster emergency shall be declared by executive order or proclamation of the governor if he finds a disaster has occurred or

that the occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat or danger has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and when either or both of these events occur, the governor shall terminate the state of disaster emergency by executive order or proclamation; provided, however, that no state of disaster emergency may continue for longer than thirty (30) days unless the governor finds that it should be continued for another thirty (30) days or any part thereof. The legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, the area subject to the proclamation, and the conditions which are causing the disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster prevent or impede, be promptly filed with the bureau of disaster services, the office of the secretary of state and the office of the recorder of each county where the state of disaster emergency applies.

(3) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local and intergovernmental disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this act or any other provision of law relating to disaster emergencies.

(4) During the continuance of any state of disaster emergency the governor is commander-in-chief of the militia and may assume command of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.

(5) In addition to any other powers conferred upon the governor by law, he may:

(a) suspend the provisions of any regulations prescribing the procedures for conduct of public business that would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(b) utilize all resources of the state, including, but not limited to, those sums in the disaster emergency account as he shall deem necessary to pay obligations and expenses incurred during a declared state of disaster emergency;

(c) transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(d) subject to any applicable requirements for compensation under section 46-1012, Idaho Code, commandeer or utilize any private

property, real or personal, if he finds this necessary to cope with the disaster emergency;

(e) direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(f) prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(h) suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives, and combustibles;

(i) make provision for the availability and use of temporary emergency housing.

(6) Whenever an emergency or a disaster has been declared to exist in Idaho by the president under the provisions of the disaster relief act of 1974 (public law 93-288, 42 USC 5121) the governor may:

(a) enter into agreements with the federal government for the sharing of disaster recovery expenses involving public facilities;

(b) require as a condition of state assistance that a local taxing district be responsible for paying forty per cent (40%) of the nonfederal share of costs incurred by the local taxing district which have been determined to be eligible for reimbursement by the federal government, provided that the total local share of eligible costs for a taxing district shall not exceed ten per cent (10%) of the taxing district's tax charges authorized by section 63-923(1) and section 63-2220, Idaho Code; and

(c) obligate the state to pay the balance of the nonfederal share of eligible costs within local taxing entities qualifying for federal assistance; and

(d) enter into agreements with the federal government for the sharing of disaster assistance expenses to include individual and family grant programs (42 USC 5178).

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 21, 1984.

CHAPTER 5
(H.B. No. 392)

AN ACT

RELATING TO BEEF COUNCIL ASSESSMENTS; AMENDING SECTION 25-2907, IDAHO CODE, TO INCREASE THE BEEF COUNCIL ASSESSMENT.

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

SECTION 1. That Section 25-2907, Idaho Code, be, and the same is

hereby amended to read as follows:

25-2907. ASSESSMENTS -- COLLECTION. There is hereby levied and imposed upon all cattle an assessment of not more than ~~twenty-five~~ fifty cents (~~25~~50¢) per head, to be paid by the owner, provided, however, that no assessment shall be made on cattle moved within the state for grazing or for fattening where there is no change in ownership. The state brand inspector shall collect said assessment in addition to, at the same time, in the same manner and upon the same animals as, the fee charged for the state brand inspection. Such assessment so collected belongs to and shall be paid to the Idaho beef council, either directly or later by remittance together with a report. The council shall reimburse the state brand inspector for the reasonable and necessary expenses incurred for such collection, in an amount determined by the council and the inspector.

Approved February 21, 1984.

CHAPTER 6
(H.B. No. 426)

AN ACT

RELATING TO BRAND INSPECTION AND PERMITS; AMENDING SECTION 25-1402, IDAHO CODE, TO PROVIDE THAT SEASONAL BRAND INSPECTION PERMITS MAY BE ISSUED FOR ALL LIVESTOCK, TO PROVIDE THAT TRANSPORTATION OF LIVESTOCK IN VIOLATION OF THE STATE BRAND INSPECTION LAW IS PROHIBITED, TO PROVIDE THAT LIVESTOCK TRANSPORTED IN VIOLATION OF THE STATE BRAND INSPECTION LAW SHALL BE DETAINED UNTIL COMPLIANCE WITH THE LAW HAS BEEN MADE, AND TO PROVIDE A CORRECT CITATION.

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

SECTION 1. That Section 25-1402, Idaho Code, be, and the same is hereby amended to read as follows:

25-1402. REQUIREMENTS FOR BRAND INSPECTION -- WRITTEN PERMIT IN LIEU OF INSPECTION. a. Any person desiring to transport, remove, or drive any livestock from the boundaries of this state in any manner shall, before doing so, apply to the state brand inspector to inspect the same for marks and brands, and on such application (or without said application if said officer has knowledge of such removal) said brand inspector shall immediately inspect said livestock for brands and marks and keep an accurate record of the same with the name and residence of owner or shipper and name, sex and kind of livestock. Any person desiring an inspection pursuant to this paragraph must notify a state brand inspector or person duly authorized to accomplish the inspection by the state brand board. If said inspector finds that the livestock have brands that are not owned by the person claiming the same, then such person shall be required to produce a bill of sale or other satisfactory evidence of ownership. Upon such proof he shall

give the person a certificate stating the number and kind of livestock and their marks and brands and thereupon the said person shall be permitted to transport said livestock from this state. A copy of such brand inspection certificate shall accompany the transporting of such livestock to final destination.

b. Any person desiring to transport, remove, or drive any livestock within the boundaries of this state in any manner shall before doing so, have in their possession a written permit properly completed and signed by the owner of the livestock being transported and that said owner signing the written permit is the owner of the properly recorded brand on livestock to be transported according to the record of the state brand inspector. A copy of said written permit shall accompany the transporting of such livestock to final destination.

c. Seasonal brand inspections certificates for ~~individual horses, mules and asses~~ all livestock for any purpose, other than sale or trade, may be issued by the state brand inspector or his deputies in lieu of the regularly required brand inspection or other written permits for periods of not to exceed one (1) year in duration and for a fee of not to exceed three dollars ($3.00), each as determined by regulation of the state brand board.

d. The state brand board shall collect a reasonable fee from the owner of the livestock for inspection services pursuant to this ~~act~~ chapter in accordance with section 25-1106A, Idaho Code.

e. Any transportation of livestock in violation of this ~~act~~ chapter is prohibited. Livestock transported in violation of this chapter shall be ~~suspended and~~ detained until compliance with this ~~act~~ chapter has been made ~~for such transportation or movement of livestock~~.

Approved February 21, 1984.

CHAPTER 7
(H.B. No. 514)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 51, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 1, Chapter 51, Laws of 1983, there is hereby appropriated to the Lieutenant Governor the following amount to be expended according to the designated expense classes from the listed account for the period July 1, 1983, through June 30, 1984:

FOR:

Personnel Costs	$ 3,400
Operating Expenditures	8,100
TOTAL	$11,500

FROM:
General Account $11,500

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 21, 1984.

CHAPTER 8
(H.B. No. 645)

AN ACT

RELATING TO THE DECLARATION OF CANDIDACY; AMENDING SECTION 34-704, IDAHO CODE, TO REQUIRE A CANDIDATE TO FILE A DECLARATION OF CANDIDACY BETWEEN THE TENTH MONDAY AND THE SEVENTH FRIDAY PRECEDING A PRIMARY ELECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-704, Idaho Code, be, and the same is hereby amended to read as follows:

34-704. DECLARATION OF CANDIDACY. Any person legally qualified to hold such office is entitled to become a candidate and file his declaration of candidacy. Each political party candidate for precinct, state, district or county office shall file his declaration of candidacy in the proper office between 8 a.m., on the ~~thirteenth~~ tenth Monday preceding the primary election and 5 p.m., on the seventh Friday preceding the primary election. All political party candidates shall declare their party affiliation in their declaration of candidacy, except candidates for nonpartisan office.

Candidates who file a declaration of candidacy under a party name and are not nominated at the primary election shall not be allowed to appear on the general election ballot under any other political party name, nor as an independent candidate.

Independent candidates shall file their declaration of candidacy in the manner provided in section 34-708, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 24, 1984.

CHAPTER 9
(S.B. No. 1292)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 232, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 1, Chapter 232, Laws of 1983, there is hereby appropriated to the Department of Labor and Industrial Services the following amount to be expended for the named program according to the designated expense class from the listed account for the period July 1, 1983, through June 30, 1984:

SAFETY AND LABOR RELATIONS BUREAU:

FOR:	
Personnel Costs	$4,900
FROM:	
General Account	$4,900

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 27, 1984.

CHAPTER 10
(S.B. No. 1293)

AN ACT

AMENDING SECTION 2, CHAPTER 175, LAWS OF 1983, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF AGRICULTURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 175, Laws of 1983, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Agriculture the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1983 through June 30, 1984:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 145,100	$ 66,100			$ 211,200
Agriculture Department Inspection Account	133,400				133,400
Rural Rehabilitation Account	17,700	2,400		$150,000	170,100
Egg Inspection Account	9,000				9,000
TOTAL	$ 305,200	$ 68,500		$150,000	$ 523,700

B. ANIMAL INDUSTRY:				
FROM:				
General Account	$ 256,700	$ 15,500		$ 272,200
Livestock Disease Control & T.B. Indemnity Account	~~208,400~~ 233,400	~~170,200~~ 145,200	$10,000	388,600
Dairy Industry and Inspection Account	203,600	42,300	1,000	246,900
Livestock Dealer License Account	2,100	2,200		4,300
Animal-Federal Account	53,300	3,400		56,700
TOTAL	$ ~~724,100~~ 749,100	$ ~~238,600~~ 208,600	$11,000	$ 968,700
C. PLANT INDUSTRY:				
FROM:				
General Account	$ 86,400	$ 53,400		$ 139,800
Agriculture Department Inspection Account	410,900	103,700		514,600
Bee Inspection Account	15,000	800		15,800
Commercial Feed and Fertilizer Account	201,100	85,700		286,800

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Pesticide Account	160,800	37,300			198,100
Plant-Federal Account	126,000	73,500			199,500
TOTAL	$1,000,200	$ 354,400			$1,354,600
D. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account	$ 467,900	$ 105,900			$ 573,800
Agriculture Department Inspection Account	106,100	33,300		$ 3,200	142,600
Fresh Fruit and Vegetable Inspection Account	4,216,000	306,400	13,700	165,000	4,701,100
Egg Inspection Account	54,600	17,500			72,100
Public Livestock Market Account	2,500	3,800			6,300
Wheat Statistics Account	2,600	600			3,200
Egg and Poultry Inspection Account	33,500	12,300			45,800
TOTAL	$4,883,200	$ 479,800	$13,700	$168,200	$5,544,900
E. SHEEP COMMISSION:					
FROM:					
General Account	$ 5,800	$ 7,800			$ 13,600
Sheep Commission Account	124,400	63,600			188,000
TOTAL	$ 130,200	$ 71,400			$ 201,600
F. HONEY ADVERTISING COMMISSION:					
FROM:					
Idaho Honey Advertising Account	$ 300	$ 11,700			$ 12,000
GRAND TOTAL	$~~7,043,200~~ 7,068,200	$~~1,219,400~~ 1,194,400	$24,700	$318,200	$8,605,500

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 27, 1984.

CHAPTER 11
(S.B. No. 1294)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 260, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 260, Laws of 1983, there is hereby appropriated to the Office of the Governor the following amounts to be expended for the named programs according to the designated expenditure classes from the listed account for the period July 1, 1983, through June 30, 1984:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. GOVERNOR'S OFFICE - ADMINISTRATION:			
FROM:			
General Account	$1,500	$43,000	$44,500
B. RESIDENCE AND EXPENSE:			
FROM:			
General Account		$ 2,000	$ 2,000
GRAND TOTAL	$1,500	$45,000	$46,500

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 27, 1984.

CHAPTER 12
(H.B. No. 517)

AN ACT

APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 219, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 219, Laws of 1983, there is hereby appropriated to the Public Utilities Commission the following amount to be expended for the named program according to the designated expense class from the listed account for the period July 1, 1983, through June 30, 1984:

ADMINISTRATION:	
FOR:	
Personnel Costs	$1,000
FROM:	
General Account	$1,000

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 27, 1984.

CHAPTER 13
(H.B. No. 521)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 224, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 224, Laws of 1983, there is hereby appropriated to the Department of Administration the following amounts to be expended for the named programs according to the designated expense classes from the listed accounts for the period July 1, 1983, through June 30, 1984:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. CENTRAL ADMINISTRATION:			
FROM:			
General Account		$15,000	$15,000
B. PURCHASING:			
FROM:			
General Account	$15,500	$10,000	$25,500
C. INSURANCE MANAGEMENT:			
FROM:			
Risk Retention Account		$ 5,000	$ 5,000
GRAND TOTAL	$15,500	$30,000	$45,500

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 27, 1984.

CHAPTER 14
(H.B. No. 526)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 260, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 260, Laws of 1983, there is hereby appropriated to the Office of the Governor the following amount to be expended for the named program according to the designated expenditure classes from the listed account for the period July 1, 1983, through June 30, 1984:

PUBLIC EMPLOYEES' RETIREMENT SYSTEM:	
FOR:	
Personnel Costs	$22,400
Operating Expenditures	39,400
Capital Outlay	3,200
TOTAL	$65,000
FROM:	
Public Employees' Retirement System Account	$65,000

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 27, 1984.

CHAPTER 15
(H.B. No. 417)

AN ACT

RELATING TO THE IDAHO BLUE BOOK; AMENDING CHAPTER 9, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-915, IDAHO CODE, TO REQUIRE THE SECRETARY OF STATE TO COMPILE A BLUE BOOK BIENNIALLY, TO DISTRIBUTE THE BLUE BOOK TO CERTAIN GOVERNMENT OFFICIALS, AND TO AUTHORIZE THE SALE OF BLUE BOOKS TO THE GENERAL PUBLIC.

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

SECTION 1. That Chapter 9, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-915, Idaho Code, and to read as follows:

67-915. IDAHO BLUE BOOK. (1) The secretary of state shall compile

and issue biennially an official directory of all state officers, state institutions, boards, commissions, and county officers of the state, to be known as the Idaho Blue Book, and include therein the information regarding their functions that the secretary of state considers most valuable to the people of the state, together with such other data and information as usually is included in similar publications.

(2) The secretary of state may distribute the Idaho Blue Book free of charge, under such regulations as the secretary of state may establish, to schools and to federal, state, county, and city officials of the state of Idaho. The copies distributed under this subsection shall not be sold.

The secretary of state shall determine a reasonable price, and charge such price, for each copy of the Idaho Blue Book distributed to the general public. The secretary of state may also establish a discount price for dealers in order to maintain a uniform price.

Approved February 27, 1984.

CHAPTER 16
(H.B. No. 439)

AN ACT

RELATING TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2726, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT OF MONEYS THAT A SOIL CONSERVATION DISTRICT MAY RECEIVE FROM A COUNTY PER ANNUM; AND AMENDING SECTION 22-2727, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT OF STATE MONEYS THAT A SOIL CONSERVATION DISTRICT MAY RECEIVE PER ANNUM.

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

SECTION 1. That Section 22-2726, Idaho Code, be, and the same is hereby amended to read as follows:

22-2726. FUNDS OR ASSISTANCE PROVIDED BY COUNTY FROM COUNTY GENERAL FUND. In those counties of Idaho wherein all or a substantial part of the county has been created and is operating as a soil conservation district or districts under the provisions of chapter 27, title 22, section 22-2719, Idaho Code, or any amendment thereto, the board of county commissioners may, from time to time, at their discretion and upon request of the supervisors of such soil conservation districts provide in their budget a sufficient amount of money from the county general fund for allocation to the districts to be used by the districts for any purposes authorized by law, or in lieu of such allocation the county commissioners at their discretion may assign or hire an employee or employees of the county to assist the supervisors in the performance of the work of their office; provided, that the amount authorized hereunder shall not exceed the sum of ~~two~~ five thousand ~~five-hundred~~ dollars (~~$2,~~$5,000) per annum per district. The duties of such employee or employees shall be under the direct supervision of

the supervisors of each soil conservation district.

SECTION 2. That Section 22-2727, Idaho Code, be, and the same is hereby amended to read as follows:

22-2727. ALLOCATION OF FUNDS TO DISTRICTS. A public hearing shall be held by the Idaho soil conservation commission on or before June 15 of each year and twenty (20) days' written notice of such hearing shall be given to each Idaho soil conservation district and to all other persons requesting notice of such hearing. At the hearing the Idaho soil conservation commission shall consider the needs of each Idaho soil conservation district and shall base its request for state funds for the Idaho soil conservation districts upon the budgets, budget requests, district programs and work plans, and work load analysis of the various soil conservation districts.

All funds appropriated by the state for the various Idaho soil conservation districts shall be appropriated to the Idaho soil conservation commission and shall be allocated to the various Idaho soil conservation districts on the basis of the criteria established in the preceding paragraph.

All funds appropriated to the Idaho soil conservation commission for distribution to soil conservation districts shall be allocated to the various soil conservation districts in a sum not to exceed twice the amount of funds or services allocated to each district by the county commissioners; provided, however, that no district shall receive state funds in excess of ~~three~~ five thousand dollars ($~~3~~5,000) per annum.

The Idaho soil conservation commission shall adopt all rules and regulations necessary to carry out the purposes of this section.

Approved February 27, 1984.

CHAPTER 17
(H.B. No. 468)

AN ACT

RELATING TO LICENSING OF ARTIFICIAL INSEMINATORS; AMENDING SECTION 25-807, IDAHO CODE, BY INCREASING THE LICENSE RENEWAL FEE FROM $2.00 TO $5.00 PER YEAR; AND AMENDING SECTION 25-809, IDAHO CODE, BY INCREASING THE ARTIFICIAL INSEMINATION REINSTATEMENT FEE FROM $10.00 TO $25.00.

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

SECTION 1. That Section 25-807, Idaho Code, be, and the same is hereby amended to read as follows:

25-807. FEES. The division of animal industries of the state of Idaho is authorized to charge every applicant for a license a fee of twenty-five dollars ($25.00) which shall accompany the application. A license shall be issued to each successful applicant without the payment of an additional fee. The request of each person so licensed for

an annual renewal license shall be accompanied by a fee of ~~two~~ five dollars ($~~2~~5.00).

All receipts from the above mentioned license payments shall be placed in the livestock disease control fund.

SECTION 2. That Section 25-809, Idaho Code, be, and the same is hereby amended to read as follows:

25-809. LICENSES -- ISSUANCE, RENEWALS AND REINSTATEMENT. If the applicant shall pass such examination as is herein provided to be given and shall show that he is a person of good moral character and that he possesses the qualifications required by this act to entitle him to a license to practice artificial insemination, he shall be entitled to a license authorizing him to practice such artificial insemination within the state of Idaho.

All such licenses shall expire on the 30th day of June of each year, and all persons who practice artificial insemination within the meaning of this act are entitled to renew and shall renew their licenses on or before the 1st day of July of each year, and shall make application for such renewal to the division of animal industries. In case of failure so to renew a license, the division shall cancel the same on the 1st day of October, following the date of delinquency: provided, however, that the division may reinstate any license canceled for failure to renew the same on payment of ~~ten~~ twenty-five dollars ($~~10~~25.00). Provided, further, that where a license has been canceled for a period of more than five (5) years, the person so affected shall be required to make application to the division, using the same forms and furnishing the same information as required of a person originally applying for a license, and pay the same fee that is required of a person taking the examination for the first time. Such applicant for reinstatement whose license has been canceled for a period of more than five (5) years shall appear in person before the division at any regular or special meeting for an examination the nature of which shall be determined by the division. If after such examination the division is of the opinion that the person examined is the bona fide holder of a canceled license, is of good moral character and, if found capable of again practicing artificial insemination, the license shall be reinstated and the holder thereof entitled to practice subject to the laws of this state.

Approved February 27, 1984.

CHAPTER 18
(H.B. No. 469)

AN ACT

RELATING TO LICENSING WEIGHMASTERS; AMENDING SECTION 71-402, IDAHO CODE, BY INCREASING THE LICENSE FEE FROM $2.50 TO $10.00 PER ANNUM; REPEALING SECTION 71-403, IDAHO CODE; AND AMENDING SECTION 71-405, IDAHO CODE, BY INCREASING THE FEE FOR A CERTIFIED COPY OF A LICENSE FROM $1.00 TO $2.50.

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

SECTION 1. That Section 71-402, Idaho Code, be, and the same is hereby amended to read as follows:

71-402. LICENSING OF WEIGHMASTERS. Any person acting as a public weighmaster of grains, dry peas, potato starch, dry beans, leguminous and all other small seeds, hay, wool, bulk potatoes, bulk fertilizers, sugar beets and feeds (not including minerals) or any of them shall make application to the director of the department for a weighmaster's license. Application for a weighmaster's license shall be in writing on a form prescribed by the director. Each applicant shall furnish satisfactory evidence of good moral character, ability to weigh accurately and to make correct weight tickets. Upon receipt of the application with satisfactory evidence of qualifications, on or before July 1, 1949, and annually thereafter, and a license fee of ~~two dollars and fifty cents~~ ten dollars ($~~2.50~~ 10.00), the director shall issue an annual weighmaster's license. No weighmaster's license shall be issued to any applicant for such license who is under the age of eighteen (18) or who has been convicted of any felony within five (5) years or has paid any fine or completed any sentence of confinement for any felony within five (5) years, or to any person whose license issued under this act has been revoked.

SECTION 2. That Section 71-403, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 71-405, Idaho Code, be, and the same is hereby amended to read as follows:

71-405. CERTIFIED COPIES OF LICENSE. A certified copy of a weighmaster's license may be procured by the holder of the original upon payment of a fee of ~~one dollar~~ two dollars and fifty cents ($~~1.00~~ 2.50) for each copy of each license.

Approved February 27, 1984.

CHAPTER 19
(H.B. No. 470)

AN ACT

RELATING TO BONDED WAREHOUSES; AMENDING SECTION 69-223, IDAHO CODE, TO PROVIDE FOR THE REMOVAL OF NEGOTIABLE WAREHOUSE RECEIPTED COMMODITIES FROM A LICENSED WAREHOUSE WHEN AN EMERGENCY STORAGE SITUATION EXISTS, AS DETERMINED BY THE DIRECTOR.

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

SECTION 1. That Section 69-223, Idaho Code, be, and the same is hereby amended to read as follows:

69-223. NEGOTIABLE WAREHOUSE RECEIPTS FOR PRODUCTS STORED -- CONTENTS -- CONDITIONS -- PENALTIES. Every negotiable warehouse receipt issued for agricultural products stored in a warehouse licensed under the provisions of this chapter shall be issued in accordance with, but not limited to, the following:

(1) Every negotiable warehouse receipt issued for agricultural products stored in a warehouse licensed under the provisions of this chapter shall embody within its written or printed terms:

(a) All the requirements of a negotiable warehouse receipt under the Uniform Commercial Code--Documents of Title.

(b) A description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages.

(c) The grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: provided, that such grade or other class shall be stated according to the official standards of the state applicable to such agricultural products as the same may be fixed and promulgated under authority of law: provided further that until such official standards of the state for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard; provided, that unless otherwise required by law, when requested by the depositor of other than fungible agricultural products, a receipt omitting compliance with this subdivision may be issued if it has plainly and conspicuously embodied in its written or printed terms a provision that such negotiable warehouse receipt is not graded.

(d) A statement that the negotiable warehouse receipt is issued subject to the provisions of this chapter and the rules and regulations prescribed hereunder.

(e) Such other terms and conditions within the limitations of this chapter as may be required by the department of agriculture.

(f) All negotiable warehouse receipts issued under the provisions of this chapter, shall be upon forms prepared and supplied by the department of agriculture and issued upon requisition of the warehouseman at a reasonable cost.

(2) Any warehouseman, agent, employee or manager of a public warehouse licensed under the provisions of this chapter who shall remove or allow to be removed any commodities from the facility on which the negotiable warehouse receipt was issued, except to preserve the same from fire or other damage, <u>or except when an emergency storage situation exists as determined by the director,</u> without the return and cancellation of any and all outstanding negotiable warehouse receipts that may have been issued to represent such commodities shall be guilty of a felony and be punished by imprisonment in the state prison not to exceed ten (10) years, or by a fine of not more than ten thousand dollars ($10,000), or by both.

Approved February 27, 1984.

CHAPTER 20
(H.B. No. 504)

AN ACT

RELATING TO THE TAX IMPOSED UPON THE SALE OF MILK AND CREAM PRODUCED IN THE STATE OF IDAHO; AMENDING SECTION 25-3117, IDAHO CODE, TO PROVIDE THAT THE IDAHO DAIRY PRODUCTS COMMISSION MAY ESTABLISH THE TAX AT A RATE LESS THAN ONE PERCENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 25-3117, Idaho Code, be, and the same is hereby amended to read as follows:

25-3117. TAX LEVY. (1) From and after the 1st day of June, 1979, there is hereby levied and imposed a tax of not to exceed one ~~per cent~~ percent (1%) of the gross dollar daily or monthly settlements for the sale of all milk and cream produced in the state of Idaho and sold or contracted through commercial channels, which tax shall be due on or before the time when such milk or cream is first sold or contracted in the commercial channels and shall be paid at such time or times as the commission may, by rule or regulation, prescribe, as hereinafter provided, but not later than the 25th day of the month next succeeding the month in which milk or cream is sold or contracted in commercial channels. The tax provided in this section shall be levied and imposed at a rate of one percent (1%) unless the commission, by a vote of two-thirds (2/3) of its members, establishes a rate of less than one percent (1%).

(2) The tax shall be levied and assessed to the producer at the time of delivery for sale if sold by a producer, and shall be collected by the first purchaser and/or producer-handler and deducted from the amount due the producer, and all money so collected shall be made payable to the "Idaho dairy products commission fund" in the office of the state treasurer, state of Idaho, on or before the 25th day of the succeeding month for the previous month's credit of the commission fund. All such payments shall be sent directly to the commission for deposit in the office of the state treasurer, state of Idaho. If a purchaser and/or producer-handler fails to remit any money so collected or fails to make deductions for assessments, a penalty of ten ~~per cent~~ percent (10%) shall be added to the amount of any assessments which are unpaid when due under the terms of this act.

(3) The tax constitutes a lien prior to all other liens and encumbrances upon such milk or cream except liens which are declared prior by operation of a statute of this state.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 27, 1984.

CHAPTER 21
(S.B. No. 1214)

AN ACT

RELATING TO PUBLIC UTILITY RATES; AMENDING CHAPTER 5, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-502A, IDAHO CODE, TO PROHIBIT THE IDAHO PUBLIC UTILITIES COMMISSION FROM SETTING RATES THAT GRANT A RETURN ON CONSTRUCTION WORK IN PROGRESS, EXCEPT UPON THE COMMISSION'S FINDING OF AN EXTREME EMERGENCY, OTHER THAN SHORT-TERM CONSTRUCTION WORK IN PROGRESS, OR PROPERTY HELD FOR FUTURE USE, AND DECLARING RATES GRANTING A RETURN ON SUCH PROPERTY IN THE ABSENCE OF THE FINDING OF AN EXTREME EMERGENCY TO BE UNJUST, UNREASONABLE AND UNFAIR, AND TO ALLOW FOR FUNDS USED DURING CONSTRUCTION; DECLARING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 5, Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 61-502A, Idaho Code, and to read as follows:

61-502A. RESTRICTION ON RATES AUTHORIZING RETURN ON PROPERTY NOT PROVIDING UTILITY SERVICE. Except upon its finding of an extreme emergency, the commission is hereby prohibited in any order issued after the effective date of this act from setting rates for any utility that grants a return on construction work in progress (except short-term construction work in progress) or property held for future use and which is not currently used and useful in providing utility service. As used in this section, short-term construction work in progress means construction work that has begun and will be completed in not more than twelve (12) months. Except as authorized by this section, any rates granting a return on construction work in progress (except short-term construction work in progress) or property held for future use are hereby declared to be unjust, unreasonable, unfair, unlawful and illegal. When construction work in progress is excluded from the rate base, the commission must allow a just, fair and reasonable allowance for funds used during construction or similar account to be accumulated, computed in accordance with generally accepted accounting principles.

SECTION 2. It is hereby declared to be legislative intent that this act should overrule that portion of the decision of the Supreme Court of Idaho entitled Utah Power & Light Company v. Idaho Public Utilities Commission, issued December 14, 1983, which authorized or required construction work in progress or property held for future use to be included in a utility's rate base or otherwise authorized or required the commission to grant a return on such property, and that the commission be prohibited from following the precedent of that case in any order issued after the effective date of this act to the extent that such precedent authorizes construction work in progress or prop-

erty held for future use which is not currently used and useful in providing utility service to be included in rate base or authorize or require the commission to allow a return on such property.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 29, 1984.

CHAPTER 22
(H.B. No. 540, As Amended)

AN ACT

RELATING TO DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR INTOXICATING SUBSTANCES; REPEALING SECTIONS 49-337, 49-352, 49-354, 49-1102, 49-1102A AND 49-1102B, IDAHO CODE; AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 80, TITLE 18, IDAHO CODE, TO PROVIDE PENALTIES FOR DRIVING WITHOUT DRIVING PRIVILEGES; TO PROVIDE FOR TESTS OF BLOOD ALCOHOL CONCENTRATION TO BE ADMINISTERED AT THE REQUEST OF A POLICE OFFICER, TO PROVIDE THAT THERE IS NO RIGHT TO CONSULT WITH AN ATTORNEY BEFORE SUBMITTING TO AN EVIDENTIARY TEST, TO PROVIDE FOR INFORMATION TO BE GIVEN TO THE PERSON, TO AUTHORIZE A POLICE OFFICER TO SEIZE A DRIVER'S LICENSE UPON REFUSAL TO SUBMIT TO A TEST FOR ALCOHOL CONCENTRATION, TO PROVIDE FOR ISSUANCE OF A TEMPORARY PERMIT, TO PROVIDE FOR A COURT HEARING, TO PROVIDE FOR COURT SUSPENSION OF DRIVING PRIVILEGES, TO PROVIDE FOR ADDITIONAL TESTS AND THE EFFECT OF FAILURE OR INABILITY TO GET ADDITIONAL TESTS, TO PROVIDE THAT SUSPENSION OF DRIVING PRIVILEGES UNDER THE SECTION IS SEPARATE AND DISTINCT FROM ANY OTHER SUSPENSION, TO PROVIDE FOR EXEMPTION FROM LIABILITY AND PROSECUTION, TO PROVIDE A DEFINITION, AND TO PROVIDE FOR EFFECT OF WRITTEN NOTICE; TO PROVIDE REQUIREMENTS FOR PERSONS AUTHORIZED TO WITHDRAW BLOOD TO DETERMINE ALCOHOL CONCENTRATION; TO PROVIDE THAT IT IS UNLAWFUL TO DRIVE OR BE IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICATING SUBSTANCES; TO PROVIDE PENALTIES FOR DRIVING OR BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICATING SUBSTANCES; AND TO PROVIDE PENALTIES FOR AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICATING SUBSTANCES; AMENDING SECTION 49-329, IDAHO CODE, TO PROVIDE THAT A COURT HAS EXCLUSIVE AUTHORITY TO SUSPEND OR REVOKE DRIVING PRIVILEGES UNDER CERTAIN CONDITIONS; AMENDING SECTION 49-330, IDAHO CODE, TO STRIKE REFERENCE TO OBSOLETE CODE REFERENCES AND OBSOLETE CONDITIONS, TO PROVIDE THAT A COURT HAS EXCLUSIVE AUTHORITY TO SUSPEND OR REVOKE DRIVING PRIVILEGES UNDER CERTAIN CONDITIONS, AND TO PROVIDE FOR ISSUANCE OF A TEMPORARY RESTRICTED PERMIT; AMENDING SECTION 18-4006, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITION OF THE CRIME OF VEHICULAR MANSLAUGHTER, AND TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 1-2222, IDAHO CODE, TO PROVIDE PROPER

CODE REFERENCES; AMENDING SECTION 49-1121, IDAHO CODE, TO PROVIDE PROPER CODE REFERENCES; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Sections 49-337, 49-352, 49-354, 49-1102, 49-1102A and 49-1102B, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 80, Title 18, Idaho Code, and to read as follows:

CHAPTER 80
MOTOR VEHICLES

18-8001. DRIVING WITHOUT PRIVILEGES. (1) Any person who drives or is in actual physical control of any motor vehicle upon the highways of this state with knowledge that his license or permit to drive is revoked or suspended in this state or any other jurisdiction is guilty of a misdemeanor.

(2) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for the first time:

(a) Shall be sentenced to jail for a mandatory minimum period of not less than two (2) days, and may be sentenced to not more than six (6) months;

(b) May be fined an amount not to exceed five hundred dollars ($500); and

(c) Shall have his driving privileges suspended by the court for an additional six (6) months following the end of any period of suspension or revocation existing at the time of the violation; the defendant may request restricted driving privileges during the period of the suspension, which the court may allow if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(3) Any person who pleads guilty to or is found guilty of a violation of subsection (1) for a second time within five (5) years, irrespective of the form of the judgment(s) or withheld judgment(s):

(a) Shall be sentenced to jail for a mandatory minimum period of not less than twenty (20) days, and may be sentenced to not more than one (1) year;

(b) May be fined an amount not to exceed one thousand dollars ($1,000); and

(c) Shall have his driving privileges suspended by the court for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the second violation, during which time he shall have absolutely no driving privileges of any kind.

(4) Any person who has pled guilty to or been found guilty of more than two (2) violations of the provisions of subsection (1) of this section within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed three (3) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed three thousand dollars ($3,000); and

(c) Shall have his driving privileges suspended by the court for an additional three (3) years following the end of any period of suspension or revocation existing at the time of the violation, during which time he shall have absolutely no driving privileges of any kind.

(5) A minor may be prosecuted for a violation of subsection (1) of this section under title 16, Idaho Code.

(6) If a person is convicted for a violation of section 18-8004 or 18-8006, Idaho Code, and at the time of arrest had no driving privileges, the penalties imposed by this section shall be in addition to any penalties imposed under the provisions of section 18-8005 or 18-8006, Idaho Code, and not in lieu thereof.

(7) For the purposes of paragraphs (3) and (4) of this section, violations of the provisions of section 49-337(1), Idaho Code, shall be considered by the court to determine if a later violation is a second or subsequent violation only if such violations occurred on or after July 1, 1983.

18-8002. TEST FOR DRIVER FOR BLOOD ALCOHOL. (1) Any person who drives or is in actual physical control of a motor vehicle in this state shall be deemed to have given his consent to an evidentiary test for concentration of alcohol, drugs or other intoxicating substances as defined in section 18-8004, Idaho Code, provided that such test is administered at the request of a police officer having reasonable grounds to believe that person has been driving or in actual physical control of a motor vehicle while under the influence of alcohol, drugs or of any other intoxicating substances.

(2) Such person shall not have the right to consult with an attorney before submitting to an evidentiary test for concentration of alcohol, drugs or other intoxicating substances.

(3) At the time an evidentiary test for concentration of alcohol, drugs or other intoxicating substances is requested, the person shall be informed that if he refuses to take the test:

(a) His license will be seized by the police officer and a temporary permit will be issued;

(b) He has the right to request a hearing within seven (7) days to show cause why he refused to take the test;

(c) If he does not request a hearing or does not prevail at the hearing, his license will be suspended absolutely for one hundred twenty (120) days; and

(d) After submitting to the test he may, when practicable, at his own expense, have additional tests made by a person of his own

choosing.

(4) If the motorist refuses to take the evidentiary test after the information has been given in accordance with subsection (3) above:

(a) His license or permit shall be seized by the police officer and forwarded to the court and a temporary permit shall be issued by the police officer which allows him to operate a motor vehicle until the date of his hearing, if a hearing is requested, but in no event for more than thirty (30) days;

(b) A written request may be made within seven (7) calendar days for a hearing before the court; if requested, the hearing must be held within thirty (30) days of the seizure; the hearing shall be limited to the question of why the defendant did not take the test, and the burden of proof shall be upon the defendant; the court shall suspend all his driving privileges immediately for one hundred twenty (120) days unless it finds that the police officer did not have probable cause to stop and request him to take the test or that the request violated his civil rights;

(c) If a hearing is not requested by written notice to the court concerned within seven (7) calendar days, upon receipt of a sworn statement by the police officer of the circumstances of the refusal, the court shall suspend his driving privileges for one hundred twenty (120) days, during which time he shall have absolutely no driving privileges of any kind; and

(d) After submitting to the test at the request of the police officer, he may, when practicable, at his own expense, have additional tests made by a person of his own choosing. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission of an evidentiary test for alcohol concentration taken at the direction of the police officer unless the additional test was denied by the police officer.

(5) Suspension of driving privileges under this section shall be separate and apart from any other suspension imposed for a violation of other Idaho motor vehicle codes, and may be appealed to the district court.

(6) No hospital, hospital officer, agent, or employee, or health care professional licensed by the state of Idaho shall be held liable in damages in any civil proceeding for a cause of action based upon assault, battery or false imprisonment, or be subject to prosecution under chapter 9 or 29, title 18, Idaho Code, for any act arising out of administering an evidentiary test for alcohol concentration at the request of a police officer in the manner described by this section.

(7) "Actual physical control" as used in this section, shall be defined as being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving.

(8) Any written notice required by this section shall be effective upon mailing.

18-8003. PERSONS AUTHORIZED TO WITHDRAW BLOOD FOR THE PURPOSES OF DETERMINING CONTENT OF ALCOHOL OR OTHER INTOXICATING SUBSTANCES. (1) Only a licensed physician, qualified medical technologist, registered nurse, phlebotomist trained in a licensed hospital or educational institution or other medical personnel trained in a licensed hospital

or educational institution to withdraw blood can, at the request of a police officer, withdraw blood for the purpose of determining the content of alcohol, drugs or other intoxicating substances therein. This limitation shall not apply to the taking of a urine, saliva or breath specimen. For purposes of this section: (a) the term "qualified medical technologist" shall be deemed to mean a person who meets the standards of a "clinical laboratory technologist" as set forth by the then current rules and regulations of the social security administration of the United States department of health and human services pursuant to subpart M of part 405, chapter III, title 20, of the code of federal regulation; and (b) the terms "phlebotomist" and "other medical personnel" shall be deemed to mean persons who meet the standards for the withdrawing of blood as designated and qualified by the employing medical facility or other employing entity of those persons.

(2) The person tested may, at his own expense, have a person of his own choosing, who is authorized to make a test, administer an evidentiary test for alcohol concentration in addition to the one administered at the request of a police officer.

18-8004. PERSONS UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) It is unlawful for any person who is under the influence of alcohol, drugs or any other intoxicating substances, or who has 0.10 percent or more, by weight, of alcohol in his blood, as shown by analysis of his blood, urine, breath, or other bodily substance, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to the public.

(2) Any person having less than 0.10 percent, by weight, of alcohol in his blood, as shown by analysis of his blood, urine, breath, or other bodily substance by a test requested by a police officer shall not be prosecuted for driving under the influence of alcohol, except as provided in subsection (3) of this section. Any person who does not take a test to determine alcohol concentration or whose test result is determined by the court to be unreliable or inadmissible against him, may be prosecuted for driving or being in actual physical control of a motor vehicle while under the influence of alcohol, drugs, or any other intoxicating substances, on other competent evidence.

(3) If the results of the test requested by a police officer show less than 0.10 percent, by weight, of alcohol in the person's blood, such fact may be considered with other competent evidence of drug use other than alcohol in determining the guilt or innocence of the defendant.

(4) For purposes of this chapter, an evidentiary test for alcohol concentration is a determination of the percent by weight of alcohol in blood and shall be based upon a formula of grams of alcohol per one hundred (100) cubic centimeters of blood, per two hundred ten (210) liters of breath or sixty-seven (67) milliliters of urine. Analysis of blood, urine or breath for the purpose of determining the blood alcohol concentration shall be performed by a laboratory operated by the Idaho department of health and welfare or by a laboratory approved by the Idaho department of health and welfare under the provisions of approval and certification standards to be set by that department, or by any other method approved by the Idaho department of health and

welfare.

(5) It is unlawful for any person who is an habitual user of, or under the influence of any narcotic drug, or who is under the influence of any other drug or any combination of alcohol and any drug to a degree which renders him incapable of safely driving a motor vehicle, to drive or be in actual physical control of a motor vehicle within this state, whether upon a highway, street or bridge, or upon public or private property open to public use. The fact that any person charged with a violation of the provisions of this subsection shall not constitute a defense against any charge of a violation of the provisions of this subsection.

(6) "Actual physical control" as used in this section, shall be defined as being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving.

(7) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

18-8005. PENALTIES. (1) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, for the first time is guilty of a misdemeanor; and

(a) May be sentenced to jail for not to exceed six (6) months;

(b) May be fined an amount not to exceed one thousand dollars ($1,000);

(c) Shall be advised by the court in writing at the time of sentencing of the penalties that will be imposed for second or subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney; and

(d) Shall have his driving privileges suspended by the court for not to exceed one hundred eighty (180) days; the defendant may request restricted driving privileges during the period of the suspension, which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his employment or for family health needs.

(2) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, for the second time within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a misdemeanor; and

(a) Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days, and may be sentenced to not more than one (1) year;

(b) May be fined an amount not to exceed two thousand dollars ($2,000);

(c) Shall be advised by the court in writing at the time of sentencing, of the penalties that will be imposed for subsequent violations of the provisions of section 18-8004, Idaho Code, which advice shall be signed by the defendant, and a copy retained by the court and another copy retained by the prosecuting attorney;

(d) Shall surrender his license or permit to the court; and

(e) Shall have his driving privileges suspended by the court for an additional mandatory minimum period of six (6) months after release from confinement, and may have his driving privileges suspended by the court for an additional period of up to one (1) year after release from confinement. After thirty (30) days have passed following release from confinement, during which thirty (30) day period absolutely no driving privileges of any kind may be granted, the defendant may request restricted driving privileges during the balance of the suspension period, which the court may allow, if the defendant shows by a preponderance of the evidence that driving privileges are necessary for his family health needs or for his employment which requires that he operate a motor vehicle while on the job and in the course of his employment. That the defendant must commute between his residence and place of employment is not grounds for allowing the defendant to have restricted driving privileges.

(3) Any person who pleads guilty to or is found guilty of three (3) or more violations of the provisions of section 18-8004, Idaho Code, within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony; and

(a) Shall be sentenced to the custody of the state board of correction for not to exceed five (5) years; provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind.

(4) For the purposes of paragraphs (2) and (3) of this section, convictions of violation of the provisions of section 49-1102, Idaho Code, shall be considered by the court to determine if a later conviction is a second or subsequent conviction only if such convictions were of violations committed on or after July 1, 1983.

(5) Any person who pleads guilty to or is found guilty of a violation of the provisions of section 18-8004 or 18-8006, Idaho Code, shall undergo, at his own expense, (or at county expense through the procedures set forth in chapters 34 and 35, title 31, Idaho Code,) and prior to the sentencing date, an alcohol evaluation by a licensed physician or alcohol evaluation facility approved by the Idaho department of health and welfare. The person shall request that a copy of the completed evaluation be forwarded to the court. The court shall take the evaluation into consideration in determining an appropriate

sentence. If a copy of the completed evaluation has not been provided to the court, the court may proceed to sentence the defendant. If the defendant has not made a good faith effort to provide the completed copy of the evaluation to the court, the court may consider the failure of the defendant to provide the report as an aggravating circumstance in determining an appropriate sentence. If treatment is ordered, in no event shall the person or facility doing the evaluation be the person or facility that provides the treatment, with the exception of federally recognized Indian tribes or federal military installations, where diagnosis and treatment are appropriate and available. Nothing herein contained shall preclude the use of funds authorized pursuant to the provisions of chapter 3, title 39, Idaho Code, for court-ordered alcohol treatment for indigent defendants.

(6) At the time of sentencing, the court shall be provided with the following information:

(a) The results, if administered, of any evidentiary test for alcohol and/or drugs;

(b) A computer or teletype or other acceptable copy of the person's driving record;

(c) Information as to whether the defendant has pled guilty to or been found guilty of violation of the provisions of section 18-8004 or 18-8006, Idaho Code, or a similar offense within the past five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s); and

(d) The alcohol evaluation required in subsection (5) of this section, if any.

(7) A minor may be prosecuted for a violation of the provisions of section 18-8004, Idaho Code, under title 16, Idaho Code. In addition to any other penalty, if a minor pleads guilty to or is found guilty of a violation of the provisions of section 18-8004, Idaho Code, he shall have his driving privileges suspended or denied for an additional one (1) year following the end of any period of suspension or revocation existing at the time of the violation, or until he reaches the age of eighteen (18) years, whichever period is greater. During the period of additional suspension or denial, absolutely no driving privileges shall be allowed.

18-8006. AGGRAVATED DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES. (1) Any person causing great bodily harm, permanent disability or permanent disfigurement to any person other than himself in committing a violation of the provisions of section 18-8004, Idaho Code, is guilty of a felony, and upon conviction:

(a) Shall be sentenced to the state board of correction for not to exceed five (5) years, provided that notwithstanding the provisions of section 19-2601, Idaho Code, should the court impose any sentence other than incarceration in the state penitentiary, the defendant shall be sentenced to the county jail for a mandatory minimum period of not less than thirty (30) days; and further provided that notwithstanding the provisions of section 18-111, Idaho Code, a conviction under this section shall be deemed a felony;

(b) May be fined an amount not to exceed five thousand dollars ($5,000);

(c) Shall surrender his license or permit to the court; and

(d) Shall have his driving privileges suspended by the court for a mandatory minimum period of one (1) year after release from imprisonment, and may have his driving privileges suspended by the court for not to exceed five (5) years after release from imprisonment, during which time he shall have absolutely no driving privileges of any kind; and

(e) Shall, when appropriate, be ordered by the court to pay restitution.

(2) Notwithstanding any other provision of law, any evidence of conviction under this section shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of this section means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 3. That Section 49-329, Idaho Code, be, and the same is hereby amended to read as follows:

49-329. MANDATORY REVOCATION BY DEPARTMENT -- TEMPORARY RESTRICTED PERMIT. The department shall forthwith revoke the driving privilege of any driver or chauffeur upon receiving a record of such person's conviction of any of the following offenses, when such conviction has become final, if the court has not ordered the suspension or revocation of such privilege:

1. Vehicular manslaughter;

2. Any felony in the commission of which a motor vehicle is used, except that a court of competent jurisdiction shall have exclusive authority to suspend or revoke driving privileges upon conviction of a violation of the provisions of section 18-8004 or 18-8006, Idaho Code;

3. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

4. Perjury or the making of a false affidavit or statement under oath to the department under this act or under any other law relating to the ownership or operation of motor vehicles;

5. Conviction, or forfeiture of bail, upon three (3) charges of reckless driving committed within a period of twelve (12) months.

Whenever any license, permit or driving privilege has been revoked by the department ~~as provided in this~~ on the basis of subsections 2. through 5. above, the department may~~,--however,~~ issue a temporary restricted permit, except when restricted driving privileges are specifically prohibited by other provisions of law~~,--except that no temporary restricted permit may be--issued--upon--conviction--of--vehicular manslaughter~~.

Such temporary restricted permit shall specify the restrictions as to time and area of use and such further restrictions as the department, in its discretion, may impose.

SECTION 4. That Section 49-330, Idaho Code, be, and the same is hereby amended to read as follows:

49-330. AUTHORITY OF DEPARTMENT TO SUSPEND OR REVOKE LICENSE. (a)

If the court has not ordered the suspension of a license, permit or privilege, or made a determination with respect thereto, the department is hereby authorized to suspend the license of a driver or chauffeur without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

1. Has committed an offense for which mandatory revocation of license is required upon conviction;

2. Has been convicted in any court in this state of an offense against a municipal ordinance which would have been grounds for suspension or revocation of license had the charge been prosecuted under a state law;

3. Is incompetent to drive a motor vehicle;

(~~1~~A) Any person who in the opinion of the department, based upon recommendation of such person's personal physician, is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when such person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the streets and highways, or any person who is unable to understand highway signs, warning, regulating or directing traffic, is incompetent to drive a motor vehicle.

(~~2~~B) Any person who shall not have minimum visual acuity with or without glasses of 20/40 in at least one (1) eye as determined by the Snellen system or other available systems is incompetent to drive a motor vehicle, provided, however, that the department shall have the authority to license such person upon recommendation of an ophthalmologist or qualified physician. Any person who applies for or receives any type of tax welfare or other benefits or exemptions for the blind shall be conclusively presumed incompetent to drive a motor vehicle.

(~~3~~C) Any person, department, or political subdivision of the state of Idaho who receives an application for any type of tax, welfare, aid or other benefits or exemptions for the blind shall immediately forward the name, address, sex, date of birth, and date of application of such applicant to the department;

4. Has permitted an unlawful or fraudulent use of such license;

5. Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation;

~~6. Has--been--convicted--under-the-provisions-of-section-49-1102, Idaho-Code;~~

~~7.~~ Has been convicted of the offense of reckless driving as provided in section 49-1103, Idaho Code, and providing that the driving privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the period of suspension shall be for one (1) year;

~~8~~7. Has a driving record which shows a violation point count of twelve (12) or more points in any consecutive twelve (12) month period; or

~~9~~8. Is an habitual violator of the traffic laws of the state of Idaho.

(b) The term "violation" as herein used shall mean conviction of a misdemeanor charge involving a moving traffic violation; or an admission or judicial determination of commission of an infraction involving a moving traffic infraction, except bicycle infractions.

The term "conviction" as herein used shall mean a final conviction.

The term "habitual violator" as herein used shall mean any person who has a driving record which shows a violation point count of eighteen (18) or more points in any consecutive twenty-four (24) month period; or twenty-four (24) or more points in any consecutive thirty-six (36) month period.

In determining the "violation point count" as herein used, conviction of any charge, or proof of any infraction, involving a moving traffic violation shall be given a value of one (1) point for less serious violations to four (4) points for more serious violations; provided, that conviction or proof of infraction for only one (1) violation arising from one (1) occasion of arrest or citation shall be counted in determining the violation point count for the purposes of this section.

(c) The department is hereby authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of operators' or chauffeurs' driving licenses issued by the department.

(d) Upon suspending the license of any person as hereinbefore in this section authorized the department shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing before the director as early as practical within not to exceed twenty (20) days after receipt of such request in the county wherein the licensee resides unless the department and the licensee agree that such hearing may be held in some other county. ~~Provided-that-said-notice-and-hearing-shall-not--be--required--if--the licensee--has--duly-executed-and-filed-with-the-department-a-waiver-of hearing-for-any-mandatory-suspension-as-provided-in-subsection-(a)6-or (a)7-of-this-section,-and-surrendered-to-the-court-all-operator's--and chauffeur's--licenses--then--held--by-said-licensee;-provided-further, however,-that-n~~Notice and hearing as provided herein shall be required prior to the imposition of additional suspension periods beyond the periods as set forth in this section. Upon such hearing the director or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the department shall either rescind its order of suspension or, good cause appearing therefor, may extend the suspension of such license or revoke such license.

(e) A court of competent jurisdiction shall have exclusive authority to suspend or revoke driving privileges upon failure or refusal of an individual to submit to an evidentiary test for alcohol,

drugs or any other intoxicating substances as provided by section 18-8002, Idaho Code.

(f) Whenever a license, permit or driving privilege has been suspended by the department as provided in this section, other than as set forth in subsections (a)3 and (a)4, the department may issue a temporary restricted permit restricting the time, area and purpose of use. Application, eligibility requirements and form of the temporary restricted permit shall be provided by rule of the department.

SECTION 5. That Section 18-4006, Idaho Code, be, and the same is hereby amended to read as follows:

18-4006. MANSLAUGHTER DEFINED. Manslaughter is the unlawful killing of a human being, without malice. It is of three (3) kinds:

1. Voluntary--upon a sudden quarrel or heat of passion.

2. Involuntary--in the perpetration of or attempt to perpetrate any unlawful act, other than arson, rape, robbery, kidnapping, burglary, or mayhem; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection; or in the operation of any firearm or deadly weapon in a reckless, careless or negligent manner which produces death.

3. Vehicular--in which the operation of a motor vehicle causes death because of:

(a) ~~In~~ the commission of an unlawful act, not amounting to a felony, with gross negligence; or

(b) ~~In~~ the commission of a violation of section ~~49-1102--or 49-1102B~~ 18-8004 or 18-8006, Idaho Code; or

(c) ~~In~~ the commission of an unlawful act, not amounting to a felony, without gross negligence.

Notwithstanding any other provision of law, any evidence of conviction under ~~this~~ subsection 3.(b) shall be admissible in any civil action for damages resulting from the occurrence. A conviction for the purposes of ~~this~~ subsection 3.(b) means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment(s) or withheld judgment(s).

SECTION 6. That Section 1-2222, Idaho Code, be, and the same is hereby amended to read as follows:

1-2222. SALARY SCHEDULE -- ATTORNEY AND NONATTORNEY MAGISTRATES. The salaries of magistrates of the district court shall be as follows:

(1) The annual salary of each magistrate who is an attorney shall be ninety percent (90%) of the annual salary of a district judge.

(2) The following schedule is adopted as the base annual salary schedule for all nonattorney magistrates.

STATE OF IDAHO

BASE ANNUAL SALARY SCHEDULE FOR NONATTORNEY MAGISTRATES

Pay Class	Annual Case Dispositions	Annual Salary
Nonattorney Magistrate Judge I	more than 4,500 cases	$24,000
Nonattorney Magistrate Judge II	3,000 to 4,500 cases	21,500
Nonattorney Magistrate		

Judge III	1,750 to 3,000 cases	18,500
Nonattorney Magistrate		
Judge IV	under 1,750 cases	15,000

(3) The administrative director of the courts shall certify annually the case dispositions of each nonattorney magistrate judge and designate the salary classification for each nonattorney magistrate prior to the beginning of each fiscal year. Any increases or decreases in salary as a result of the provisions of this section shall become effective to coincide with the start of the fiscal year.

(4) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (1) of this section, receive an additional seven hundred fifty dollar ($750) longevity increment added to his base salary for each complete five (5) year period of service as a magistrate. No additional longevity increment shall be awarded after the twentieth year of service. For purposes of this subsection, magistrates who entered state service on January 11, 1971, shall receive credit for years of service as a police court judge, city court judge, justice of the peace, or probate judge.

(5) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (2) of this section, and separate and apart from the longevity increment established by subsection (4) of this section, receive an additional jurisdiction credit of thirty percent (30%) of his base salary upon being granted full statutory jurisdiction by the supreme court.

(6) Each nonattorney magistrate shall, separate and apart from the salary schedule established by subsection (2) of this section, separate and apart from the longevity increment established by subsection (4) of this section and separate and apart from the jurisdiction credit established by subsection (5) of this section, receive an additional jurisdiction credit of three thousand five hundred dollars ($3,500) to be added to his base salary during the fiscal year subsequent to any fiscal year in which the administrative director of the courts certifies that the nonattorney magistrate has disposed within a one (1) year period of over two hundred twenty-five (225) cases filed under section ~~49-1102~~ 18-8004, Idaho Code, and charging a defendant with being under the influence of intoxicating beverages or drugs or any other intoxicating substance.

(7) Regardless of any other provision of this section, no nonattorney magistrate shall receive an annual salary of more than twenty-nine thousand six hundred eighty dollars ($29,680).

(8) Regardless of any other provision of this section no nonattorney magistrate shall receive an annual salary which is less than the salary which he is receiving on the effective date of this section. Any nonattorney magistrate receiving a higher salary than is provided by the provisions of this section on the effective date of this act shall be eligible for any cost-of-living salary increases granted to state employees generally as may be approved by the legislature, but in no event shall receive more than the maximum salary provided in subsection (7) of this section.

(9) All nonattorney magistrates are full-time state officers, are required to be available on a twenty-four (24) hour basis to perform duties incident to their office such as the issuance of search and arrest warrants, and are required to hold such office hours as may be

necessary to conduct court business or as required by the supreme court.

SECTION 7. That Section 49-1121, Idaho Code, be, and the same is hereby amended to read as follows:

49-1121. CERTAIN CIRCUMSTANCES FOR FORFEITURE OF BOND FOR TRAFFIC OFFENSES. (1) Whenever a person has received a written uniform misdemeanor traffic citation, summons or complaint containing a notice to appear before a magistrate, and if the attorney prosecuting the case and the defendant concur that it is in the best interest of justice that the defendant may post and forfeit an amount of the bond agreed upon by the parties, the court shall dismiss the charge. When bond is forfeited under the provisions of this subsection, no violation points, as prescribed in section 49-330, Idaho Code, shall accrue. A forfeiture of bond under the provisions of this subsection shall not be recorded as a conviction.

(2) The provisions of subsection (1) of this section shall not be available when citations, summons or complaints are written for a violation of sections ~~49-337,--49-1102,--49-1102B~~ 18-8001, 18-8004, 18-8006 or 49-1103, Idaho Code.

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after March 1, 1984.

Approved February 29, 1984.

CHAPTER 23
(S.B. No. 1275)

AN ACT

RELATING TO THE FUNDING OF THE IDAHO DEPARTMENT OF INSURANCE; REPEALING SECTIONS 41-401, 41-406, 41-3118, 41-3244, 41-3433 AND 41-3922, IDAHO CODE; AMENDING CHAPTER 4, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-401, IDAHO CODE, TO PROVIDE THAT ALL FEES COLLECTED BY THE DEPARTMENT OF INSURANCE SHALL BE PAID INTO AN ACCOUNT DESIGNATED AS THE INSURANCE ADMINISTRATIVE ACCOUNT; AMENDING CHAPTER 4, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-406, IDAHO CODE, TO PROVIDE FOR THE TRANSMITTAL OF FUNDS COLLECTED BY THE DEPARTMENT OF INSURANCE TO THE STATE TREASURER; AMENDING SECTION 41-3117, IDAHO CODE, TO STRIKE REFERENCE TO A CODE SECTION; AMENDING CHAPTER 31, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3118, IDAHO CODE, TO PROVIDE FOR FEES FOR COUNTY MUTUAL FIRE INSURERS; AMENDING CHAPTER 32, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3244, IDAHO CODE, TO PROVIDE FOR FEES FOR FRATERNAL BENEFIT SOCIETIES; AMENDING CHAPTER 34, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3433, IDAHO CODE, TO PROVIDE FOR FEES FOR SERVICE CORPORATIONS; AMENDING CHAPTER 39, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3922, IDAHO CODE, TO PROVIDE FOR FEES

FOR HEALTH MAINTENANCE ORGANIZATIONS; AMENDING SECTION 41-3028, IDAHO CODE, TO PROVIDE THAT FEES FOR ASSOCIATIONS BE FIXED BY REGULATION; AMENDING SECTION 41-3708, IDAHO CODE, TO PROVIDE THAT FEES FOR A HOSPITAL TRUST BE FIXED BY REGULATION; AMENDING SECTION 41-3714, IDAHO CODE, TO PROVIDE THAT FEES FOR A HOSPITAL TRUST BE FIXED BY REGULATION; AMENDING SECTION 41-4005, IDAHO CODE, TO PROVIDE THAT FEES FOR A SELF-FUNDED PLAN BE FIXED BY REGULATION; AND AMENDING SECTION 41-4011, IDAHO CODE, TO PROVIDE THAT FEES FOR A SELF-FUNDED PLAN BE FIXED BY REGULATION.

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

SECTION 1. That Section 41-401, 41-406, 41-3118, 41-3244, 41-3433 and 41-3922, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 4, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-401, Idaho Code, and to read as follows:

41-401. FEES -- LICENSES -- MISCELLANEOUS CHARGES. (1) The director shall collect in advance, and persons so served shall pay to the director in advance, fees, licenses, and miscellaneous charges as provided for from time to time by regulation promulgated by the director. The director may adjust fees, licenses and miscellaneous charges as necessary to allow the department to meet the appropriation as provided for by law.

(2) Any regulation setting fees, licenses and miscellaneous charges shall adhere to the Idaho administrative procedure act except that the effective date of such regulation shall be July 1 of the calendar year of enactment or change. If the appropriation is not known or set by April 1, the director shall be authorized to use emergency rulemaking procedures to maintain an effective date of July 1.

(3) In addition to the other limits imposed by this section, the director shall not, in any one (1) calendar year, increase any renewal fee by a larger percentage than the percentage increase in the general account revenue of the state of Idaho for the same period of time.

(4) Insurance Administrative Account:

(a) There is hereby created an account in the dedicated fund in the state treasury, to be designated the "Insurance Administrative Account" to provide for the expenses of the department of insurance as provided for by law.

(b) The insurance administrative account shall be effective December 31, 1984, and be in existence for a period of at least six (6) months prior to the dedicated account appropriation becoming effective and shall consist of the following:

1. All moneys appropriated by the legislature.

2. All fees, licenses and miscellaneous charges collected pursuant to this section.

(c) All moneys placed in the account shall be examined, audited and allowed in the manner now or hereafter provided by law.

(d) Pending use for purposes of the provisions of the laws of this state, moneys in the insurance administrative account shall

be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury.

(e) At the beginning of each fiscal year, those moneys in the insurance administrative account which exceed the current year's appropriation plus any residual encumbrances made against prior years' appropriations by twenty-five percent (25%) or more shall be transferred to the general account.

SECTION 3. That Chapter 4, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-406, Idaho Code, and to read as follows:

41-406. DEPOSIT AND REPORT OF FEES, LICENSES AND TAXES. (1) The director shall transmit all taxes, fines and penalties collected by him to the state treasurer as provided under section 59-1014, Idaho Code. The director shall file with the state auditor a statement of each deposit thus made. All such funds received shall be deposited into the department of insurance suspense account. After any refunds due insurance companies or other persons have been made, such funds shall be distributed as follows:

(a) That portion of the premium tax payable to the public employee retirement account as provided in section 59-1357, Idaho Code, shall be transferred to that account.

(b) The balance of the premium tax, fines and penalties shall be transferred to the general account of the state of Idaho.

(c) All moneys received for fees, licenses and miscellaneous charges collected shall be transferred to the insurance administrative account.

(2) The director shall make and file with the state auditor an itemized statement of the fees, licenses, taxes, fines and penalties collected by him during the preceding month, and shall deliver a certified copy of the statement to the state treasurer.

SECTION 4. That Section 41-3117, Idaho Code, be, and the same is hereby amended to read as follows:

41-3117. AMENDMENT OF ARTICLES OF INCORPORATION. (1) The articles of incorporation of such an insurer may be amended in any lawful respect by approval by its board of directors by affirmative vote of at least two-thirds (2/3) of all its directors and by adoption thereafter by affirmative vote of not less than two-thirds (2/3) of the insurer's members present or represented by proxy at any meeting of members, at which a quorum as required by the insurer's constitution or by-laws was present, and if the notice of such meeting contained notice of the proposed amendment.

(2) An amendment so adopted shall be filed in accordance with the applicable provisions of section 41-2827(2); except that the fee for the filing of the amendment with the ~~commissioner~~ director shall be as provided in section 41-3118 ~~rather than section 41-401~~, Idaho Code. The filing fee shall not be subject to refund.

SECTION 5. That Chapter 31, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-3118, Idaho Code, and to read as follows:

41-3118. FEES. (1) Every county mutual fire insurer shall pay to the director all fees in advance as provided for by regulation.

(2) The director shall transmit and report all fees so collected by him as provided in section 41-406, Idaho Code.

SECTION 6. That Chapter 32, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-3244, Idaho Code, and to read as follows:

41-3244. FRATERNAL BENEFIT SOCIETY FEES. (1) The director shall collect in advance from fraternal benefit societies the licenses and fees, in addition to fees connected with the licenses of agents as otherwise provided for by regulation.

(2) The director shall transmit and report all fees so collected by him as provided in section 41-406, Idaho Code.

SECTION 7. That Chapter 34, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-3433, Idaho Code, and to read as follows:

41-3433. SERVICE CORPORATION FEES. (1) Every service corporation shall pay to the director fees in advance as provided for by regulation.

(2) The director shall transmit and account for all fees received by him hereunder, as provided in section 41-406, Idaho Code

SECTION 8. That Chapter 39, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-3922, Idaho Code, and to read as follows:

41-3922. HEALTH MAINTENANCE ORGANIZATION FEES. (1) Every health maintenance organization subject to this act shall pay to the director, in advance, the fees as provided by regulation.

(2) The director shall transmit and account for all fees received by him hereunder, as provided in section 41-406, Idaho Code.

SECTION 9. That Section 41-3028, Idaho Code, be, and the same is hereby amended to read as follows:

41-3028. ANNUAL TAX STATEMENT -- TAXES -- LICENSE FEES -- EXPIRATION DATE OF LICENSES. 1. Annual tax statement and tax. All mutual benefit associations licensed to transact business in this state shall file with the director of the department of insurance annually on or before the first day of March of each year, a statement, under oath, showing the amount of all gross premiums, dues and other payments,

except membership fees, received by said association on risks in this state during the year ending December thirty-first next preceding, and shall pay to the department of insurance a tax of three per cent (3%) on the amount of such gross premiums, dues and other payments received, except membership fees, in excess of premiums, dues and other payments, returned to members.

Domestic associations shall also file with the director of the department of insurance, on or before the first day of March of each year, a statement, under oath, showing the amount of all gross premiums, dues and other payments, except membership fees, received by said association during the year ending December 31 next preceding, on risks in states in which the association is not licensed and shall pay to the department of insurance a tax of three per cent (3%) on the amount of such gross premiums, dues and other payments, except membership fees, in excess of premiums, dues and other payments returned to members: provided, that if such association has fifty per cent (50%) or more of its gross assets invested as provided in paragraph 3 of this section the reduced tax of one per cent (1%) provided for therein shall apply to said gross premiums.

2. Payment of tax--Property tax--Penalty for failure to pay tax. Within thirty (30) days thereafter such association shall pay or cause to be paid to the department of insurance the tax herein required, which payment of tax when made shall be in lieu of all other taxes upon premiums and upon the personal property of such association and the assets thereof: provided, that all real property, if any, of such associations, shall be listed, assessed and taxed the same as real property of like character of individuals.

An association failing or refusing to render such statement and pay the required tax within the time specified shall be liable to a fine of ten dollars ($10.00) for each additional day of delinquency and the taxes and fine may be collected by distraint and recovered in an action instituted by the attorney-general. The director of the department of insurance shall withhold or revoke the license of any delinquent association until the taxes and fine are paid.

3. Reduced tax for association making local investments. Any association licensed to transact business in this state having fifty per cent (50%) or more of its gross assets either deposited in banks or trust companies in this state, or in savings and loan associations in this state, or in bonds of this state or any of the incorporated cities, counties, townships, school districts or other municipal corporations thereof, or in taxable real estate within this state, or in first mortgages upon improved, unencumbered real estate, within this state, shall pay a tax of one per cent (1%) upon such gross premiums, dues and other payments except membership fees, received from its members located in this state and on risks outside this state upon which no premium tax is paid or payable to another state, in lieu of the tax provided in the previous subsections.

4. Fees ~~and--licenses~~. Every association doing business in this state shall pay to the ~~department--of--insurance--the--following--fees~~ director in advance all fees as provided for by regulation.~~:~~

~~For-annual-license.....$50.00~~
~~For-each-agent's-annual-license.....25.00~~
~~For-filing-and-certifying-articles-of-incorporation.....50.00~~

~~For--filing--and-certifying-each-amendment-to-articles-of-incorporation.....10.00~~
~~For-filing-constitution-and-by-laws-and-amendments-thereto...25.00~~
~~For-filing-annual-statement.....25.00~~
~~For-recording-all-instruments-or-for--making--copies--thereof--per folio-of-one-hundred-(100)-words.....20~~
~~For-affixing-seal-and-certifying-papers.....10.00~~

5. Licenses. All licenses shall expire annually on the 31st day of March.

SECTION 10. That Section 41-3708, Idaho Code, be, and the same is hereby amended to read as follows:

41-3708. APPLICATION FOR REGISTRATION -- FEE. (1) Application for registration of a hospital trust shall be made to the director, on forms furnished and designed by him for the purpose of eliciting information as to whether the trust is qualified for registration. The application shall be signed and verified by at least one (1) of the trustees. If the trustee is a corporation, the verification shall be by a duly authorized corporate officer.

(2) The application shall be accompanied by:

(a) A copy of the trust agreement under which the trust fund is to exist and operate;

(b) A copy of the proposed written statement referred to in subsection (3) of section 41-3707, Idaho Code;

(c) A written statement of reasonably projected income and disbursements of the trust fund for the twelve (12) month period commencing with date of application and showing also the amount reserved and financial resources available as of the end of such period for claims incurred and not paid or incurred and not reported;

(d) A current certified audited financial statement;

(e) Such other relevant documentation and information as the director may reasonably require.

(3) At time of filing the application, the applicant shall pay to the director a nonrefundable filing fee ~~of--twenty-five--dollars ($25.00).--The-director-shall-promptly-remit-all-such-fees-to-the-state treasurer-for-credit-to-the-general-fund-of-the-state~~ as provided for by regulation.

(4) The director shall transmit and account for all fees received by him hereunder as provided for in section 41-406, Idaho Code.

SECTION 11. That Section 41-3714, Idaho Code, be, and the same is hereby amended to read as follows:

41-3714. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The trustees of a hospital trust shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund.

(2) Within sixty (60) days after close of calendar year, the trustee shall make an annual statement in writing summarizing the financial transactions of the trust fund for such calendar year and its financial condition at the end of such year in accordance with

this act and generally accepted and applicable accounting principles. The statement shall otherwise be in form and require information as prescribed by the director, and the financial information therein shall be certified by the accountant by whom such information was prepared and audited. The trustee shall promptly deliver a copy of the statement to each member of the trust, and keep a copy thereof on file in the business office of the trust.

(3) On or before expiration of such sixty (60) day period the trustee shall cause an original of the annual statement to be filed with the director. The trust fund shall pay a filing fee ~~of twenty-five dollars ($25.00) to the director on filing the statement. The director shall promptly deposit such fee with the state treasurer for credit to the general fund of the state~~ as provided for by regulation.

(4) The director shall transmit and account for all fees received by him hereunder, as provided for in section 41-406, Idaho Code.

SECTION 12. That Section 41-4005, Idaho Code, be, and the same is hereby amended to read as follows:

41-4005. APPLICATION FOR REGISTRATION -- FEE. (1) Application for registration of a self-funded plan shall be made to the director, on forms furnished and designed by him for the purpose of eliciting information as to whether the plan is qualified for registration. The application shall be signed and verified by at least one (1) of the employers and one (1) of the trustees. If the employer or trustee is a corporation, the verification shall be by a duly authorized corporate officer.

(2) The application shall be accompanied by:

(a) A copy of the trust agreement under which the trust fund is to exist and operate;

(b) A copy of the proposed written statement of benefits referred to in section 41-4004(5), Idaho Code;

(c) A financial statement of the trust fund, if already in existence and operating on the effective date [July 1, 1974] of this act, as of a date not more than forty-five (45) days prior to the date of filing the application. The statement shall be certified by an independent accountant, or by an accountant whose certification is acceptable to the director;

(d) A written statement of reasonably projected income and disbursements of the trust fund for the twelve (12) month period commencing with date of application and showing also the amount reserved as of the end of such period for claims incurred and not paid or incurred and not reported;

(e) A copy of any study made of the proposed self-funded plan by any consultant for the information or guidance of employer or employees; and

(f) Such other relevant documentation and information as the director may reasonably require.

(3) At time of filing the application the applicant shall pay to the director a nonrefundable filing fee ~~of fifty dollars ($50.00). The director shall promptly remit all such fees to the state treasurer for credit to the general fund of the state~~ as provided for by regulation.

(4) The director shall transmit and account for all fees received

by him hereunder as provided in section 41-406, Idaho Code.

SECTION 13. That Section 41-4011, Idaho Code, be, and the same is hereby amended to read as follows:

41-4011. RECORDS AND ACCOUNTS -- ANNUAL STATEMENT. (1) The trustees of a self-funded plan shall cause full and accurate records and accounts to be entered and maintained covering all ~~financial~~ financial transactions and affairs of the trust fund.

(2) Within sixty (60) days after close of a fiscal year of the plan, the trustee shall make an annual statement in writing summarizing the financial transactions of the trust fund for such fiscal year and its financial condition at the end of such year in accordance with this act and generally accepted and applicable accounting principles. The statement shall otherwise be in form and require information as prescribed by the director, and the financial information therein shall be certified by the accountant by whom such information was prepared or audited. The trustee shall promptly deliver a copy of the statement to each employer participating in the plan, and keep a copy thereof on file in the business office of the plan where it shall be available at all reasonable times for a period of not less than three (3) years to review by any ~~beneficiary~~ beneficiary.

(3) On or before expiration of such sixty (60) day period the trustee shall cause an original of the annual statement to be filed with the director. The trust fund shall pay a filing fee ~~of--twenty-five--dollars--($25.00)--to--the-director-on-filing-the-statement.--The director-shall-promptly-deposit-such-fee-with-the-state-treasurer--for credit-to-the-general-fund-of-the-state~~ as provided for by regulation.

(4) The director shall transmit and account for all fees received by him hereunder as provided in section 41-406, Idaho Code.

Approved March 5, 1984.

CHAPTER 24
(S.B. No. 1282)

AN ACT

RELATING TO THE REPEAL OF PENAL LAWS; AMENDING SECTION 67-513, IDAHO CODE, TO CLARIFY THAT THE REPEAL OF A CRIMINAL STATUTE DOES NOT BAR THE PROSECUTION OF INDIVIDUALS WHO VIOLATED THE STATUTE BEFORE ITS REPEAL; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 67-513, Idaho Code, be, and the same is hereby amended to read as follows:

67-513. REPEAL OF PENAL LAW. The repeal of any law creating a criminal offense does not constitute a bar to the ~~indictment~~ prosecution and punishment of an act already committed in violation of

the law so repealed, unless the intention to bar such ~~indictment~~ prosecution and punishment is expressly declared in the repealing act.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and retroactively from and after July 1, 1983.

Approved March 5, 1984.

CHAPTER 25
(S.B. No. 1316)

AN ACT

APPROPRIATING MONEYS TO THE STATE TAX COMMISSION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 178, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 178, Laws of 1983, there is hereby appropriated to the State Tax Commission for the Ad Valorem Program, the following amount to be expended for operating expenditures from the listed account for the period July 1, 1983, through June 30, 1984:

FROM:

Property Tax Assistance Account	$8,700

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 5, 1984.

CHAPTER 26
(S.B. No. 1321)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 196, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 1, Chapter 196, Laws of 1983, there is hereby appropriated to the Supreme Court the following amount to be expended generally as follows for the period July 1, 1983, through June 30, 1984:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
SUPREME COURT:			
FROM:			
Interagency Billing and Receipts Account	$20,100	$27,000	$47,100

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 5, 1984.

CHAPTER 27
(S.B. No. 1322)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 52, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 1, Chapter 52, Laws of 1983, there is hereby appropriated to the State Treasurer the following amount to be expended according to the designated expense classes from the listed account for the period July 1, 1983, through June 30, 1984:

FOR:	
Personnel Costs	$ 6,000
Operating Expenditures	5,600
TOTAL	$11,600
FROM:	
General Account	$11,600

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 5, 1984.

CHAPTER 28
(H.B. No. 382)

AN ACT

RELATING TO EXEMPTIONS FROM ADDITIONAL SALES TAX; AMENDING SECTION 63-3640A, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM ADDITIONAL

SALES TAX FOR CERTAIN TANGIBLE PERSONAL PROPERTY; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION, AND PROVIDING A LIMITATION ON FILING CLAIMS FOR REFUNDS.

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

SECTION 1. That Section 63-3640A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3640A. CONTRACTS ENTERED INTO BEFORE EFFECTIVE DATE OF INCREASED TAX. (1) Commencing March 1, 1983, and ending June 30, 1984, the purchase, use, storage or other consumption of tangible personal property which is otherwise subject to the taxes imposed by this chapter by persons defined in section 63-3609(a), Idaho Code, shall be exempt from the additional taxes imposed by section 63-3640, Idaho Code, if:

(a) The tangible personal property is purchased, used, stored or otherwise consumed for incorporation into real property; and

(b) The tangible personal property is purchased, used, stored or otherwise consumed in regard to a project performed by such person pursuant to a qualified contract; and

(c) The taxpayer claims the exemption in the manner provided by subsection (3) of this section.

(2) As used in this section, the term "qualified contract" means a contract which:

(a) Is a written contract; and

~~(b)~~--Wwas in effect on February 28, 1983, or was submitted for bid or bid in written form on or before February 28, 1983, and subsequently became a written contract; and

~~(c)~~--Wwas negotiated or bid based upon the sales or use tax being three percent (3%); and

~~(d)~~--Rrequires the cost of the sales or use tax to be borne by the contractor; or

(b) Is a written contract; and was in effect on May 31, 1983, or was submitted for a bid in written form on or before May 31, 1983, and subsequently became a written contract; and was negotiated or bid based upon the sales or use tax being four percent (4%); and requires the cost of the sales or use tax to be borne by the contractor.

(3) A person entitled to the exemption granted in subsection (1) of this section may submit a claim for refund to the state tax commission for the amount of additional tax imposed by section 63-3640, Idaho Code, actually paid by him to which the exemption granted in subsection (1) of this section applies. The claim for refund shall include:

(a) A copy of a written contract which is a qualified contract; and

(b) A detailed invoice prepared by the seller showing all items of tangible personal property purchased by the claimant, the sale of which is subject to the exemption granted in subsection (1) of this section; and

(c) A document signed by the purchaser certifying that the tangible personal property shown on the invoice required by subpart

(3)(b) of this section has in fact been used by him on the project to which the qualified contract relates.

(4) Upon receipt of the claim for refund, the state tax commission shall review the claim and, if it finds it to be proper, shall pay the refund together with interest from the date that the claim was filed at the rate established by section 63-3045, Idaho Code, within thirty (30) days from the date the claim was received by the commission.

(5) The use or incorporation into real property of any tangible personal property upon which the exemption provided by subsection (1) of this section has been claimed pursuant to any contract other than a qualified contract shall be a misdemeanor.

(6) In addition to the criminal penalties provided by subsection (5) of this section, the use or incorporation into real property of tangible personal property upon which the exemption provided by subsection (1) of this section has been claimed pursuant to any contract which is not a qualified contract shall subject the user to a penalty of three (3) times the sales or use tax otherwise due under this chapter to be enforced and collected as provided by sections 63-3634 and 63-3635, Idaho Code.

(7) In the case of a retailer who makes sales of tangible personal property to any person entitled to the exemption granted in subsection (1) of this section who is for any reason unable to collect the additional tax imposed by section 63-3640, Idaho Code, from the purchaser, the retailer shall be entitled to claim the refund otherwise available to the purchaser. The claim for refund shall be filed in the manner prescribed by subsection (3) of this section. Nothing in this subsection shall excuse the retailer from reporting sales and use taxes at the full statutory rate on all taxable sales made during the period to which his sales or use tax return relates. If a refund claim is filed concurrently with the return, the refund claimed may be credited against the tax due on the return. Any retailer who claims a refund for any taxes actually collected from the purchaser shall be subject to a penalty of three (3) times the sales or use tax refund improperly claimed to be enforced and collected as provided by sections 63-3634 and 63-3635, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to June 1, 1983, except that all claims for refunds under section 63-3640A, Idaho Code, filed prior to January 1, 1984, shall be paid according to the directives of the state tax commission in effect at that time, irrespective of the additional provisions of section 63-3640A(2)(b), Idaho Code, as added by this act; however, all claims for refunds under section 63-3640A, Idaho Code, filed after January 1, 1984, shall be paid according to the provisions of section 63-3640A, Idaho Code.

Approved March 5, 1984.

CHAPTER 29
(H.B. No. 442)

AN ACT

RELATING TO MARRIAGE LICENSE FEES; AMENDING SECTIONS 31-3205, 32-408 AND 39-263, IDAHO CODE, BY INCREASING THE FEE FOR ISSUING A MARRIAGE LICENSE.

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

SECTION 1. That Section 31-3205, Idaho Code, be, and the same is hereby amended to read as follows:

31-3205. RECORDER'S FEES. The county recorder is allowed, and may receive for his services, the following fees, to be paid him by the party procuring his services:

For recording every instrument, paper or notice, for each page ..... $ 2.00

For copies of any record or paper, for each page ..... $ 1.00

For each certificate under seal, when required ..... $ 1.00

For release or assignment of mortgage where more than one (1) mortgage is released or assigned in the same instrument, for each additional release or assignment ..... $ 1.00

For recording every town plat or map, for first one hundred (100) lots or less $10.00

And for each additional lot ..... $ .05

For taking acknowledgments, including seal ..... $ 1.00

For recording the location notice or amended location notice, of a mining claim, or for recording and indexing each notice, for each page ..... $ 2.00

For recording affidavit of labor of mining claims for one (1) mining claim ..... $ 3.00

Plus an additional charge for each claim in excess of one (1) ..... $ .50

For filing a survey ..... $ 5.00

For making copy of a survey ..... $ 4.00

For issuing marriage license, filing, recording and indexing the certificate of marriage and taking and filing affidavits required in issuance of the license ..... $ ~~9.75~~10.00

For administering an oath, including jurat ..... $ 1.00

And certifying the same when required an additional sum of ..... $ 1.00

For comparing and certifying a prepared copy of a file or record in his office, for each page ..... $ .50

For making and certifying a report of search for lien upon personal property, excluding Uniform Commercial Code, for each name searched ..... $ 5.00

For each certificate under seal there shall be an additional fee of ..... $ 1.00

All instruments delivered to the county recorder for record shall be recorded rather than filed with the exception of plats, surveys, cornerstone markers and instruments under the Uniform Commercial Code.

For all other services as recorder, not enumerated herein, the fee fixed in the statute requiring the service or the same fee as allowed the clerk of the district court for like service.

A page shall not exceed fourteen (14) inches in length nor eight and one-half (8 1/2) inches in width. The recording fee to be charged for maps, sketches, drawings or other instruments except plats larger than the size permitted above for a page shall be two cents (2¢) per square inch.

SECTION 2. That Section 32-408, Idaho Code, be, and the same is hereby amended to read as follows:

32-408. FEES FOR ISSUING LICENSE. The recorder of each county of this state shall be entitled to a fee ~~of four dollars and seventy-five cents ($4.75)~~ as provided by section 31-3205, Idaho Code, for each license issued, which fee he shall demand and receive from the person applying for the same, and he may refuse to issue any such license until such fee is paid to him. Said fee shall include the payment for the service of taking affidavit, filing affidavit and recording the license upon its return from the minister or officer solemnizing the marriage for which it was issued.

SECTION 3. That Section 39-263, Idaho Code, be, and the same is hereby amended to read as follows:

39-263. MARRIAGE LICENSE FEES. Every county recorder shall be paid a recording fee, to be established by regulations adopted by the board, for each marriage certificate filed with said recorder and forwarded to the state registrar. The recording fee shall be ~~paid by the applicant for the license and be collected together with the fee for the license~~ as provided by section 31-3205, Idaho Code.

Approved March 5, 1984.

CHAPTER 30
(H.B. No. 467)

AN ACT

RELATING TO RECORDING OF LIENS; AMENDING SECTION 45-703, IDAHO CODE, BY PROVIDING PROPER NOMENCLATURE AND BY CHANGING THE DOLLAR AMOUNT FOR RECORDING HOSPITAL LIENS AND REPLACING IT WITH A RECORDER'S FEE.

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

SECTION 1. That Section 45-703, Idaho Code, be, and the same is hereby amended to read as follows:

45-703. RECORDING AND INDEXING LIEN. The recorder shall endorse thereon the date and hour of ~~filing~~ recording and, at the expense of the county, shall provide a hospital lien book with proper index in

which he shall enter the date and hour of such ~~filing~~ recording, the name and address of such hospital and of such patient, the amount claimed and the names and addresses of those claimed to be liable for damage. Such recorder shall be paid the sum ~~of-fifty-cents-as-his--fee for-such-filing~~ as provided by section 31-3205, Idaho Code.

Approved March 5, 1984.

CHAPTER 31
(H.B. No. 541)

AN ACT

AMENDING SECTION 2, CHAPTER 200, LAWS OF 1983, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION, BY REDUCING THE PROBATION AND PAROLE PROGRAM BY $473,900 FROM THE GENERAL ACCOUNT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 200, Laws of 1983, be, and the same is hereby amended to read as follows:

SECTION 2. There is hereby appropriated to the Department of Correction the following amounts, to be expended for the designated programs from the listed accounts for the period July 1, 1983, through June 30, 1984:

A. ADMINISTRATION		
FROM:		
General Account		$ 993,400
Interagency Billing and Receipts Account		10,000
TOTAL		$ 1,003,400
B. INCARCERATION		
FROM:		
General Account		$ 6,554,500
Penitentiary Income Account		725,000
Interagency Billing and Receipts Account		158,600
TOTAL		$ 7,438,100
C. NORTH IDAHO CORRECTIONAL INSTITUTION		
FROM:		
General Account		$ 846,100
D. PROBATION AND PAROLE		
FROM:		
General Account	~~$ 2,639,200~~	2,165,300
Interagency Billing and Receipts Account		115,800
TOTAL	~~$ 2,755,000~~	2,281,100
E. PAROLE COMMISSION		
FROM:		
General Account		$ 68,800
F. IDAHO WOMEN'S CORRECTIONAL INSTITUTION		
FROM:		
General Account		$ 350,000

Interagency Billing and Receipts Account	9,000
TOTAL	$ 359,000
GRAND TOTAL	~~$12,470,400~~ 11,996,500

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 5, 1984.

CHAPTER 32
(H.B. No. 544)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 260, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 260, Laws of 1983, there is hereby appropriated to the Office of the Governor the following amount to be expended for the named program according to the designated expenditure classes from the listed account for the period July 1, 1983, through June 30, 1984:

MILITARY DIVISION:

FOR	
Personnel Costs	$ 20,300
Capital Outlay	91,300
TOTAL	$111,600
FROM:	
Civil Defense - Federal Administration and Personnel Account	$ 6,600
Interagency Billing and Receipts Account	105,000
TOTAL	$111,600

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 5, 1984.

CHAPTER 33
(H.B. No. 545)

AN ACT

APPROPRIATING MONEYS TO THE STATE DEPARTMENT OF EDUCATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 276, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 1, Chapter 276, Laws of 1983, there is hereby appropriated to the State Department of Education, Finance and Administration Program, the following amounts to be expended for operating expenditures from the listed account for the period July 1, 1983, through June 30, 1984:

FROM:	
Commodity Distribution Account	$60,000

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 5, 1984.

CHAPTER 34
(H.B. No. 546)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE STATE LIBRARY BOARD IN ADDITION TO THE APPROPRIATION MADE BY SECTION 15, CHAPTER 193, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 15, Chapter 193, Laws of 1983, there is hereby appropriated to the State Board of Education for the State Library Board the following amounts to be expended according to the designated expense classes from the listed account for the period July 1, 1983, through June 30, 1984:

FOR:	
Operating Expenditures	$ 5,000
Capital Outlay	12,500
TOTAL	$17,500
FROM:	
Interagency Billing and Receipts Account	$17,500

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 5, 1984.

CHAPTER 35
(H.B. No. 387, As Amended)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO INCORPORATE AMENDMENTS MADE TO THE FEDERAL INTERNAL REVENUE CODE BY CONGRESS IN 1983; AND AMENDING SECTION 63-3022, IDAHO CODE, TO PERMIT DEDUCTION OF CERTAIN SOCIAL SECURITY AND RAILROAD RETIREMENT BENEFITS SUBJECT TO FEDERAL INCOME TAX; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3004, Idaho Code, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. The term "Internal Revenue Code" means the Internal Revenue Code of 1954 of the United States, as amended, and in effect on the first day of January, 1984~~3,-except-that the-amendments-made-to-the-Internal-Revenue-Code-by-the-Tax-Equity-and Fiscal-Responsibility-Act-of-1982-(P.L.-97-248),--the--Subchapter--"S" Revision--Act--of-1982-(P.L.-97-354),-the-Miscellaneous-Revenue-Act-of 1982-(P.L.-97-362)-and-the-Technical-Corrections-Bill--of--1982--(P.L. 97-448)--shall--be--in--effect--in-defining-the-term-"Internal-Revenue Code"-on-and-after-the-effective-dates-of-the-changes-to-the--Internal Revenue-Code-made-by-those-acts.~~

SECTION 2. That Section 63-3022, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022. TAXABLE INCOME. The term "taxable income" means "taxable income" as defined in section 63 of the Internal Revenue Code, adjusted as follows:

(a) Add interest and dividends received or accrued during the taxable year from foreign securities and from securities issued by states and other political subdivisions, other than those issued by the state of Idaho, its cities and political subdivisions, exempt from federal income tax under the Internal Revenue Code, less applicable amortization.

~~(1) In--the--case--of-a-corporation-whose-income-is-computed-pursuant-to-section-63-3027,-Idaho-Code,-the-interest-expense-deductible-shall-be-an-amount-equal--to--interest--and--dividend--income subject--to--apportionment,--plus-the-amount,-if-any,-by-which-the balance-of-interest-expense-exceeds-interest-and--dividend--income not-subject-to-apportionment.-Interest-expense-not-included-in-the preceding--sentence--shall-be-directly-offset-against-interest-and dividend-income-not-subject-to-apportionment.~~

~~(2)~~ In the case of a corporation whose income is taxable under this chapter, no deduction shall be allowed for interest on indebtedness incurred or continued to purchase after January 1,

1983, or to carry obligations acquired after January 1, 1983, the interest of which is wholly exempt from the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's average adjusted basis of the obligations mentioned in the preceding sentence bears to such average adjusted basis for all assets of the taxpayer, or, at the option of the taxpayer, an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year.

(b) Add any state taxes, measured by net income, paid or accrued during the taxable year adjusted for state tax refunds used in arriving at taxable income as defined in section 63 of the Internal Revenue Code.

(c) Add the net operating loss deduction used in arriving at taxable income as defined in section 63 of the Internal Revenue Code.

(d) (1) Subtract any net operating loss incurred in the five (5) next preceding taxable years; provided, however, such net operating loss shall be subtracted first in the first succeeding taxable year, and any excess not so subtracted may then be subtracted in the second succeeding taxable year, and any excess shall be subtracted in each succeeding taxable year in order until the net operating loss is exhausted, but the total subtracted in such succeeding taxable years shall not exceed the total of such net operating loss; provided, further, that net operating losses arising in taxable years commencing on or after January 1, 1964, must first be carried back to the three (3) taxable years preceding the year of such net operating loss in the manner provided in Internal Revenue Code section 172 except that no such net operating loss shall be carried back to any taxable year commencing before January 1, 1963; and provided, further, that net operating losses accumulated in any taxable years commencing before January 1, 1964 shall be carried forward as provided in the beginning part of this subsection before any carryback from a succeeding taxable year shall be taken into consideration.

(2) A net operating loss for any taxable year commencing on or after January 1, 1983, shall be a net operating loss carryover to each of the ten (10) taxable years following the taxable year of such loss; provided, however, such net operating loss shall be subtracted in each succeeding year in order but the total subtracted in the succeeding taxable years shall not exceed the total of such net operating loss; provided, further, that a net operating loss not to exceed one hundred thousand dollars ($100,000) arising in a taxable year commencing on or after January 1, 1983, may, at the election of the taxpayer, be carried back to the three (3) immediately preceding taxable years, and if such loss is not

entirely absorbed by the income of those years, the amount of loss not exhausted may be subtracted from taxable income arising in the next ten (10) years succeeding the taxable year in which the loss arises in order until exhausted. An election under this subsection must be in the manner prescribed in the regulations of the state tax commission and once made is irrevocable for the year in which it is made. In the event that the taxpayer elects to carryback any loss arising in a year commencing on or after January 1, 1983, any loss not exhausted may be subtracted from taxable income arising in the next succeeding ten (10) taxable years in order until exhausted.

(3) Net operating losses incurred by a corporation during a year in which such corporation had no Idaho business situs may not be subtracted. Net operating losses incurred by a person, other than a corporation, in business activities not taxable by Idaho may not be subtracted.

(e) In the case of a corporation, add the amount deducted under the provisions of section 243(a) of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(f) In the case of a corporation, subtract an amount equal to eighty-five per cent (85%) of the amount received during the taxable year as dividends, as limited by the rules of section 246(b)(1) of the Internal Revenue Code, from any corporation which has shown to the satisfaction of the state tax commission that more than fifty per cent (50%) of its taxable income for the taxable year immediately preceding the declaration of such dividends was taxable by the state of Idaho under the provisions of this act.

(g) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income, as defined by section 63 of the Internal Revenue Code.

(h) In the case of a corporation with more than fifty per cent (50%) of its income taxable within this state, the salary, fee or other compensation of its nonresident officers or directors shall be treated as income from sources within the state. Whether or not any personal services have been performed by such nonresident officers or directors in this state, they shall be deemed to have a business situs in this state. If such salary, fee or other compensation is not reported to this state as income, such corporation shall not deduct as part of its expenses for the taxable year any part of such salary, fee or other compensation in computing taxable income. When the salary, fee or other compensation paid to such nonresident officer is reported to this state as income by such nonresident officer, it shall be apportioned by applying to the total of such income the apportionment factor of the corporation paying the salary, fee or other compensation, as such factor is reported on the corporation's income tax return computed pursuant to section 63-3027, Idaho Code, or as subsequently modified. Provided, however, reasonable compensation paid to such nonresident officers or directors for personal services actually

performed outside the state of Idaho shall not be included as income earned from Idaho sources.

(i) For the purpose of determining the taxable income of the beneficiary of a trust or of an estate, distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section. In the event that a nonresident beneficiary of a trust or estate fails to file an Idaho income tax return reporting all or any part of distributable net income taxable in Idaho or fails to pay any tax due thereon, the trust or estate making the payment or distribution shall be taxable upon the amount of such distribution or payment at the rates established by section 63-3024, Idaho Code.

(j) In the case of an individual who is on active duty as a full time officer, enlistee or draftee, with the armed forces of the United States, which full time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid for services performed outside this state by the armed forces of the United States; provided that appropriate adjustments shall be made in his zero bracket amount and exemptions as described in section 63-3027A, Idaho Code.

(k) In the case of a corporation, add any capital loss deducted which loss was incurred during any year in which such corporation had no Idaho business situs. In the case of persons, other than corporations, add any capital loss deducted which was incurred in business activities not taxable by Idaho at the time such loss was incurred. In the case of a corporation having income from Idaho sources and having elected to file federal income tax returns thereon pursuant to Subchapter-S of the Internal Revenue Code, salaries, wages, fees, and other compensation paid to nonresident shareholders, and the dividends distributed and the undistributed taxable income allocated to each nonresident shareholder, shall be treated as income from sources within the state. Whether or not any personal services have been performed in this state by such nonresident shareholders, they shall be deemed to have a business situs in this state. When the salaries, wages, fees, and other compensations paid to such nonresident shareholders or dividends paid to such nonresident shareholders or undistributed taxable income allocated to such shareholders is reported to this state as taxable income pursuant to this subsection, such income shall be apportioned by applying to the total of such income the apportionment factor of the corporation. The apportionment factor of the corporation shall be computed pursuant to the provisions of section 63-3027, Idaho Code. If such dividends, undistributed taxable income, salaries, wages, fees or other compensation are not reported to this state by the nonresident shareholders, such corporation shall report the same to this state and be taxable thereon. Provided, however, reasonable compensation paid to such nonresident shareholders for personal services actually performed outside the state of Idaho shall not be included as income earned from Idaho sources. In computing the income taxable to the corporation under this subsection, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (d) of this section or a

capital loss provided for in section 1212 of the Internal Revenue Code.

(1) In the case of natural persons, there shall be allowed as deductions from gross income either (1) or (2) at the option of the taxpayer:

(1) a. The zero bracket amount as defined by section 63, Internal Revenue Code, plus

b. Contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

c. Itemized expenditures of not to exceed one thousand dollars ($1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter A47, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter A47, title 39, Idaho Code; in order for the deduction under this paragraph c. to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

(2) a. Itemized deductions as defined in sections 163, 164 (except state income taxes as specified in subsection (b) of this act), 165, 166, 170, 171, 211, 212, 213, 216 and 218, Internal Revenue Code, plus

b. Contributions made to the state of Idaho for credit to the medical assistance account, if such contributions were not previously subtracted in arriving at taxable income, plus

c. Itemized expenditures of not to exceed one thousand dollars ($1,000) per cared for member incurred in providing personal care services to or for an immediate member of the taxpayer's family; such services may be provided either in the taxpayer's home or the family member's home; personal care services shall be as defined in chapter A47, title 39, Idaho Code, but the cared for member need not be medicaid eligible for the purposes of this section only, if he substantially meets all of the other requirements of chapter A47, title 39, Idaho Code; in order for the deduction under this paragraph c. to be allowed, the expenditures claimed must not have been reimbursed by medicare, medicaid or private insurance, and such expenditures must not have been previously subtracted in arriving at taxable income.

(m) Deduct any wages and salaries paid to employees qualified under the provisions of section 44B, Internal Revenue Code, for claiming the federal jobs credit and under sections 40, 50A or 50B, Internal Revenue Code, for claiming the federal tax credit for authorized work incentive program (WIN) wages and salaries upon which the federal credits have been claimed and which were not deducted on the

taxpayer's federal return.

(n) Deduct any amounts added to gross income under section 867 of the Internal Revenue Code for tax credits allowable to the taxpayer under section 44E of the Internal Revenue Code.

(o) Add the ordinary income portion of any lump sum distribution deducted from gross income pursuant to section 402(e)(3) of the Internal Revenue Code.

(p) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1984.

Approved March 9, 1984.

CHAPTER 36
(H.B. No. 388)

AN ACT

RELATING TO TECHNICAL CORRECTION OF STATUTES RELATING TO THE UNCLAIMED PROPERTY LAW; AMENDING SECTION 14-501, IDAHO CODE, TO INCLUDE UNCLAIMED JUDGMENTS IN CLASS ACTION LAW SUITS AS PROPERTY SUBJECT TO THE UNIFORM UNCLAIMED PROPERTY LAW; AMENDING SECTION 30-1-104, IDAHO CODE, TO CORRECT CROSS-REFERENCES; AMENDING SECTION 14-113, IDAHO CODE, TO CORRECT A CROSS-REFERENCE; AMENDING SECTION 15-2-105, IDAHO CODE, TO CORRECT A CROSS-REFERENCE; AND AMENDING SECTION 15-3-914, IDAHO CODE, TO CORRECT A CROSS-REFERENCE.

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

SECTION 1. That Section 14-501, Idaho Code, be, and the same is hereby amended to read as follows:

14-501. DEFINITIONS AND USE OF TERMS. As used in this chapter:

(1) "Administrator" means the state tax commission or its duly authorized agents or employees.

(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.

(3) "Attorney general" means the chief legal officer of this state.

(4) "Banking organization" means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization.

(5) "Business association" means a nonpublic corporation, joint

stock company, investment company, business trust, partnership, or association for business purposes of two (2) or more individuals, whether or not for profit, including, but not limited to, a banking organization, financial organization, insurance company, or utility.

(6) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(7) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, investment company, or credit union.

(8) "Holder" means a person, wherever organized or domiciled, who is:

(a) In possession of property belonging to another;

(b) A trustee; or

(c) Indebted to another on an obligation.

(9) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life, including endowments and annuities, malpractice, marine, mortgage, surety, and wage protection insurance.

(10) "Intangible property" includes:

(a) Monies, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(c) Stocks and other intangible ownership interests in business associations;

(d) Monies deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(e) Amounts due and payable under the terms of insurance policies; **and**

(f) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits; and

(g) Any interest created by a judgment entered in any court of competent jurisdiction in favor of persons who are members of a class of persons defined by the court entering the judgment.

(11) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

(12) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this act or his legal representative.

(13) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corpora-

tion, public authority, estate, trust, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(14) "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.

(15) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

SECTION 2. That Section 30-1-104, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-104. DEPOSIT WITH STATE ~~TREASURER~~ TAX COMMISSION OF AMOUNT DUE CERTAIN SHAREHOLDERS. Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or shareholder who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited with the state tax commission and shall be administered and distributed as abandoned property in accordance with the provisions of ~~sections 14-506 through 14-521, Idaho Code.~~ chapter 5, title 14, Idaho Code, the "uniform unclaimed property act."

SECTION 3. That Section 14-113, Idaho Code, be, and the same is hereby amended to read as follows:

14-113. UNCLAIMED MONEYS -- PAYMENT INTO STATE TREASURY -- ESCHEAT. After a final settlement of the affairs of any estate, if there be no heirs or other claimants thereof, the administrator must pay into the state tax commission any and all moneys and effects reported as unclaimed property as required by section 14-51~~1~~7, Idaho Code, and the procedure for distribution of abandoned property outlined in the unclaimed property act shall be followed, except that the proceeds shall be distributed in the manner provided in section 15-2-105 ~~of this code~~, Idaho Code.

SECTION 4. That Section 15-2-105, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-105. NO TAKER. If there is no taker under the provisions of this chapter, the intestate estate passes to the state of Idaho, subject to administration by the public administrator. After deducting the expenses of administration and causing these to be paid to the county in which such administration occurred, the public administrator shall file the report of abandoned property required by section 14-518~~7~~, Idaho Code, and proceed to dispose of the property in the manner set forth in the "unclaimed property act", provided, however, that if such money is not claimed within eighteen hundred and twenty-seven (1827) days (approximately five (5) years) from the day upon which such property is paid to the state tax commission, it shall

escheat to the state and be apportioned to the public school fund without regard to the provisions of said act.

SECTION 5. That Section 15-3-914, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-914. DISPOSITION OF UNCLAIMED ASSETS. If an heir, devisee or claimant cannot be found, the personal representative shall distribute the share of the missing person to his trustee if one has been appointed; or, if no trustee has been appointed, shall file the report of abandoned property required by section 14-518~~7~~, Idaho Code, and proceed to dispose of the property in the manner set forth in the "unclaimed property act," provided, however, that in the event no person appears to claim such property within eighteen hundred and twenty-seven (1827) days (approximately five (5) years) of the time such moneys or property is deposited with the state tax commission, the moneys or property so deposited shall accrue and be set over to the ~~state-building-fund~~ general account.

Approved March 9, 1984.

CHAPTER 37
(H.B. No. 391, As Amended)

AN ACT

RELATING TO CRIMINAL TRESPASS; AMENDING SECTION 18-7011, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS FOR ACTS CONSTITUTING CRIMINAL TRESPASS.

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

SECTION 1. That Section 18-7011, Idaho Code, be, and the same is hereby amended to read as follows:

18-7011. CRIMINAL TRESPASS -- DEFINITION AND PUNISHMENT. Any person who, without consent of the owner or person in charge of any lands which are inclosed by fences of any description sufficient to show the boundaries of the land inclosed, shall go upon such lands and shall leave open any gates on or about said premises, or who shall tear down or lay down any fencing, or who shall wilfully remove, mutilate, damage or destroy any "No Trespassing" signs or markers, or who shall go through cultivated crops that have not been harvested, or who shall damage any property thereon, or who without permission of the owner or the owner's agent enters the real property of another person where such real property is posted with "No Trespassing" signs or other notices of like meaning spaced at intervals of not less than one (1) notice per six hundred sixty (660) feet along such real property,

is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six (6) months or by a fine of not less than twenty-five dollars ($25.00) and not more than three hundred dollars ($300) or by both such fine and imprisonment. Where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs or notices are posted at such points of access.

As used in this section and in section 18-7008, Idaho Code: "enters," "entry" and "entering" mean going upon or over real property either in person or by causing any object, substance or force to go upon or over real property.

Approved March 9, 1984.

CHAPTER 38
(H.B. No. 409)

AN ACT

RELATING TO DISTRICT BOARDS OF HEALTH; AMENDING SECTION 39-411, IDAHO CODE, TO PROVIDE THAT IN HEALTH DISTRICTS COMPOSED OF EIGHT COUNTIES EACH BOARD OF COUNTY COMMISSIONERS MAY APPOINT A MEMBER TO THE DISTRICT BOARD OF HEALTH.

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

SECTION 1. That Section 39-411, Idaho Code, be, and the same is hereby amended to read as follows:

39-411. COMPOSITION OF DISTRICT BOARD -- QUALIFICATIONS OF MEMBERS -- APPOINTMENT AND REMOVAL -- TERMS. The district board of health shall consist of seven (7) members to be appointed by the boards of county commissioners within each district acting jointly. <u>For those districts comprised of eight (8) counties, each board of county commissioners may appoint a board member.</u> Each member of the district board of health shall be a citizen of the United States, a resident of the state of Idaho and the public health district for one (1) year immediately last past, and a qualified elector. One (1) member of the district board, if available to serve, shall be a physician licensed by the Idaho state board of medicine and no more than one (1) member shall be appointed from any professional or special interest group. All members shall be chosen with due regard to their knowledge and interest in public health and in promoting the health of the citizens of the state and the public health district. Representation shall be assured from rural as well as urban population groups. All appointments to the district board shall be confirmed by a majority vote of all the county commissioners of all the counties located within the public health district. Any member of the district board may be removed by majority vote of all the county commissioners of all the

counties located within the district. The members of the district board, each year, shall select a chairman and a vice-chairman.

The members of the district board of health shall be appointed for the purpose of organization as follows: One (1) member to be appointed for a term of one (1) year, one (1) for two (2) years, one (1) for three (3) years, two (2) for four (4) years and two (2) for five (5) years. Each succeeding vacancy to be filled by the boards of county commissioners within the district acting jointly and confirmation as herein described for a term of five (5) years, subject to reappointment; and vacancies on the board for an unexpired term shall be filled in the same manner as for an expired term.

Approved March 9, 1984.

CHAPTER 39
(H.B. No. 410)

AN ACT

RELATING TO BUDGETS OF HEALTH DISTRICTS; AMENDING SECTION 39-423, IDAHO CODE, TO STRIKE REFERENCE TO THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE, AND TO PROVIDE FOR SUBMITTAL OF A DISTRICT'S BUDGET REQUEST.

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

SECTION 1. That Section 39-423, Idaho Code, be, and the same is hereby amended to read as follows:

39-423. BUDGET COMMITTEE OF PUBLIC HEALTH DISTRICT. The chairmen of the boards of county commissioners located within the public health district are hereby constituted as the budget committee of the public health district.

The district board will submit to the budget committee by the first Monday in August of each year the preliminary budget for the public health district and the estimated cost of each county, as determined by the provisions of section 39-425, Idaho Code.

On or before the first Monday in September, there will be held at a time and place determined by the budget committee a budget committee meeting and public hearing upon the proposed budget of the district. Notice of the budget committee meeting and public hearing shall be posted at least ten (10) full days prior to the date of said meeting in at least one (1) conspicuous place in each public health district to be determined by the district board of health. A copy of such notice shall also be published in the official newspaper or a generally circulated newspaper of each county of such public health district, in one (1) issue thereof, during such ten (10) day period. The place, hour and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A summary of such proposed budget shall be published with and

as a part of the publication of such notice of hearing in substantially the form required by section 31-1604, Idaho Code. ~~At such meeting, the director of the department of health and welfare shall submit a tentative projection of state aid available as determined in compliance with the provisions of section 39-425, Idaho Code.~~

~~Between the first Monday in September and~~ On or before the first Monday in October a budget for the public health district shall be agreed upon and approved by a majority of the budget committee. Such determination shall be binding upon all counties within the district and the district itself.

Approved March 9, 1984.

CHAPTER 40
(H.B. No. 411, As Amended)

AN ACT

RELATING TO COMPENSATION OF MEMBERS OF DISTRICT BOARDS OF HEALTH; AMENDING SECTION 39-412, IDAHO CODE, TO INCREASE THE COMPENSATION OF MEMBERS OF DISTRICT BOARDS OF HEALTH.

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

SECTION 1. That Section 39-412, Idaho Code, be, and the same is hereby amended to read as follows:

39-412. MEETINGS OF DISTRICT BOARD -- COMPENSATION OF MEMBERS. The district board shall hold such meetings as may be necessary for the orderly conduct of its business and such meetings may be called upon seventy-two (72) hours' notice by the chairman or a majority of the members. Four (4) members shall be necessary to constitute a quorum and the action of the majority of members present shall be the action of the board. The members of the board shall be compensated as provided by section 59-509(~~f~~g), Idaho Code.

Approved March 9, 1984.

CHAPTER 41
(H.B. No. 423)

AN ACT

RELATING TO PEDESTRIANS' RIGHT-OF-WAY IN CROSSWALKS; AMENDING SECTION 49-722, IDAHO CODE, TO PROVIDE MORE STRINGENT REQUIREMENTS FOR YIELDING TO A PEDESTRIAN.

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

SECTION 1. That Section 49-722, Idaho Code, be, and the same is hereby amended to read as follows:

49-722. PEDESTRIANS' RIGHT-OF-WAY IN CROSSWALKS. (1) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to so yield to a pedestrian crossing the roadway within a crosswalk ~~when--the--pedestrian--is-upon-the-half-of-the-roadway-upon which-the-vehicle-is-traveling;-or-when-the-pedestrian-is--approaching so--closely--from-the-opposite-half-of-the-roadway-as-to-be-in-danger~~.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(3) Subsection (1) of this section shall not apply under the conditions stated in subsection (2) of section 49-723, Idaho Code.

(4) Whenever any vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass ~~such~~ the stopped vehicle.

(5) Except where otherwise indicated by a crosswalk or other official traffic-control devices a pedestrian shall cross the roadway at right angles to the curb or by the shortest route to the opposite curb.

Approved March 9, 1984.

CHAPTER 42
(H.B. No. 440, As Amended)

AN ACT

RELATING TO A GRAPE GROWERS AND WINE PRODUCERS COMMISSION; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 36, TITLE 54, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY; TO ESTABLISH THE GRAPE GROWERS AND WINE PRODUCERS COMMISSION; TO DEFINE TERMS; TO PROVIDE FOR APPOINTMENT OF COMMISSION MEMBERS; TO PROVIDE FOR POWERS AND DUTIES OF THE COMMISSION; TO PROVIDE FOR RESEARCH, INVESTIGATION, PROMOTION AND ADVERTISING BY THE COMMISSION; TO CREATE THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION ACCOUNT IN THE DEDICATED FUND; TO PROVIDE FOR BONDING; TO EXCLUDE THE STATE OF IDAHO FROM LIABILITY; TO PROVIDE FOR INSPECTION OF CERTAIN PREMISES AND RECORDS BY THE COMMISSION; TO PROVIDE FOR VIOLATIONS OF THIS ACT AND PENALTIES FOR VIOLATIONS; AND TO PROVIDE FOR SEVERABILITY.

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

SECTION 1. That Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 36, Title 54, Idaho Code, and to read as fol-

lows:

CHAPTER 36
IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

54-3601. DECLARATION OF POLICY. It is in the best interest of the people of the state of Idaho that the abundant and natural resources of Idaho be protected and fully developed. It is in the public interest to protect the public health, prevent fraudulent practices, provide for the development of markets, production research, and promotion of Idaho grapes and grape by-products. The legislature recognizes the vital contributions of agricultural and tourist industries to the economy of this state and declares the intent of this chapter is to enhance, diversify and develop these industries by encouraging the planting and development of native vineyards and the production of wines made from the grapes, fruits and berries of the state of Idaho.

54-3602. COMMISSION CREATED. There is hereby created in the department of self-governing agencies an Idaho grape growers and wine producers commission, to be thus known and designated. The commission shall be composed of three (3) grape growers and two (2) wine producers.

The three (3) grower members shall be citizens and residents of this state, over the age of twenty-one (21) years, each of whom is and has been actively engaged in the growing and producing of grapes within the state of Idaho.

The two (2) wine producer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization are and have been actively engaged as producers of wine within the state of Idaho, are citizens and residents of this state; and are over the age of twenty-one (21) years.

The qualifications of members of the commission must continue during their term of office. No member of the commission shall receive any salary or other compensation, but each member of the commission, when commission funds are duly appropriated, shall be compensated as provided in section 59-509(d), Idaho Code.

54-3603. DEFINITIONS. As used in this chapter:

(1) "Account" means the Idaho grape growers and wine producers account in the dedicated fund.

(2) "Commission" means the Idaho grape growers and wine producers commission.

(3) "District no. 1" shall consist of Canyon county.

(4) "District no. 2" shall consist of Ada, Owyhee, Elmore, Camas, Blaine, Gooding, Lincoln, Minidoka, Jerome, Twin Falls, Cassia, Power, Oneida, Bannock, Franklin, Bear Lake, Caribou, Bonneville, Madison, Teton, Jefferson, Fremont, Butte, Clark, Bingham, Boise, Valley, Custer and Lemhi counties.

(5) "District no. 3" shall consist of Gem, Payette, Washington, Adams, Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Shoshone,

Kootenai, Bonner and Boundary counties.

(6) "Grower" means any person who owns, operates or plants a native vineyard of two (2) or more acres.

(7) "Native vineyard" means acreages planted in vinifera and/or other grapes cultivated primarily for the purpose of vinification.

(8) "Person" means any partnership, association, corporation, cooperative or other business unit or device.

(9) "Producer" means any person who owns, operates or conducts a winery within this state where at least one thousand (1,000) cases of wine per year, are vinified in whole or in part for sale.

(10) "Winery" means a place, premise and/or establishment within the state of Idaho for the manufacture and/or bottling of wine for sale.

54-3604. COMMISSION MEMBERS -- APPOINTMENT. Grower and producer members of the commission shall be selected as follows:

(1) The governor shall appoint one (1) grower member from districts no. 1, no. 2, and no. 3, respectively, and appoint two (2) producer members from any district.

(2) The three (3) grower members shall be appointed to one (1), two (2) and three (3) year terms, respectively. The two (2) producer members shall be appointed to two (2) and three (3) year terms, respectively. Members shall be selected from nominations made by growers and producers as follows:

(a) Prior to July 1, the growers of each district shall convene for the purpose of nominating grower commission members. The growers of each district shall nominate at least one (1) and no more than three (3) growers and submit the names to the governor.

(b) Prior to July 1, the producers shall convene for the purpose of nominating producer commission members. The producers shall nominate at least two (2) and no more than four (4) producers from any district and submit the names to the governor.

Initial commission members shall commence their terms, August 1, 1984. Terms of commission members thereafter shall be for three (3) years.

Members of the commission may not serve more than two (2) consecutive terms; provided, upon serving two (2) consecutive terms, and the lapse of one (1) full term, such member may again be appointed to the commission.

In the event there are vacancies in the commission, the governor shall make the appointment or appointments to fill the vacancy.

54-3605. POWERS AND DUTIES OF COMMISSION. The commission shall have, but is not limited to, the following powers and duties:

(1) To elect a chairman and such other officers as it deems advisable.

(2) To appoint and employ, and at its pleasure discharge, all necessary agents, employees and professional personnel and other personnel, including experts in agriculture and the publicizing of wines and to prescribe their duties and fix their compensation.

(3) To establish offices and incur expense and enter into con-

tracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this act.

(4) To find new markets for grapes and grape products.

(5) To give, publicize and promulgate reliable information showing the value of grapes and grape products for any purpose for which they are found useful and profitable.

(6) To investigate and participate in studies of the problems to the growers of grapes in the state of Idaho.

(7) To take such action as the commission deems necessary or advisable in order to promote grapes for juices, raisins, wines and other grape by-products.

(8) To enter into such contracts as may be necessary or advisable.

(9) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state of Idaho.

(10) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state, or the United States, engaged in work or activity similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education, product protection, publicity and reciprocal enforcement of these objects.

(11) To protect brands, marks, packages, brand names or trademarks being promoted by the commission.

(12) To do any and all things that will promote grapes for juices, raisins, wines and other grape by-products.

(13) To keep an accurate record of all its dealings, which shall be open to inspection and audit by the state auditor.

(14) To sue and be sued.

(15) To adopt and from time to time alter, rescind, modify and/or amend all proper and necessary rules, regulations and orders for the exercise of its powers and performance of its duties under this act.

54-3606. RESEARCH -- INVESTIGATION. The commission shall provide for and conduct comprehensive and extensive research, advertising and educational campaigns as the grape crop and wine product, sales and market conditions reasonably require. It will investigate and ascertain the needs of growers, conditions of the market and extent to which public convenience and necessity require research and advertising.

54-3607. COMMISSION ACCOUNT. The commission may accept grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this act, which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this act shall be paid to the commission and shall be deposited into the Idaho grape growers and wine producers commission account, which is hereby created in the dedicated fund, and are hereby appropriated out of the account and made available for defraying the expenses of the commission in carrying out the provisions of this

chapter.

54-3608. BOND OF ADMINISTRATOR. The administrator, or any agent or employee appointed by the commission, shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code. The cost of the bond is an administrative expense under this chapter.

54-3609. STATE NOT LIABLE. The state of Idaho is not liable for the acts or omissions of the commission or any member thereof, or any officer, agent or employee thereof.

54-3610. INSPECTION OF PREMISES AND RECORDS. The commission may inspect the premises and records of any grape grower or wine producer for the purposes of enforcing the provisions of this chapter.

54-3611. VIOLATION -- PENALTY. Any person who violates or aids in violation of any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300), or imprisonment not to exceed six (6) months, or both.

54-3612. SEVERABILITY. This act shall be liberally construed and if any part or portion thereof shall be declared invalid, or the application thereof to any person, circumstance or thing is declared invalid, the validity of the remainder of this act, and/or the application thereof to any person, circumstance or thing shall not be affected thereby, and it is the intention of the legislature to preserve any and all parts of this act if possible.

Approved March 9, 1984.

CHAPTER 43
(H.B. No. 444)

AN ACT
RELATING TO AGRICULTURAL COMMODITY LIENS; AMENDING SECTION 45-1808, IDAHO CODE, TO PROVIDE A PROPER CODE REFERENCE.

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

SECTION 1. That Section 45-1808, Idaho Code, be, and the same is hereby amended to read as follows:

45-1808. FORM OF FILING WITH COUNTY RECORDER -- FEES. The county recorder shall prescribe the form of the filing provided for by sections 45-1804 and 45-1808<u>7</u>, Idaho Code. The county recorder shall set the fee for the filing provided for by section 45-1804, Idaho Code. Such fee shall not exceed the expense of the county recorder of pro-

viding the service required by this chapter.

Approved March 9, 1984.

CHAPTER 44
(H.B. No. 564)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES IN ADDITION TO THE APPROPRIATION MADE BY SECTION 3, CHAPTER 280, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 3, Chapter 280, Laws of 1983, there is hereby appropriated to the Department of Water Resources the following amount to be expended for the named program according to the designated expense classes from the listed account for the period July 1, 1983, through June 30, 1984:

A. REGIONAL OFFICES:

FOR:	
Personnel Costs	$22,100
Operating Expenditures	4,000
TOTAL	$26,100
FROM:	
Watermaster Service Account	$26,100

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 9, 1984.

CHAPTER 45
(H.B. No. 430)

AN ACT

RELATING TO THE DISPOSAL OF REAL AND PERSONAL PROPERTY BY SCHOOL DISTRICTS; AMENDING SECTION 33-601, IDAHO CODE, TO PERMIT THE BOARD OF TRUSTEES TO DISPOSE OF REAL OR PERSONAL PROPERTY UNDER CONDITIONS SPECIFIED WITHOUT REQUIRING APPROVAL OF THE STATE BOARD OF EDUCATION.

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

SECTION 1. That Section 33-601, Idaho Code, be, and the same is hereby amended to read as follows:

33-601. REAL AND PERSONAL PROPERTY -- ACQUISITION, USE OR DISPOSAL OF SAME. The board of trustees of each school district shall have the following powers and duties:

1. To rent to or from others, school buildings or other property used, or to be used, for school purposes.

2. To contract for the construction, repair, or improvement of any real property, or the acquisition, purchase or repair of any equipment, or other personal property necessary for the operation of the school district.

No such contract shall be executed which entails the expenditure of ten thousand dollars ($10,000) or more without notice first being given by publishing twice in the manner required by subsections g and h of section 33-402, Idaho Code, unless in cooperation with the division of purchasing or cooperative agency established pursuant to chapter 23, title 67, and/or sections 33-315--33-318 inclusive, Idaho Code. The board of trustees may let the contract to the lowest responsible bidder, or reject any bid, or reject all bids and publish notice for bids, as before. If, thereafter, no satisfactory bid is received, the board may proceed under its own direction, subject to the approval of the state board of education.

3. To designate and purchase any real property necessary for school purposes or in the operation of the district, the provisions of subsection 2 of this section notwithstanding, or remove any building, or dispose of any real property. The board of trustees shall determine the size of the site necessary for school purposes. The site shall be located within the incorporated limits of any city within the district; provided, however, that if the board finds that it is not in the best interests of the electors and the students of the district to locate the site within the incorporated limits of a city, the board, by duly adopted resolution setting forth the reasons for its finding, may designate a site located elsewhere within the district. In elementary school districts, except upon removal for highway purposes, a site may be designated or changed only after approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

4. (a) To convey, except as provided by (b) of this subsection, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district in any property, real or personal. In elementary school districts, except such conveyance as is authorized by subsection 6 of this section, any of the transactions authorized in this subsection shall be subject to the approval of two-thirds (2/3) or more of the electors voting at the annual meeting.

Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the records of the board of trustees. The property may be sold at public auction or by sealed bids, as the board of trustees shall determine, to the highest bidder. Such property may be sold for cash or for such terms and conditions as the board of trustees shall determine for a period not exceeding ten (10) years, with the annual rate of

interest on all deferred payments not less than seven percent (7%) per annum. The title to all property sold on contract shall be retained in the name of the school district until full payment has been made by the purchaser, and title to all property sold under a note and mortgage or deed of trust shall be transferred to the purchaser at the point of sale under the terms and conditions of the mortgage or deed of trust as the board of trustees shall determine. Notice of the time and the conditions of such sale shall be published twice, and proof thereof made, in accordance with subsections g and h of section 33-402, Idaho Code, except that when the appraised value of the property is less than five hundred dollars ($500), one (1) single notice by publication shall be sufficient and the property shall be sold by sealed bids.

The board of trustees may accept the highest bid, may reject any bid, or reject all bids. If the real property was donated to the school district the board may, within a period of one (1) year from the time of the appraisal, sell the property without additional advertising or bidding. Otherwise, the board of trustees must have new appraisals made and again publish notice for bids, as before. If, thereafter, no satisfactory bid is made and received, the board may proceed under its own direction to sell and convey the property~~,-subject-to--the--approval--of--the--state board--of--education~~. In no case shall any real property of the school district be sold for less than its appraisal.

The board of trustees may sell personal property, with an estimated value of less than five hundred dollars ($500), without appraisal, by sealed bid or at public auction, provided that there has been not less than one (1) published advertisement prior to the sale of said property.

(b) Real and personal property may be exchanged hereunder for other property if the consideration received by said school district shall be deemed adequate by the board of trustees, provided, however, that aside from the provisions of this paragraph hereof, any school district may by a vote of one-half (1/2) plus one (1) of the members of the full board of trustees, by resolution duly adopted, authorize the transfer or conveyance of any real or personal property owned by such school district to the government of the United States, any city, county, the state of Idaho, any hospital district organized under chapter 13, title 39, Idaho Code, any other school district, any library district, any junior college district, or any recreation district, with or without any consideration accruing to the school district, when in the judgment of the board of trustees it is for the interest of such school district that said transfer or conveyance be made.

5. To enter into contracts with any city located within the boundaries of the school district for the joint purchase, construction, development, maintenance and equipping of playgrounds, ball parks, swimming pools, and other recreational facilities upon property owned either by the school district or the city.

6. To convey rights-of-way and easements for highway, public utility, and other purposes over, upon or across any school property

and, when necessary to the use of such property for any such purpose, to authorize the removal of school buildings to such new location, or locations, as shall be determined by the board of trustees, and such removal shall be made at no cost or expense to the school district.

7. To authorize the use of any school building of the district as a community center, or for any public purpose, and to establish a policy of charges, if any, to be made for such use.

8. To exercise the right of eminent domain under the provisions of chapter 7, title 7, Idaho Code, for any of the uses and purposes provided in section 7-701, Idaho Code.

9. If 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 national or local defense, or it is necessary to do emergency work to safeguard life, health or property, the board of trustees may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the board may expend any sum required in the emergency without compliance with this section.

Approved March 12, 1984.

CHAPTER 46
(H.B. No. 432)

AN ACT

RELATING TO SCHOOL ELECTIONS; AMENDING CHAPTER 4, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-423, IDAHO CODE, TO PROVIDE THAT THE PENAL PROVISIONS OF CHAPTER 23, TITLE 18, IDAHO CODE, WITH THE EXCEPTION OF SECTION 18-2322, IDAHO CODE, SHALL APPLY TO SCHOOL ELECTIONS.

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

SECTION 1. That Chapter 4, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-423, Idaho Code, and to read as follows:

33-423. APPLICABILITY OF PENAL PROVISIONS. The penal provisions of chapter 23, title 18, Idaho Code, with the exception of section 18-2322, Idaho Code, shall apply to school elections conducted pursuant to this chapter.

Approved March 12, 1984.

CHAPTER 47
(H.B. No. 447)

AN ACT

RELATING TO THE FUNDING OF THE IDAHO DEPARTMENT OF FINANCE; AMENDING SECTION 26-1104, IDAHO CODE, TO PROVIDE THAT FEES PAID BY BANKS SHALL BE FIXED BY THE DIRECTOR OF THE DEPARTMENT OF FINANCE NOT TO EXCEED THE MAXIMUM AMOUNT SET FORTH AND THAT ALL FEES SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 26-1836, IDAHO CODE, TO PROVIDE MAXIMUM FEES FOR SAVINGS AND LOAN ASSOCIATIONS AND THAT ALL FEES SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 26-1837, IDAHO CODE, TO PROVIDE THAT FEES PAID BY SAVINGS AND LOAN ASSOCIATIONS FOR A CERTIFICATE TO TRANSACT BUSINESS SHALL BE FIXED BY THE DIRECTOR NOT TO EXCEED THE AMOUNTS SET FORTH; AMENDING SECTION 26-2134, IDAHO CODE, TO PROVIDE THAT FEES PAID BY CREDIT UNIONS SHALL BE FIXED BY THE DIRECTOR NOT TO EXCEED THE AMOUNTS SET FORTH AND THAT ALL FEES SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 26-2136, IDAHO CODE, TO PROVIDE THAT ALL ASSESSMENT FEES PAID BY CREDIT UNIONS SHALL BE FIXED BY THE DIRECTOR NOT TO EXCEED THE AMOUNTS SET FORTH AND THAT ALL FEES SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 26-2143, IDAHO CODE, TO PROVIDE THAT FEES PAID TO THE DIRECTOR FOR CREDIT UNION BRANCH OFFICE INVESTIGATIONS SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 26-2225, IDAHO CODE, TO PROVIDE THAT THE INITIAL EXAMINATION FEE PAID BY COLLECTION AGENCIES SHALL BE FIXED BY THE DIRECTOR NOT TO EXCEED THE AMOUNT SET FORTH; AMENDING SECTION 26-2229, IDAHO CODE, TO PROVIDE THAT THE PERMIT FEE PAID BY COLLECTION AGENCIES SHALL BE FIXED BY THE DIRECTOR NOT TO EXCEED THE AMOUNT SET FORTH; AMENDING SECTION 26-2231, IDAHO CODE, TO PROVIDE THAT THE RENEWAL FEE PAID BY COLLECTION AGENCIES SHALL BE FIXED BY THE DIRECTOR NOT TO EXCEED THE AMOUNT SET FORTH; AMENDING SECTION 26-2237, IDAHO CODE, TO PROVIDE THAT ALL FEES PAID TO THE DIRECTOR BY COLLECTION AGENCIES SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 26-2240, IDAHO CODE, TO PROVIDE THAT THE FEE FOR A COLLECTION AGENCY AGENT LICENSE SHALL BE FIXED BY THE DIRECTOR NOT TO EXCEED THE AMOUNT SET FORTH; AMENDING SECTION 27-420, IDAHO CODE, TO PROVIDE THAT ALL FEES PAID PURSUANT TO THE ENDOWED CARE CEMETERY ACT SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 28-46-203, IDAHO CODE, TO PROVIDE THAT FEES PAID BY PERSONS FILING NOTIFICATION PURSUANT TO THE IDAHO CREDIT CODE SHALL BE FIXED BY THE DIRECTORY NOT TO EXCEED THE AMOUNTS SET FORTH AND THAT ALL FEES SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 28-46-302, IDAHO CODE, TO PROVIDE THAT THE FEE PAID TO OBTAIN A LICENSE TO MAKE REGULATED CONSUMER LOANS SHALL BE FIXED BY THE DIRECTOR NOT TO EXCEED THE AMOUNT SET FORTH; AMENDING SECTION 30-1437, IDAHO CODE, TO PROVIDE THAT FEES PAID PURSUANT TO THE IDAHO SECURITIES ACT SHALL BE FIXED BY THE DIREC-

TOR NOT TO EXCEED THE AMOUNTS SET FORTH AND THAT ALL FEES SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING SECTION 30-1508, IDAHO CODE, TO PROVIDE THAT ALL FEES COLLECTED BY THE DIRECTOR PURSUANT TO THE CORPORATE TAKE OVER ACT SHALL BE DEPOSITED INTO THE FINANCE ADMINISTRATIVE ACCOUNT; AMENDING CHAPTER 27, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2702, IDAHO CODE, TO PROVIDE THAT ALL FEES, FINES, EXAMINATION AND MISCELLANEOUS CHARGES COLLECTED BY THE DEPARTMENT OF FINANCE SHALL BE PAID INTO AN ACCOUNT DESIGNATED AS THE FINANCE ADMINISTRATIVE ACCOUNT AND THAT THE DIRECTOR OF THE DEPARTMENT OF FINANCE SHALL INCREASE FEES, FINES, EXAMINATION AND MISCELLANEOUS CHARGES AS NECESSARY TO MEET THE DEPARTMENT OF FINANCE APPROPRIATION.

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

SECTION 1. That Section 26-1104, Idaho Code, be, and the same is hereby amended to read as follows:

26-1104. FEES. On January 15 of each year, the director shall fix and collect from each bank ~~the following assessment fees:~~ a fee based upon the amount of the total assets of the bank as of December 31 of the preceding calendar year ~~in accordance with~~, which fees shall not exceed the amounts set forth in the following schedule:

TOTAL ASSETS	MAXIMUM FEE
$0 to $1 million.....	$1,500 Flat Fee
$1 million to $10 million.....	$2,000 + $.25 per thousand dollars of assets in excess of $1 million
$10 million to $50 million.....	$4,250 + $.19 per thousand dollars of assets in excess of $10 million
$50 million to $100 million....	$11,850 + $.12 per thousand dollars of assets in excess of $50 million
$100 million to $500 million...	$17,850 + $.10 per thousand dollars of assets in excess of $100 million
$500 million to $1 billion.....	$57,850 + $.09 per thousand dollars of assets in excess of $500 million
$1 billion to $3 billion.....	$102,850 + $.08 per thousand dollars of assets in excess of $1 billion
$3 billion to $10 billion.....	$262,850 + $.07 per thousand dollars of assets in excess of $3 billion
$10 billion to $20 billion.....	$369,425 + $.03 per thousand dollars of assets in excess of $10 billion
$20 billion and over.....	$689,425 + $.02 per thousand dollars of assets in excess of $20 billion

In addition to the foregoing each bank shall pay to the director ~~the~~ an additional sum ~~of~~ not to exceed one hundred dollars ($100) for each office and branch office maintained by said bank. The director shall collect from each bank for each special examination of its condition an amount sufficient to reimburse the director for the actual expenses incurred in connection therewith.

All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho bank act shall be deposited into

the finance administrative account pursuant to section 67-2702, Idaho Code.

SECTION 2. That Section 26-1836, Idaho Code, be, and the same is hereby amended to read as follows:

26-1836. FEES. Each association shall pay to the director on or before January 15 of each year a fee ~~of~~ not to exceed one hundred fifty dollars ($150) for each office located in Idaho plus an additional assessment fee to be fixed by the director, provided the maximum of such additional fee shall not exceed twenty cents ($.20) for each one thousand dollars ($1,000) of assets in Idaho, such fee to be based upon the amount of the total assets of the association as of December 31 of the preceding calendar year. The director shall collect from each association for each special examination of its condition an amount sufficient to reimburse the director for the actual expenses incurred in connection therewith.

All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho savings and loan act of 1967 shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

SECTION 3. That Section 26-1837, Idaho Code, be, and the same is hereby amended to read as follows:

26-1837. FEES FOR CERTIFICATE TO TRANSACT BUSINESS. In addition to all other fees provided by this ~~act~~ chapter, the commissioner shall collect for the granting of each certificate to transact business ~~the following~~ a fees to be fixed by the director, but not to exceed:

(1) For a home office, the sum of two hundred dollars ($200).

(2) For a branch office, the sum of one hundred and fifty dollars ($150).

(3) For an agency, the sum of one hundred dollars ($100).

SECTION 4. That Section 26-2134, Idaho Code, be, and the same is hereby amended to read as follows:

26-2134. APPLICATION FEES. For the purpose of paying the costs incident to the ascertainment of whether articles of incorporation should be issued, the subscribers to any such articles of incorporation shall pay, at the time of filing their articles of incorporation with the director ~~of finance, the sum of~~, a fee as fixed by the director, but not to exceed twenty-five dollars ($25.00), for the purpose of paying costs incident to the investigation of the application. All such fees shall be deposited with the state treasurer for the credit in the ~~general~~ finance administrative account in the state ~~operating~~ dedicated fund.

SECTION 5. That Section 26-2136, Idaho Code, be, and the same is hereby amended to read as follows:

26-2136. EXAMINATIONS AND FEES. The department of finance at least annually, shall examine each credit union. Each credit union and all of its officers and agents shall be required to give to representatives of said department full access to all books, papers, securities, records and other sources of information under their control; and for the purpose of such examination, said representatives shall have power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.

A report of such examination shall be forwarded to the president of each credit union within thirty (30) days after the completion of the examination. Within thirty (30) days after the receipt of such report, a general meeting of the directors and committeemen shall be called to consider matters contained in the report. A reply to the director shall be forwarded by the board within fifteen (15) days.

On or before September 1 of each calendar year, the director shall fix and collect from each credit union ~~shall--pay~~ an assessment fee based upon the total assets of the credit union as of June 30 of the same calendar year ~~in-accordance-with~~, which fees shall not exceed the amounts set forth in the following schedule:

TOTAL ASSETS	FEE
$50,000 or less	$50.00 + $1.00 per thousand dollars of assets
Over $50,000 and not over $100,000	$100.00 + $.99 per thousand dollars of assets in excess of $50,000
Over $100,000 and not over $250,000	$149.00 + $.94 per thousand dollars of assets in excess of $100,000
Over $250,000 and not over $1 million	$291.00 + $.89 per thousand dollars of assets in excess of $250,000
Over $1 million and not over $2 million	$958.00 + $.80 per thousand dollars of assets in excess of $1 million
Over $2 million and not over $5 million	$1,758.00 + $.61 per thousand dollars of assets in excess of $2 million
Over $5 million and not over $8 million	$3,588.00 + $.48 per thousand dollars of assets in excess of $5 million
Over $8 million	$5,028.00 + $.35 per thousand dollars of assets in excess of $8 million

The director may in his discretion at any time accept in lieu of any portion of his examinations the findings or result of an audit by a firm of independent certified public accountants or other qualified person or firm approved by the director. The cost of the audit shall be borne by the credit union.

All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho credit union act shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

SECTION 6. That Section 26-2143, Idaho Code, be, and the same is hereby amended to read as follows:

26-2143. BRANCH OFFICES. A credit union may under such regulations as the director may adopt establish branch offices at locations other than its main office if the maintenance of such branch offices shall be reasonably necessary to furnish services to its membership. The credit union must justify that ninety per cent (90%) of the cost of the branch and its operation will be derived from existing and potential membership in the proposed area. No additional branch offices shall be established to serve persons who are not entitled to membership as defined in the common bond provision of the existing field of membership.

Prior written approval of the director shall be necessary for the establishment of branch offices. He shall have the authority to issue notice and hold a hearing to determine if the establishment of the branch office is necessary and in the best interests of the credit union.

The applicant credit union will pay to the department of finance an investigation fee to cover the actual cost of investigation not to exceed five hundred dollars ($500). These funds will be deposited into the finance administrationve ~~fund accounts-of-the-department-of finance,-and-shall-be-expended-by-the-director-for-such-administrative and-other-expenses-incurred-in-carrying-out--the--provisions--of--this chapter~~ pursuant to section 67-2702, Idaho Code.

SECTION 7. That Section 26-2225, Idaho Code, be, and the same is hereby amended to read as follows:

26-2225. INFORMATION AND MATERIALS REQUIRED WITH APPLICATION -- EXAMINATION FEE -- CONSENT TO SERVICE. Such application shall be accompanied by:

(1) Complete copies of all literature and circulars issued or circulated by or on behalf of applicant in soliciting or advertising for business including circular and form letters.

(2) Complete forms of all contracts designed for execution by persons placing any account, bill, claim or other indebtedness in the hands of the applicant for collection.

(3) Complete forms of all contracts and assignments designed for execution by debtors making any assignments to or placing any property with the applicant for the purpose of paying the creditors of such debtors.

(4) Complete forms of all contracts and releases designed for execution by creditors to whom payments are made or are to be made by the applicant.

(5) If the applicant is a corporation or association, a copy of its articles of incorporation or association, duly authenticated.

(6) A list of the names and addresses of all agents, representatives, and solicitors who will represent or solicit business for the applicant in this state.

(7) The names and addresses of all directors and officers, if the applicant is a corporation or association; and the names of the members, if the applicant is an unincorporated company, a firm or copartnership.

(8) An agreement executed by the applicant stipulating that no literature or form of contract not submitted with the application will be issued, circulated or used by the applicant prior to the filing thereof in said department, and that no agent, representative or solicitor of the applicant will solicit, engage in or conduct business as such in the state of Idaho, until his name and address have been filed in said department.

(9) An initial examination fee~~,--in-the-sum-of~~ as fixed by the director, but not to exceed one hundred dollars ($100), except that no examination fee need be paid by a nonprofit corporation or association conducting credit counseling or debt prorating activities.

(10) Complete copies of all literature, circulars, contracts, and/or other related material to be circulated or distributed by the permit holder to a debtor.

(11) An irrevocable consent to service executed by the applicant appointing the director and his successors in office to be attorney of the applicant to receive service of any lawful process in any civil suit, action, or proceeding against the applicant which arises under this act or any rule or order hereunder. After the consent has been filed, any service hereunder shall have the same force and validity as if personally served on a person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the director.

SECTION 8. That Section 26-2229, Idaho Code, be, and the same is hereby amended to read as follows:

26-2229. EXAMINATION -- PERMIT. The director shall examine each application for a permit and accompanying papers and investigate the qualifications of the applicant and if he finds therefrom that the same are in proper form, that the literature proposed to be circulated does not tend to conceal or misrepresent any fact to the detriment of any person dealing with the applicant, that the contract or contracts proposed to be entered into for the collection or payment or prorating of accounts, bills, claims or other indebtedness by the applicant, or prorating or receiving money for payment to creditors are equitable, fair and reasonable, and that the applicant meets all other requirements and qualifications of this act, he shall examine the applicant if an individual, or the designated officer or officers or employees of any corporation and the designated member or members of any partnership, in the manner described in section 26-2225, Idaho Code, and if such applicant or designee passes a satisfactory examination, he shall cause a permit to be issued authorizing the applicant to conduct such a business in this state subject to the provisions of this act, until the thirty-first day of December next thereafter.

If the director finds that the applicant does not qualify under

the provisions of this act, the application shall be denied. If he finds the applicant is qualified he must issue a permit upon the filing of the bonds required by this act and the payment of an annual permit fee ~~in the sum of~~ as fixed by the director, but not to exceed one hundred dollars ($100), except that no permit fee need be paid by a nonprofit corporation or association conducting credit counseling or debt prorating activities.

No collection contract shall be deemed equitable, fair or reasonable within the meaning of this section which in substance either:

(1) Permits the applicant to retain any sums due the creditor on any account, bill, claim or other indebtedness collected for him by the applicant on account of, or as a setoff against, any fee, commission, charge, expense or compensation claimed, other than the regular collection fees or commissions, to be due from such creditor on any other account whatever.

(2) Penalizes the creditor for failure to produce evidence in support of any account, bill, claim or item of indebtedness placed with the applicant for collection in addition to that delivered upon the execution of such contract.

(3) Penalizes such creditor for any unintentional error, mistake or omission in furnishing to the applicant the correct name or address of any debtor.

(4) Stipulates, directly or indirectly, for the payment of any fee, commission or compensation in excess of fifty per cent (50%) of the amount actually collected on any account, bill, claim or other indebtedness entrusted to the applicant for collection, provided, however, that in the case of interest collected by a permittee, the creditor and the permittee by agreement between them may provide for division of such interest between them without such percentage limitation; and provided further that in the case of collection of checks dishonored by nonacceptance or nonpayment the creditor and the permittee by written agreement between them may provide, in place of a percentage fee, for the payment of a set dollar amount collection fee not to exceed ten dollars ($10.00) which shall not be subject to the fifty per cent (50%) limitation.

A permit or license holder, engaging in the business of receiving money from debtors for application to or payment or prorating the account or accounts of any creditor or creditors of such debtor, for compensation or otherwise, or in the business of acting as the assignee for the benefit of creditors as a primary or secondary object, shall not take or receive for services performed by such permit or license holder for any one (1) person more than fifteen per cent (15%) of the amount received by it at any one (1) time from or on behalf of that person for payment or prorating to creditors and no other charges shall be made or received for any such service.

SECTION 9. That Section 26-2231, Idaho Code, be, and the same is hereby amended to read as follows:

26-2231. RENEWAL OF PERMIT. Upon application made prior to the twentieth day of December of each year, the holder of any permit

issued under the provisions of this act shall be entitled to have such permit renewed for the succeeding calendar year upon payment of the annual permit fee ~~of~~ as fixed by the director, but not to exceed fifty dollars ($50.00), compliance with the bond requirements of this act, the filing of a financial statement in the form required by section 26-2224(7), Idaho Code, showing a net worth of at least two thousand five hundred dollars ($2,500) for each place of business for which a permit is sought, filing of all other documents required by section 26-2224, Idaho Code, and approval by the ~~commissioner~~ director of all literature to be employed by the permittee during the course of the business year, except no annual permit renewal fee need be paid by a nonprofit corporation or association conducting credit counseling or debt prorating activities.

SECTION 10. That Section 26-2237, Idaho Code, be, and the same is hereby amended to read as follows:

26-2237. FEES -- DISPOSITION OF FUNDS. All fees provided for in this chapter shall be paid to the director and by him remitted to the state treasurer pursuant to section 59-1014, Idaho Code, and all such funds shall be deposited ~~by the treasurer~~ to the credit of the ~~general~~ finance administrative account in the state dedicated fund.

SECTION 11. That Section 26-2240, Idaho Code, be, and the same is hereby amended to read as follows:

26-2240. LICENSE TO ACT AS AGENT -- APPLICATION -- EXAMINATION OR HEARING -- FORM OF LICENSE -- FEE. (1) No person shall act as a licensee of any firm, company or person holding a permit under this act without first obtaining a license to do so.

Applications for a license shall be made to the director on forms prescribed by the director and shall contain such information as the director deems necessary to determine the applicant's residence, ability, experience and moral responsibility. Such application shall be accompanied by an initial license fee ~~of~~ as fixed by the director, but not to exceed twenty dollars ($20.00).

The director shall within thirty (30) days examine such application and in his discretion shall have power and authority to also within said time require an oral or written examination or hearing to test the applicant's responsibility and fitness, such examination or hearing to be conducted by the director or by a person designated by him.

Such license, if issued, shall be in the form of an identification card, issued for the calendar year in which issued and shall contain such information as the director may prescribe. The licensee shall have his license in his immediate possession at all times while engaged in the business or activity herein licensed and shall display such license upon demand.

(2) Upon application made prior to December 20th of each year, the holder of any license issued shall be entitled to a renewal for the succeeding calendar year upon payment of the renewal fee ~~of~~ as

fixed by the director, but not to exceed twenty dollars ($20.00). Application for renewal made after December 20th shall be made in the same manner as is required for a license in the first instance.

(3) No licensee may act for or be employed by more than one (1) permittee at one (1) time. Upon termination of any employment of a licensee he shall notify the director and surrender his license within ten (10) days of such termination.

(4) No license to act as solicitor may be issued to a person who is not an employee of a permit holder as employee is defined in section 63-30~~17~~8, Idaho Code.

SECTION 12. That Section 27-420, Idaho Code, be, and the same is hereby amended to read as follows:

27-420. CEMETERY ~~FUND~~ EXAMINATION FEES. ~~There shall be in the office of the state treasurer a fund to be known and designated as the "cemetery fund." All regulatory fees or other moneys to be paid under this act~~ chapter, unless provision be made otherwise, shall be paid at least once a month to the state treasurer to be credited to the ~~cemetery~~ finance administrative account in the state dedicated fund. ~~All moneys credited to the cemetery fund shall be used, when appropriated by the legislature, by the administrator to carry out the provisions of this chapter.~~

SECTION 13. That Section 28-46-203, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-203. FEES. (1) A person required to file notification shall on or before January 31 of each year pay to the administrator an annual fee to be fixed by the administrator, but not to exceed fifty dollars ($50.00) per year.

(2) Persons required to file notification who are sellers or lenders shall pay an additional fee to be fixed by the administrator at the time and in the manner stated in subsection (1) of this section ~~of~~ not to exceed ten dollars ($10.00) for each one hundred thousand dollars ($100,000) or part thereof in excess of one hundred thousand dollars ($100,000), of the unpaid balances outstanding as of December 31 of the preceding calendar year arising from regulated consumer credit sales and regulated consumer loans made in this state and held either by the seller or lender, or by an assignee who has not filed notification.

(3) Persons required to file notification who are assignees shall pay an additional fee to be fixed by the administrator at the time and in the manner stated in subsection (1) of this section ~~of~~ not to exceed ten dollars ($10.00) for each one hundred thousand dollars ($100,000), or part thereof, of the unpaid balances of obligations arising from regulated consumer credit sales and regulated consumer loans made in this state taken by assignment and outstanding as of December 31 of the preceding calendar year, but an assignee need not pay a fee with respect to an obligation on which the assignor or other person has already paid a fee.

(4) The administrator may, in his discretion, allow an exemption from payment of the fees herein to supervised financial organizations which are already required to pay similar supervision and examination fees; provided any person holding a permit under chapter 22, title 26, Idaho Code, need not pay such fees.

(5) All moneys received by the administrator pursuant to this act shall be remitted to the state treasurer for the credit of the ~~general~~ finance administrative account.

SECTION 14. That Section 28-46-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-46-302. LICENSE TO MAKE REGULATED CONSUMER LOANS. (1) Upon receipt by the administrator of an application with the required fee ~~of~~ to be fixed by the administrator, but not to exceed one hundred dollars ($100), the applicant shall notify all existing licensees in the community of the application by publishing notice once a week for three (3) consecutive weeks in a newspaper of general circulation in the community. Such licensees may file with the administrator any objections to the issuance of a license within thirty (30) days after the date of the last publication of such notice.

(2) No application for license shall be denied if the administrator finds that:

(a) The financial responsibility, character, and fitness of the applicant, and of the officers and directors thereof (if the applicant is a corporation) are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this act; and

(b) The applicant has at least thirty thousand dollars ($30,000) available for the purpose of making loans.

(3) The administrator is empowered to conduct investigations as he may deem necessary, to enable him to determine the existence of the requirements set out in subsections (2)(a) and (2)(b) of this section.

(4) Upon written request, the applicant is entitled to a hearing on the question of his qualifications for a license if:

(a) The administrator has notified the applicant in writing that his application has been denied, or objections filed; or

(b) The administrator has not issued a license within sixty (60) days after the application for the license was filed.

If a hearing is held, the applicant and those filing objections shall reimburse, pro rata, the administrator for his reasonable and necessary expenses incurred as a result of the hearing. A request for a hearing may not be made more than fifteen (15) days after the administrator has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the administrator's finding supporting denial of the application or that objections have been filed and the substance thereof.

(5) The administrator may issue additional licenses to the same licensee upon compliance with all the provisions of this act governing the issuance of a single license. A separate license shall be required for each place of business. Each license shall remain in full force

and effect until surrendered, suspended or revoked.

(6) No licensee shall change the location of any place of business, or consolidate, or close any locations, without giving the administrator at least fifteen (15) days' prior written notice. No licensee shall change the location of any of his places of business to a location more than five (5) miles from the original location or outside the original municipality, if any.

(7) A licensee shall not engage in the business of making regulated consumer loans at any place of business for which he does not hold a license nor shall he engage in business under any other name than that in the license.

SECTION 15. That Section 30-1437, Idaho Code, be, and the same is hereby amended to read as follows:

30-1437. FEES. ~~The following f~~ Fees shall be fixed by the director and shall be paid in advance under the provisions of this act, but shall not exceed the following:

(1) For the registration of securities by notification or coordination or qualification, there shall be paid to the director for the first year of registration a registration fee of one hundred dollars ($100) for the first one hundred thousand dollars ($100,000) of initial issue, or portion thereof in this state, based on offering price, plus one twentieth (1/20th) of one per cent (1%) for any excess over one hundred thousand dollars ($100,000), with a maximum of one thousand dollars ($1,000).

Each year thereafter that a registration remains in effect for securities with respect to which reports are required to be filed under subsections (1) or (2) of section 30-1430, Idaho Code, an additional registration fee shall be paid to the director to be computed at one twentieth (1/20th) of one per cent (1%) of the aggregate offering price of such securities which are to be offered in this state during that year, even though the maximum fee was paid the preceding year. In no event shall such additional registration fee be less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). The registration statement for such securities may be amended to increase the amount of securities to be offered. When an application for registration of securities is denied or withdrawn the director shall retain the fee.

(2) For filing an annual statement the fee shall ~~be~~ not exceed ten dollars ($10).

(3) For registration of a broker-dealer or investment adviser the fee shall ~~be~~ not exceed one hundred dollars ($100) for original registration and one hundred dollars ($100) for each annual renewal thereof. When an application is denied or withdrawn the director shall retain the fee.

(4) For registration of a salesman the fee shall ~~be~~ not exceed twenty dollars ($20) for the original registration with each employer and twenty dollars ($20) for each annual renewal. When an application is denied or withdrawn the director shall retain the fee.

(5) For certified copies of any documents filed with the director

the fee shall be the cost to the department as determined by the director.

(6) For each examination covered by the director the fee shall be not exceed ten dollars ($10), which fee shall not be refundable.

All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho securities act shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

SECTION 16. That Section 30-1508, Idaho Code, be, and the same is hereby amended to read as follows:

30-1508. FEES AND EXPENSES. (1) For each registration statement filed by an offeror, the offeror shall pay a filing fee based upon the cost to the department of finance to examine and evaluate the registration statement in accordance with schedules adopted by the director. The schedules adopted by the director shall be designed to assure that the fees collected shall be sufficient to cover the cost of administering this act.

(2) All of the expenses reasonably attributable to any hearing held under this chapter shall be charged ratably to the offeror and the target company. Payment shall be made within thirty (30) days of receiving a statement of hearing expense.

(3) All fees, fines, examination and miscellaneous charges collected by the director pursuant to chapter 15, title 30, Idaho Code, shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.

SECTION 17. That Chapter 27, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2702, Idaho Code, and to read as follows:

67-2702. FEES -- FINES -- MISCELLANEOUS CHARGES. (1) The director of the department of finance shall collect and persons so served shall pay to the director the fees, fines, examination and miscellaneous charges provided for by the laws administered by the director of the department of finance or provided for from time to time by regulation promulgated by the director of the department of finance. The director of the department of finance shall increase fees, fines, examination and miscellaneous charges as necessary to allow the department of finance to meet the appropriation as provided for by law.

The director of the department of finance shall not, in any one (1) calendar year, increase any fee by an amount greater than twenty percent (20%) of that fee in effect on the previous December 31.

(2) Finance administrative account:

(a) There is hereby created an account in the dedicated fund in the state treasury, to be designated the "finance administrative account" to provide for the expenses of the department of finance as provided for by law.

(b) The finance administrative account shall be effective Decem-

ber 31, 1984, and be in existence for a period of at least six (6) months prior to the dedicated account appropriation becoming effective and shall consist of the following:

(i) all moneys appropriated by the legislature.

(ii) all fees, fines, examination and miscellaneous charges collected by the department of finance.

(c) All moneys placed in the account shall be examined, audited and allowed in the manner now or hereinafter provided by law.

(d) Pending use for purposes of the provisions of the laws of this state, moneys in the finance administrative account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury.

(e) The director of the department of finance shall transmit all fees, fines, examination and miscellaneous charges collected by him to the state treasurer as provided under section 59-1014, Idaho Code. The director of the department of finance shall file with the state auditor, a statement of each deposit thus made. All such funds received, unless otherwise specifically designated by another section of the law administered by the director of the department of finance shall be deposited into the finance administrative account.

(f) At the beginning of each fiscal year, those moneys in the finance administrative account which exceed the current year's appropriation plus any residual encumbrances made against prior years' appropriations by twenty-five percent (25%) or more shall be transferred to the general account.

Approved March 12, 1984.

CHAPTER 48
(H.B. No. 567)

AN ACT

RELATING TO THE STATE BRAND BOARD; AMENDING SECTION 25-1101, IDAHO CODE, TO PROVIDE THAT ONE OF THE MEMBERS OF THE BRAND BOARD SHALL BE CONTINUOUSLY AND PRINCIPALLY ENGAGED IN THE OPERATION OF A LICENSED PUBLIC LIVESTOCK AUCTION MARKET AND THREE OF THE MEMBERS SHALL BE ENGAGED IN THE FEEDING OR PRODUCTION OF BEEF CATTLE IN IDAHO, TO PROVIDE A CORRECT REFERENCE TO THE STATE BRAND BOARD, TO PROVIDE FOR RECOMMENDATIONS AND TO PROVIDE FOR NAME CHANGES OF ORGANIZATIONS FROM CERTAIN INDUSTRY GROUPS WHEN VACANCIES OCCUR ON THE BRAND BOARD; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 25-1101, Idaho Code, be, and the same is hereby amended to read as follows:

25-1101. BOARD CREATED -- MEMBERSHIP AND ORGANIZATION. There shall be in the department of law enforcement of the state of Idaho a state brand board and such board is hereby created. The state brand board, hereinafter called the board, shall consist of five (5) members, three (3) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged in, the feeding or the production of beef cattle in Idaho and no two (2) of whom shall be from the same county; one (1) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged in, the ~~feeding of cattle~~ operation of a licensed public livestock auction market, and one (1) of whom shall be experienced in, and while serving as a member of such board, continuously and principally, engaged as a dairy milk producer; said members shall be appointed by the governor. The term of office of each member of said board shall be five (5) years, excepting that of the members of said board first appointed, one (1) shall be appointed to hold office until the first Monday in January, 1975, one (1) until the first Monday of January, 1976, and one (1) until the first Monday of January, 1977, one (1) until the first Monday of January, 1978, and one (1) until the first Monday of January, 1979. Vacancies occurring on the board other than by expiration of the term, shall be filled for the unexpired term only. Each of such members of the board, before entering upon the duties of his office, shall take and subscribe to the constitutional oath of office, and be bonded to the state of Idaho in the time, form and manner provided by chapter 8, title 59, Idaho Code. The members of the board shall be compensated as provided by section 59-509(f), Idaho Code. Said compensation shall be paid in the same manner as other expenses of the state brand ~~department~~ board are paid. Each member of said board shall be a qualified elector of the county from which he is chosen and must reside during his term of office, within the state of Idaho. Said board must hold a meeting quarterly and at any other times if so requested by any member of the board. The governor shall appoint the members of such board, both initially and thereafter as vacancies occur therein, from the recommendations of the executive committee or board of directors of the Idaho ~~cattlemen's association, the Idaho~~ cattle ~~feeders~~ association, ~~and~~ Idaho dairymen's association and licensed public livestock auction markets. Each such recommendation shall be of at least two (2) persons for each appointment to be made by the governor. If no such recommendation is made within thirty (30) days after the occurrence of any vacancy in the membership of such board, then the appointment may be made without such recommendation. If the person or persons recommended are not deemed eligible or fit by the governor, then he shall request two (2) additional names from the respective industry segment. A member of such board shall be ineligible to hold any other state or federal office providing full-time employment, or any county or elective office. After due notice and public hearing, the governor may remove any member for cause.

The board shall elect one (1) of its members chairman, and there shall be a state brand inspector who shall serve as secretary of such

board. The board is empowered to make rules and regulations for governing itself, and such rules and regulations as it may deem necessary for the enforcement of all of the duties of the state brand inspector, the laws of the state of Idaho providing registration and use of stock growers' brands, and the laws of the state of Idaho providing inspection and other requirements for the transportation of cattle, horses and mules, and all laws of the state enacted for the identification, inspection and transportation of cattle, horses, and mules, and all laws of the state designed to prevent theft and butchering of livestock.

SECTION 2. This act shall be in full force and effect on and after January 1, 1985.

Approved March 12, 1984.

CHAPTER 49
(H.B. No. 648)
AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR VOCATIONAL EDUCATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 6, CHAPTER 5, FIRST EXTRAORDINARY SESSION, FORTY-SEVENTH IDAHO LEGISLATURE; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 6, Chapter 5, First Extraordinary Session, Forty-seventh Idaho Legislature, there is hereby appropriated to the State Board of Education for Vocational Education the following amount to be expended for the named program according to the designated expense class from the listed account for the period July 1, 1983, through June 30, 1984:

A. POSTSECONDARY PROGRAM

FOR:	
Capital Outlay	$200,000
FROM:	
General Account	$200,000

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 12, 1984.

CHAPTER 50
(S.B. No. 1228)

AN ACT

RELATING TO DISHONORED CHECKS; AMENDING SECTION 28-3-510A, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN THE PERCENTAGE RATE AUTHORIZED TO BE ASSESSED AGAINST A DRAWER OF A DISHONORED CHECK.

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

SECTION 1. That Section 28-3-510A, Idaho Code, be, and the same is hereby amended to read as follows:

28-3-510A. CHECKS DISHONORED BY NONACCEPTANCE OR NONPAYMENT -- LIABILITY FOR INTEREST -- RATE -- COLLECTION COSTS AND ATTORNEYS' FEES. Whenever a check as defined by section 28-3-104(2)(b), Idaho Code, has been dishonored by nonacceptance or nonpayment and has not been paid within fifteen (15) days and after the holder of such check sends such notice of dishonor as provided by section 28-3-510B, Idaho Code, to the drawer at his last known address, then if the instrument does not provide for the payment of interest, or collection costs and attorneys' fees, the drawer of such instrument shall also be liable for payment of interest at the rate of ~~six~~ twelve per cent (~~6~~12%) per annum from the date of dishonor and cost of collection not to exceed twenty dollars ($20.00) or the face amount of the check, whichever is the lesser; provided, however, that if the holder of the dishonored check has notified the drawer by a posted notice at the point of sale that the drawer will be required to pay a set collection fee if the check is dishonored, the holder is not required to give the notice of dishonor as provided by section 28-3-510B, Idaho Code, and may assess a collection cost of the noticed amount regardless of the size of the check, but the set fee may not exceed ten dollars ($10.00). In addition, in the event of court action on the check, the court, after such notice and the expiration of said fifteen (15) days, shall award a reasonable attorneys' fee as part of the damages payable to the holder of the check. This section shall not apply to any instrument which has been dishonored by reason of any justifiable stop payment order.

Approved March 12, 1984.

CHAPTER 51
(S.B. No. 1240)

AN ACT

RELATING TO DISMISSAL OF ACTIONS; AMENDING SECTION 19-3501, IDAHO CODE, TO PROVIDE THAT MISDEMEANOR ACTIONS MUST BE DISMISSED IF A DEFENDANT IS NOT BROUGHT TO TRIAL WITHIN SIX MONTHS; AND PROVIDING AN EFFECTIVE DATE AND THAT THIS ACT SHALL APPLY TO CASES FILED ON

AND AFTER JULY 1, 1984.

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

SECTION 1. That Section 19-3501, Idaho Code, be, and the same is hereby amended to read as follows:

19-3501. WHEN ACTION MAY BE DISMISSED. The court, unless good cause to the contrary is shown, must order the prosecution or indictment to be dismissed, in the following cases:

1. When a person has been held to answer for a public offense, if an indictment or information is not found against him and filed with the court within six (6) months from the date of his arrest.

2. If a defendant, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the indictment or information is filed with the court.

3. If a defendant, charged with a misdemeanor offense, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the defendant enters a plea of not guilty with the court.

SECTION 2. This act shall be in full force and effect on and after July 1, 1984, and shall apply only to those misdemeanor complaints filed on and after July 1, 1984.

Approved March 12, 1984.

CHAPTER 52
(S.B. No. 1241)

AN ACT

RELATING TO THE IDAHO TRAFFIC INFRACTIONS ACT; AMENDING SECTION 49-3401, IDAHO CODE, TO PROVIDE THAT THE DEFINITION "DEPARTMENT" MEANS THE DEPARTMENT OF TRANSPORTATION AND THAT "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION.

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

SECTION 1. That Section 49-3401, Idaho Code, be, and the same is hereby amended to read as follows:

49-3401. DEFINITIONS. The following terms mean:

(1) "Department" means the department of ~~law--enforcement~~ transportation of this state acting directly or through its duly authorized officers and agents.

(2) "Director" means the director of the department of ~~law enforcement~~ transportation.

(3) "Infraction" means a civil public offense which is not punishable by incarceration and for which there is no right to a trial by

jury or right to court-appointed counsel and which is punishable by only a penalty not exceeding one hundred dollars ($100) and no imprisonment.

(4) "Penalty" means the penalty assessed for a commission of an infraction and is not considered a criminal punishment.

(5) "Police officer" or "peace officer" means a member of the Idaho State Police, a sheriff or deputy sheriff, a city policeman or marshal, a constable, or any other officer duly authorized to enforce municipal, county, or state laws.

(6) "Court" means any tribunal with jurisdiction to hear and determine infractions and the magistrate or judge thereof.

(7) "Magistrate" or "judge" means any officer authorized by law to sit as a court with jurisdiction to hear and determine infractions as defined by this act.

Approved March 12, 1984.

CHAPTER 53
(S.B. No. 1227)

AN ACT

RELATING TO HOMESTEADS; AMENDING SECTION 55-1005, IDAHO CODE, TO PROVIDE THAT A HOMESTEAD IS SUBJECT TO EXECUTION OR FORCED SALE IN SATISFACTION OF JUDGMENTS OBTAINED ON DEBTS SECURED BY DEEDS OF TRUST AS WELL AS MORTGAGES.

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

SECTION 1. That Section 55-1005, Idaho Code, be, and the same is hereby amended to read as follows:

55-1005. TO WHAT JUDGMENTS SUBJECT. The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

1. Before the declaration of homestead was filed for record, and which constitute liens upon the premises; or in an action in which an attachment was levied upon the premises before the filing of such declaration.

2. On debts secured by mechanic's, materialmen's, laborer's or vendor's lien upon the premises.

3. On debts secured by mortgages <u>and/or deeds of trust</u> upon the premises, executed and acknowledged by the husband and wife or by an unmarried claimant.

4. On debts secured by mortgages <u>and/or deeds of trust</u> upon the premises, executed and recorded before the declaration of homestead was filed for record.

Approved March 14, 1984.

CHAPTER 54
(H.B. No. 490)

AN ACT

RELATING TO CRIMINAL PENALTIES FOR VIOLATION OF THE HAZARDOUS WASTE MANAGEMENT ACT OF 1983; AMENDING SECTION 39-4415, IDAHO CODE, TO PROVIDE THAT EACH DAY OF A CONTINUING VIOLATION CONSTITUTES A SEPARATE OFFENSE.

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

SECTION 1. That Section 39-4415, Idaho Code, be, and the same is hereby amended to read as follows:

39-4415. VIOLATIONS CONSTITUTING MISDEMEANORS. (1) Any person who knowingly makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained or used for the purpose of complying with the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than ten thousand dollars ($10,000) or to imprisonment not to exceed one (1) year, or to both, for each separate violation or for each day of a continuing violation.

(2) Any person who knowingly violates any provision of this chapter or any permit, standard, regulation, condition, requirement, compliance agreement, or order issued or promulgated pursuant to this chapter shall be guilty of a misdemeanor and subject to a fine of not more than ten thousand dollars ($10,000) or to imprisonment not to exceed one (1) year, or to both, for each separate violation or for each day of a continuing violation.

(3) An action may be commenced and prosecuted by the attorney general. The director shall not be required to initiate or prosecute an administrative or civil action before the attorney general may commence and prosecute a criminal action.

Approved March 14, 1984.

CHAPTER 55
(S.B. No. 1238)

AN ACT

RELATING TO TRESPASS; REPEALING SECTION 49-762, IDAHO CODE; AMENDING SECTION 18-7011, IDAHO CODE, TO PROVIDE THAT IT SHALL BE A MISDEMEANOR TO DRIVE A MOTOR VEHICLE OVER PRIVATE LAND ACTIVELY DEVOTED TO CULTIVATED CROPS WITHOUT CONSENT OF THE OWNER OR THE OWNER'S AGENT, AND TO DEFINE TERMS.

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

SECTION 1. That Section 49-762, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 18-7011, Idaho Code, be, and the same is hereby amended to read as follows:

18-7011. CRIMINAL TRESPASS -- DEFINITION AND PUNISHMENT. 1. Any person who, without consent of the owner or person in charge of any lands which are inclosed by fences of any description sufficient to show the boundaries of the land inclosed, shall go upon such lands and shall leave open any gates on or about said premises, or who shall tear down or lay down any fencing, or who shall go through cultivated crops that have not been harvested, or who shall damage any property thereon, or who without permission of the owner or the owner's agent enters the real property of another person where such real property is posted with "No Trespassing" signs or other notices of like meaning spaced at intervals of not less than one (1) notice per six hundred sixty (660) feet along such real property, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six (6) months or by a fine of not less than twenty-five dollars ($25.00) and not more than three hundred dollars ($300) or by both such fine and imprisonment. Where the geographical configuration of the real property is such that entry can reasonably be made only at certain points of access, such property is posted sufficiently for all purposes of this section if said signs or notices are posted at such points of access.

As used in this subsection and in section 18-7008, Idaho Code: "enters," "entry" and "entering" mean going upon or over real property either in person or by causing any object, substance or force to go upon or over real property.

2. No motor vehicle shall be willfully or intentionally driven into, upon, over or through any private land actively devoted to cultivated crops without the consent of the owner of the land or the tenant, lessee or agent of the owner of the land actively devoted to cultivated crops. Violation of the provisions of this section shall be a misdemeanor. For the purpose of this subsection, motor vehicle shall be defined as set forth in subsection (b) of section 49-101, Idaho Code. Land actively devoted to cultivated crops shall be defined as land that is used to produce field crops including, but not limited to, grains, feed crops, legumes, fruits and vegetables.

Approved March 16, 1984.

CHAPTER 56
(S.B. No. 1259)

AN ACT

RELATING TO TRADEMARKS; AMENDING SECTION 48-501, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 48-502, IDAHO CODE,

TO PROVIDE CONDITIONS FOR REGISTRABILITY OF A TRADEMARK; AMENDING SECTION 48-503, IDAHO CODE, TO INCREASE THE FEE FOR AN APPLICATION FOR REGISTRATION; AMENDING SECTION 48-505, IDAHO CODE, TO INCREASE THE FEE FOR RENEWAL; AMENDING SECTION 48-506, IDAHO CODE, TO PROVIDE FOR FILING OF INSTRUMENTS OF ASSIGNMENTS AND TO INCREASE THE FEE FOR FILING; AND AMENDING SECTION 44-603, IDAHO CODE, TO INCREASE THE FEE FOR FILING A RECORD OF LABEL.

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

SECTION 1. That Section 48-501, Idaho Code, be, and the same is hereby amended to read as follows:

48-501. DEFINITIONS. (A) The term "trade-mark" as used herein means any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by him and to distinguish them from goods made or sold by others.

(B) The term "service mark" as used herein means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others.

(C) The term "mark" as used herein includes any trade-mark, trade name or service mark entitled to registration under this act whether registered or not.

(D) The term "trade name" means a word, name, symbol, device or any combination thereof used by a person to identify his business, vocation or occupation and distinguish it from the business, vocation or occupation of others.

(E) The term "person" as used herein means any individual, firm, partnership, corporation, association, union or other organization.

(F) The term "applicant" as used herein embraces the person filing an application for registration of a trade-mark under this act, his legal representatives, successors or assigns.

(G) The term "registrant" as used herein embraces the person to whom the registration of a trade-mark under this act is issued, his legal representatives, successors or assigns.

(H) For the purposes of this act, a trade-mark shall be deemed to be "used" in this state (a) on goods when it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto and such goods are sold or otherwise distributed in the state, and (b) on services when it is used or displayed in the sale or advertising of services and the services are rendered in this state.

SECTION 2. That Section 48-502, Idaho Code, be, and the same is hereby amended to read as follows:

48-502. REGISTRABILITY. (a) In order to be registered, a mark must have some element of distinctiveness, arbitrariness or uniqueness, which may be inherent to the mark or acquired through extended usage and establishment of a reputation.

(b) A mark by which the goods or services of any applicant for

registration may be distinguished from the goods or services of others shall not be registered if it

(~~a~~1) consists of or comprises immoral, deceptive or scandalous matter; or

(~~b~~2) consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or

(~~c~~3) consists of or comprises the flag or coat of arms or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof; or

(~~d~~4) consists of or comprises the name, signature or portrait of any living individual, except with his written consent; or

~~(e)--consists-of-a-mark-which,-(1)-when-applied-to--the--goods--or services--of--the--applicant,--is--merely--descriptive--or-deceptively misdescriptive-of-them,-or-(2)-when-applied-to-the-goods--or--services of--the--applicant--is--primarily-geographically-descriptive-or-deceptively-misdescriptive-of-them,-or-(3)-is-primarily--merely--a--surname provided,--however,-that-nothing-in-this-section-(e)-shall-prevent-the registration-of-a-mark-used-in-this-state-by-the-applicant--which--has become-distinctive-of-the-applicant's-goods-or-services.-The-secretary of--state-may-accept-as-evidence-that-the-mark-has-become-distinctive, as-applied-to-the-applicant's-goods-or-services,-proof--of--continuous use--thereof-as-a-mark-by-the-applicant-in-this-state-or-elsewhere-for the-five-(5)-years-next-preceding-the-date-of-the-filing-of-the-application-for-registration,-or~~

(5) consists of a mark which, when applied to the goods or services of the applicant, is deceptively misdescriptive or generic, or consists of common descriptive terms, or geographical terms in common use; or

(6) consists of merely descriptive terms, geographically descriptive terms not in common use, or primarily a surname; provided, however, that such a mark may be registered upon proof of continuous use of the mark by the applicant for the five (5) years next preceding the date of registration; or

(~~f~~7) consists of or comprises a mark which so resembles a mark registered in this state or a mark or trade name previously used in this state by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive.

(c) Any unregistrable components of a registered mark, when taken separately, are presumed to be disclaimed.

(d) Terms used in this section shall be defined in accordance with the common law developed under the United States trademark law (title 15, chapter 22, U.S.C.). The secretary of state may promulgate rules to further define such terms.

SECTION 3. That Section 48-503, Idaho Code, be, and the same is hereby amended to read as follows:

48-503. APPLICATION FOR REGISTRATION. Subject to the limitations

set forth in this act, any person who adopts and uses a mark in this state may file in the office of the secretary of state, on a form to be furnished by the secretary of state, an application for registration of that mark setting forth, but not limited to, the following information:

(a) the name and business address of the person applying for such registration; and, if a corporation, the state of incorporation,

(b) the goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods or services and the class in which such goods or services fall,

(c) the date when the mark was first used anywhere and the date when it was first used in this state by the applicant or his predecessor in business, and

(d) a statement that the applicant is the owner of the mark and that no other person has the right to use such mark in this state either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

The application shall be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by a specimen or facsimile of such mark in triplicate.

The application for registration shall be accompanied by a filing fee of ~~six~~ twenty dollars ($6~~2~~0.00), payable to the secretary of state.

SECTION 4. That Section 48-505, Idaho Code, be, and the same is hereby amended to read as follows:

48-505. DURATION AND RENEWAL. Registration of a mark hereunder shall be effective for a term of ten (10) years from the date of registration and, upon application filed within six (6) months prior to the expiration of such term, on a form to be furnished by the secretary of state, which includes a statement that the mark is still in use in this state, the registration may be renewed for a like term. A renewal fee of ~~six~~ twenty dollars ($6~~2~~0.00), payable to the secretary of state, shall accompany the application for renewal of the registration.

A mark registration may be renewed for successive periods of ten (10) years in like manner.

The secretary of state shall notify registrants of marks hereunder of the necessity of renewal within the year next preceding the expiration of the ten (10) years from the date of registration, by writing to the last known address of the registrants.

Any registration in force on the date on which this act shall become effective shall expire ten (10) years from the date of the registration or of the last renewal thereof or one (1) year after the effective date of this act, whichever is later, and may be renewed by filing an application with the secretary of state on a form furnished by him and paying the aforementioned renewal fee therefor within six

(6) months prior to the expiration of the registration.

All applications for renewals under this act, whether of registrations made under this act or of registrations effected under any prior act, shall include a statement that the mark is still in use in this state.

The secretary of state shall within six (6) months after the effective date of this act notify all registrants of marks under previous acts of the date of expiration of such registrations unless renewed in accordance with the provisions of this act, by writing to the last known address of the registrants.

SECTION 5. That Section 48-506, Idaho Code, be, and the same is hereby amended to read as follows:

48-506. ASSIGNMENT. Any mark and its registration hereunder shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment shall be by instruments in writing duly executed and may be ~~recorded~~ filed with the secretary of state, on a form provided by the secretary of state, upon the payment of a fee of ~~six~~ twenty dollars ($~~6~~20.00) payable to the secretary of state who, upon ~~recording~~ filing of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this act shall be void as against any subsequent purchaser for valuable consideration without notice, unless it is ~~recorded~~ filed with the secretary of state within three (3) months after the date thereof or prior to such subsequent purchase.

SECTION 6. That Section 44-603, Idaho Code, be, and the same is hereby amended to read as follows:

44-603. RECORD OF LABEL. (1) Every such person, association or union, that has heretofore adopted or used, or shall hereafter adopt or use, a label, term, design, device or form of advertisement, other than a trade-mark or a service mark, as provided in section 44-601, Idaho Code, may file the same for record in the office of the secretary of state, by leaving two (2) copies, counterparts or facsimiles thereof with said secretary, and by filing therewith a sworn application specifying the name or names of the person, association or union on whose behalf such label, term, design, device or form of advertisement shall be filed; the class of merchandise and a description of the goods to which it has been or is intended to be appropriated, stating that the party so filing or on whose behalf such label, term, design, device, or form of advertisement shall be filed, has the right to use of the same; that no other person, firm, association, union or corporation has a right to such use, either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee of ~~six~~

twenty dollars ($620.00). Said secretary shall deliver to such person, association, or union, so filing or causing to be filed any such label, term, design, device or form of advertisement, so many duly attested certificates of the recording of the same as such person, association, or union may apply for, for each of which certificates said secretary shall receive a fee of ~~six~~ twenty dollars ($620.00). Any such certificate of record shall, in all suits and prosecutions under this chapter, be sufficient proof of the adoption of such label, term, design, device or form of advertisement. Said secretary of state shall not record for any person, union, or association, any label, term, design, device or form of advertisement that would probably be mistaken for any label, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association.

(2) Registration of a label, term, design, device, or form of advertisement hereunder shall be effective for a term of ten (10) years from the date of registration and, upon application filed within six (6) months prior to the expiration of such term, on a form to be furnished by the secretary of state, the registered label, term, design, device or form of advertisement may be renewed for a like term. A renewal fee of ~~six~~ twenty dollars ($620.00), payable to the secretary of state, shall accompany the application for renewal of the registration. A label, term, design, device or form of advertisement registration may be renewed for successive periods of ten (10) years in like manner. The secretary of state shall notify registrants of labels, terms, designs, devices or forms of advertisements hereunder of the necessity of renewal within the year next preceding the expiration of the ten (10) years from the date of registration by writing to the last known address of the registrants.

Any registration in force on the date on which this act shall become effective shall expire ten (10) years from the date of the registration or of the last renewal thereof or one (1) year after the effective date of this act, whichever is later, and may be renewed by filing an application with the secretary of state on a form furnished by him and paying the aforementioned renewal fee therefor within six (6) months prior to the expiration of the registration.

All applications for renewals under this act, whether of registrations made under this act or of registrations effected under any prior act, shall include a statement that the mark is still in use in this state. The secretary of state shall within six (6) months after the effective date of this act notify all registrants of a label, term, design, device or form of advertisement, under previous acts of the date of expiration of such registration unless renewed in accordance with the provisions of this act, by writing to the last known address of the registrants.

Approved March 16, 1984.

CHAPTER 57
(S.B. No. 1212)

AN ACT

RELATING TO THE PRACTICE OF NURSING; AMENDING SECTION 54-1402, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING SECTION 54-1404, IDAHO CODE, TO PROVIDE FOR POWERS AND DUTIES OF THE BOARD OF NURSING, AND TO PROVIDE NAME CHANGES; AMENDING SECTION 54-1405, IDAHO CODE, TO PROVIDE NAME CHANGES; AMENDING SECTION 54-1410, IDAHO CODE, TO PROVIDE FOR FEES FOR LICENSURE; AMENDING SECTION 54-1412, IDAHO CODE, TO PROVIDE FOR DISCIPLINARY ACTIONS; AND AMENDING CHAPTER 14, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1416, IDAHO CODE, TO PROVIDE FOR INJUNCTIVE RELIEF.

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

SECTION 1. That Section 54-1402, Idaho Code, be, and the same is hereby amended to read as follows:

54-1402. DEFINITIONS. As used in this act:

(a) "Board" means the board of nursing.

(b) ~~"Nursing" shall include the practice of professional nursing and the practice of practical nursing respectively defined as follows:~~

~~(1) The practice of professional nursing means performance of any act in observation, care, and counsel of the ill, injured, and infirm persons, in maintenance of health and prevention of illness of others, in supervision and teaching of other health care personnel, and in administration of medications and treatments as prescribed by nurse practitioners, licensed physicians and licensed dentists, requiring substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical and social science.~~

~~(2) The practice of practical nursing means performance of selected acts in the care of ill, injured, and infirm persons performed at the direction of a licensed professional nurse, licensed physician or a licensed dentist not requiring the substantial independent skill, judgment and knowledge required in professional nursing.~~

"Practice of nursing" means assisting individuals or groups of individuals to promote, maintain or restore optimal health throughout the life process by assessing and evaluating their health status, planning and implementing a strategy of care to accomplish defined goals, and evaluating responses to care and treatment.

(1) "Licensed professional nurse" means a person who practices nursing by:

a. Assessing the health status of individuals and groups of individuals;

b. Identifying health care problems that are amenable to nursing intervention;

c. Establishing goals to meet identified health care needs;

d. Planning a strategy of care;
e. Prescribing nursing interventions to implement the strategy of care;
f. Implementing the strategy of care, including administering medications and treatments as prescribed by nurse practitioners, licensed physicians and licensed dentists;
g. Authorizing nursing interventions that may be performed by others and that do not conflict with this act;
h. Maintaining safe and effective nursing care rendered directly or indirectly;
i. Evaluating responses to interventions;
j. Teaching the theory and practice of nursing;
k. Managing the practice of nursing; and
l. Collaborating with other health professionals in the management of health care.

(2) "Licensed practical nurse" means a person who practices nursing by:
a. Functioning at the direction of a licensed professional nurse, licensed physician, or licensed dentist;
b. Contributing to the assessment of the health status of individuals and groups of individuals;
c. Participating in the development and modification of the strategy of care;
d. Implementing the appropriate aspects of the strategy of care as defined by the board, including administering medications and treatments as prescribed by nurse practitioners, licensed physicians, and licensed dentists;
e. Maintaining safe and effective nursing care rendered directly or indirectly;
f. Participating in the evaluation of responses to interventions; and
g. Delegating nursing interventions that may be performed by others and that do not conflict with this act.

(c) "Nursing education program" means a course of instruction offered and conducted to prepare persons for the practice of nursing, or to increase the knowledge and skills of the practicing nurse.

(d) "Nurse practitioner" means a licensed professional nurse having specialized skill, knowledge and experience authorized, by rules and regulations jointly promulgated by the Idaho state board of medicine and the Idaho board of nursing and implemented by the Idaho board of nursing, to perform designated acts of medical diagnosis, prescription of medical therapeutic and corrective measures and delivery of medications.

SECTION 2. That Section 54-1404, Idaho Code, be, and the same is hereby amended to read as follows:

54-1404. BOARD OF NURSING -- POWERS AND DUTIES. The board shall have all powers and duties necessary and incident to regulation of nursing and to enforcement of this act, including but not limited to, the power and duty:

(1) to license qualified persons for practice of nursing in Idaho ~~and~~; to renew licenses; to limit, restrict, amend, deny, suspend~~,~~ or revoke ~~and renew~~ licenses; and to accept the voluntary surrender of a license;
(2) to establish standards, criteria, conditions and requirements for licensure and to investigate and determine eligibility and qualifications for licensure, and to administer examinations for licensure;
(3) to establish standards of conduct and practice and to regulate the use of titles, abbreviations and designations for the practice of nursing;
(4) to establish standards, criteria, and requirements for curricula for nursing education programs and to evaluate, survey, review and approve nursing education programs;
(5) to evaluate continuing competency of persons licensed pursuant to this act and to develop standards which will advance the competency of licensees in accordance with developing scientific understanding and methods relating to the practice of nursing;
(6) to receive and collect license and renewal fees assessed pursuant to this act and to assess, receive and collect additional reasonable fees for ~~certification~~ approval of nurse practitioners, administration of examinations, investigations and evaluations of applicants, issuance of temporary licenses, duplication and verification of records, surveying and evaluating nursing education programs, and administrative fines not to exceed one hundred dollars ($100) for each count or separate offense of practicing nursing without current licensure, to be deposited in the state ~~treasury~~ board of nursing account in the manner provided by this act;
(7) to employ personnel necessary to administer this act and rules and regulations promulgated pursuant to this act and perform such other duties as the board may require. Such personnel shall include an executive director, who shall be currently licensed to practice professional nursing in Idaho and who shall not be a member of the board;
(8) to maintain a record of board proceedings, annually report to the governor and maintain a public register of names and addresses of licensed nurses;
(9) to make, adopt and publish rules and regulations pursuant to chapter 52, title 67, Idaho Code, as may be necessary or appropriate to carry out the provisions and purposes of this act.

SECTION 3. That Section 54-1405, Idaho Code, be, and the same is hereby amended to read as follows:

54-1405. DISPOSITION OF FUNDS. State board of nursing ~~fund~~ account--creation of. All fees of any kind collected under the provisions of this act shall be deposited in the state treasury to the credit of ~~a--fund~~ an account to be known as the state board of nursing ~~fund~~ account in accordance with chapter 8, title 57, Idaho Code, which is hereby created and all such monies as are now in or may hereafter

come into such ~~fund~~ account are hereby appropriated ~~to~~ for carrying out the purposes and objectives of this act and to pay all costs and expenses incurred in connection therewith.

Such monies shall be paid out upon warrants drawn by the state auditor upon presentation of proper vouchers approved by the state board of nursing. ~~All monies in the state board of nursing fund on the effective date of this act are hereby transferred to the state board of nursing fund hereby created and appropriated to the board.~~

SECTION 4. That Section 54-1410, Idaho Code, be, and the same is hereby amended to read as follows:

54-1410. RENEWAL OF LICENSE. Each license issued pursuant to this act shall be valid from the date of its issue until the first renewal date thereafter. No license shall be valid unless renewed each and every two (2) years on the renewal dates fixed by the board. The board may impose a renewal fee in an amount not less than twenty-five dollars ($20~~0~~5.00) nor more than ~~forty~~ fifty dollars ($4~~0~~50.00).

SECTION 5. That Section 54-1412, Idaho Code, be, and the same is hereby amended to read as follows:

54-1412. DISCIPLINARY ACTION. (a) Grounds for discipline. The board shall have the power to deny any application for or renewal of license, to revoke, suspend or amend any license issued pursuant to this act and to limit or restrict the practice of any licensee, upon a determination by the board that the person:

(1) made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing; or

(2) practiced nursing under a false or assumed name; or

(3) is convicted of a felony or of any offense involving moral turpitude; or

(4) is or has been grossly negligent or reckless in performing nursing functions; or

(5) habitually uses alcoholic beverages or narcotic, hypnotic or hallucinogenic drugs; or

(6) is physically or mentally unfit to practice nursing; or

(7) violates the provisions of this act or rules and regulations and standards of conduct and practice as may be adopted by the board; or

(8) otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public~~.~~; or

(9) has had a license to practice nursing suspended or revoked in any jurisdiction. A certified copy of the order of suspension or revocation shall be prima facie evidence of such suspension or revocation.

(b) Proceedings. The executive director shall conduct such investigations and initiate such proceedings as necessary to insure compliance with this section. The board may accept the voluntary surrender of a license from any nurse under investigation and accordingly

enter an order revoking or suspending such license and/or imposing such conditions, limitations, or restrictions on the practice of any such nurse as may be appropriate in the discretion of the board. Otherwise, eEvery person subject to disciplinary proceedings shall be afforded an opportunity for hearing after reasonable notice. All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho Code.

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

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

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

SECTION 6. That Chapter 14, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1416, Idaho Code, and to read as follows:

54-1416. INJUNCTION. Whenever any person violates any of the provisions of this act, the board may maintain an action in the name of the state of Idaho to enjoin said person from any further violations, such action to be brought either in the county in which said

acts are claimed to have been or are being committed, in the county where the defendant resides, or in Ada County. Upon the filing of a verified complaint the district court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting said violations. A copy of said complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of said act or acts be established, the court shall enter a decree permanently enjoining said defendant from committing said act or acts. In case of violation of any injunction issued under the provisions of this section, the court or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

Approved March 19, 1984.

CHAPTER 58
(H.B. No. 420)

AN ACT
RELATING TO INMATE FURLOUGHS; AMENDING SECTION 20-242, IDAHO CODE, TO ALLOW FURLOUGHS FOR WORK PROJECTS.

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

SECTION 1. That Section 20-242, Idaho Code, be, and the same is hereby amended to read as follows:

20-242. FURLOUGH. 1. When a person is committed to the custody of the state board of correction, the board may, upon conditions which it may impose, direct that the person be permitted to continue in his regular employment, work project, or educational program, if that is compatible with the requirements of subsection 3 of this section, or may authorize the person to secure employment for himself.

2. If the board directs that the prisoner be permitted to continue in his regular employment or education, the board shall arrange for a continuation of the employment or education so far as possible without interruption. If the prisoner does not have regular employment, and the board has authorized the prisoner to secure employment for himself, the prisoner may do so, and the board may assist him in doing so.

3. Whenever the prisoner is not employed and between the hours or periods of employment, work project, or schooling, he shall be domiciled in a jail ~~or~~, facility, or residence as directed by the board of correction.

4. The earnings of the prisoner shall be retained by the prisoner under such terms and conditions as the board may impose. From such earnings the board may require that:

a. the prisoner pay an amount to the board of correction sufficient for the prisoner's board and personal expenses, both inside and outside the jail, ~~or~~ facility, or residence, including costs of administering such prisoner's work furlough program;

b. the prisoner provide for the reasonable and adequate support and maintenance of the prisoner's dependents;

c. the prisoner pay preexisting debts;

d. the prisoner deposit earnings in a financial institution.

5. If the prisoner violates the conditions established for his conduct, custody or employment, the board may order the balance of the prisoner's sentence to be spent in actual confinement.

6. The wilful failure of a prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement under this section is an escape from the place of confinement and is punishable as provided by section 18-2505, Idaho Code.

7. A furlough may be revoked by the board at any time without notice or hearing.

Approved March 19, 984.

CHAPTER 59
(H.B. No. 456)

AN ACT

RELATING TO CREDIT UNIONS; AMENDING CHAPTER 21, TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2153, IDAHO CODE, TO PROVIDE FOR CREDIT UNION PARTICIPATION IN SHARE AND DEPOSIT INSURANCE PROGRAMS.

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

SECTION 1. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2153, Idaho Code, and to read as follows:

26-2153. SHARE AND DEPOSIT INSURANCE. (1) Not later than January 1, 1986, a state chartered credit union shall apply for and obtain insurance on shares and deposits as provided by the national credit union administration under title II of the federal credit union act (12 U.S.C. section 1781 et seq.), or alternatively, a form of comparable insurance approved by the director. This requirement does not apply to a credit union with debt and equity capital consisting primarily of funds from other credit unions.

(2) A credit union which has been denied a commitment for such insurance shall within thirty (30) days after the denial, commence steps to either liquidate, or merge with an insured credit union, or apply in writing to the director for additional time to obtain an

insurance commitment.

The director shall grant one or more extensions of time to obtain the insurance upon satisfactory evidence that the credit union has made or is making a substantial effort to achieve the conditions precedent to issuance of the insurance.

(3) No credit union shall be granted a charter by the director unless such credit union has obtained insurance of its member share and deposit accounts.

(4) (a) Notwithstanding the above, a credit union whose members, after being fully informed on the subject, vote, by a simple majority of those members present at a meeting called for such purpose, to not obtain share insurance, shall not be required to obtain such insurance as condition precedent to doing business in this state.

(b) In those credit unions in which the membership has voted to reject the need for share insurance, the rejection shall be placed before the membership for reconsideration at least biannually thereafter.

(c) Should the membership of a credit union, in which the need for share insurance has been rejected, determine, as provided above, that the need for share insurance does exist, the credit union shall, within thirty (30) days following the date of the meeting held for the purpose of voting on the subject, make application for and obtain insurance as provided above.

(d) Those credit unions whose members have voted to remain uninsured shall disclose to their members, on a regular and periodic basis, that their shares and deposits in that credit union are not protected by share insurance and the procedures required by this section.

(5) The director may make available reports of condition and examination findings to the national credit union administration or to any qualified insuring organization and may accept any report of examination made on behalf of such agency or organizations. The director may appoint an official of the national credit union administration or of any qualified insuring organization as a liquidating agent of an insured credit union.

Approved March 19, 1984.

CHAPTER 60
(H.B. No. 492)

AN ACT

RELATING TO INSURANCE AGENTS; AMENDING SECTION 41-337, IDAHO CODE, TO PROVIDE THAT AN INSURANCE AGENT MAY CAUSE A FACSIMILE OF HIS SIGNATURE TO BE PLACED ON ALL POLICIES OR CONTRACTS OF INSURANCE OR INDEMNITY ISSUED AND TO PROVIDE THAT THE AGENT MAY GRANT POWER OF ATTORNEY TO CERTAIN INDIVIDUALS AUTHORIZING SUCH PERSONS TO COUNTERSIGN OR CAUSE A FACSIMILE OF THE AGENT'S SIGNATURE TO BE

PLACED ON POLICIES AND INDORSEMENTS IN HIS NAME AND BEHALF; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 41-337, Idaho Code, be, and the same is hereby amended to read as follows:

41-337. RESIDENT AGENT, COUNTERSIGNATURE LAW. (1) Except as provided in section 41-338, Idaho Code, no authorized insurer shall make, write, place or cause to be made, written or placed, any policy or contract of insurance or indemnity of any kind or character, or a general or floating policy covering risks on property located in Idaho, liability created by or accruing under the laws of this state, or undertakings to be performed in this state, except through its resident insurance agents licensed as provided in this code, who shall countersign or cause a facsimile of his signature to be placed on all policies or indemnity contracts so issued, and who shall keep a record of the same, containing the usual and customary information concerning the risk undertaken and the full premium paid or to be paid therefor, to the end that the state may receive the taxes required by law to be paid on premiums collected for insurance on property or undertakings located in this state. When two (2) or more insurers issue a single policy of insurance the policy may be countersigned on behalf of all insurers appearing thereon by a licensed agent, resident in this state, of any one such insurer.

(2) The agent may grant a power of attorney in writing to an individual who is twenty-one (21) years or more of age ~~and is employed full-time on salary by the agent in the agent's office,~~ authorizing such ~~employee~~ person to countersign or cause a facsimile of the agent's signature to be placed on policies and indorsements in his name and behalf. The power of attorney shall be acknowledged by the agent under oath before a notary public and shall be kept on file in the agent's office.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 19, 1984.

CHAPTER 61
(H.B. No. 522)

AN ACT

RELATING TO TIME SHARED PROPERTIES; AMENDING SECTION 55-1802, IDAHO CODE, TO FURTHER DEFINE THE TERMS SUBDIVISION AND SUBDIVIDED LANDS AND TO DEFINE THE TERM TIME SHARED PROPERTY; AND AMENDING SECTION 55-1804, IDAHO CODE, TO PROHIBIT THE OFFER OR DISPOSAL OF ANY

INTEREST IN A TIME SHARED PROPERTY LOCATED WITHIN OR WITHOUT THE STATE OF IDAHO PRIOR TO THE TIME THAT THE TIME SHARED PROPERTY IS REGISTERED IN ACCORDANCE WITH THE SUBDIVIDED LANDS DISPOSITION ACT.

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

SECTION 1. That Section 55-1802, Idaho Code, be, and the same is hereby amended to read as follows:

55-1802. DEFINITIONS. When used in this act, unless the context otherwise requires~~,~~:

1. "Commission" means the Idaho real estate commission;

2. "Disposition" includes sale, lease, assignment, award by lottery, or any other transaction concerning a subdivision, if undertaken for gain or profit;

3. "Offer" includes any inducement, solicitation, or attempt to encourage a person to acquire an interest in land, if undertaken for gain or profit;

4. "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;

5. "Purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in land;

6. "Subdivider" means any owner of subdivided land who offers it for disposition or the principal agent of an inactive owner; and

7. a. "Subdivision" and "subdivided lands" means any land situated outside the state of Idaho which is divided or is proposed to be divided for the purpose of disposition into five (5) or more lots, parcels, units, or interests and also includes any land, whether contiguous or not, if five (5) or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale.

b. In addition to the definition stated in subsection 7.a. above, "subdivision" and "subdivided lands" mean any time shared property located within or without this state which is offered to purchasers or is proposed to be offered to purchasers.

8. "Time shared property" means any real property in which the use and occupancy rights are divided or proposed to be divided into more than thirteen (13) units, interests or parcels in accordance with a fixed or variable time schedule on a periodic basis that allocates the use or occupancy among the persons holding similar interests.

SECTION 2. That Section 55-1804, Idaho Code, be, and the same is hereby amended to read as follows:

55-1804. PROHIBITIONS ON DISPOSITIONS OF INTERESTS IN SUBDIVISIONS. Unless the subdivided lands or the transaction is exempt under section 55-1805, Idaho Code, it shall be unlawful for any person in

this state:

1. To offer or to dispose of any interest in subdivided lands located without this state prior to the time that the subdivided lands are registered in accordance with this act;

2. To dispose of any interest in subdivided lands unless a current public offering statement is delivered to the purchaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.

3. To offer or dispose of any interest in a time shared property located within or without this state prior to the time that the time shared property is registered in accordance with this act.

Approved March 19, 1984.

CHAPTER 62
(H.B. No. 534, As Amended in the Senate)

AN ACT

RELATING TO ASSESSMENTS MADE FOR THE BEEF COUNCIL; AMENDING SECTION 25-2907, IDAHO CODE, TO PROVIDE FOR THE AMOUNT OF THE ASSESSMENT TO BE COLLECTED ON CATTLE COMING INTO IDAHO FROM ANOTHER STATE.

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

SECTION 1. That Section 25-2907, Idaho Code, be, and the same is hereby amended to read as follows:

25-2907. ASSESSMENTS -- COLLECTION. There is hereby levied and imposed upon all cattle an assessment of not more than twenty-five cents (25¢) per head, to be paid by the owner, provided, however, that no assessment shall be made on cattle moved within the state for grazing or for fattening where there is no change in ownership. The state brand inspector shall collect said assessment in addition to, at the same time, in the same manner and upon the same animals as, the fee charged for the state brand inspection. Such assessment so collected belongs to and shall be paid to the Idaho beef council, either directly or later by remittance together with a report. The council shall reimburse the state brand inspector for the reasonable and necessary expenses incurred for such collection, in an amount determined by the council and the inspector. The assessment shall be levied on all cattle consigned for immediate sale to an Idaho public livestock market. The amount of the assessment collected shall be: (a) the full amount of the assessment if no assessment has been paid in any other state within the prior ninety-six (96) hours; or (b) the difference between the full assessment and the assessment paid in any other state within the prior ninety-six (96) hours, if such other assessment is less than Idaho's full assessment; or (c) none, if a similar assessment has been paid in any other state within the prior ninety-six (96) hours that is equal to or greater than Idaho's full

assessment.

Approved March 19, 1984.

CHAPTER 63
(H.B. No. 624)

AN ACT

RELATING TO LEWD CONDUCT WITH A MINOR OR CHILDREN UNDER SIXTEEN YEARS OF AGE; AMENDING SECTION 18-1506, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION; AMENDING SECTION 18-6607, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO SPECIFY ADDITIONAL PROHIBITED CONDUCT; AND AMENDING SECTION 19-2520C, IDAHO CODE, TO PROVIDE A CORRECT CODE CITATION.

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

SECTION 1. That Section 18-1506, Idaho Code, be, and the same is hereby amended to read as follows:

18-1506. SEXUAL ABUSE OF A CHILD UNDER THE AGE OF SIXTEEN YEARS. (1) Any person eighteen (18) years of age or older who shall solicit a minor child under the age of sixteen (16) years to participate in a sexual act, or who shall cause or have sexual contact with such a child, not amounting to lewd conduct as defined by section 18-~~6607~~1508, Idaho Code, with the intent to gratify the sexual desire of either party or a third party, shall be guilty of a felony.

(2) For the purposes of this section "solicit" means any offensive written, verbal, or physical act which is intended to communicate to the child the actor's desire to participate in a sexual act or participate in sexual foreplay, or the actor's desire to gratify lust by the means of photographing or observing the child engaged in sexual contact.

(3) For the purposes of this section "sexual contact" means any physical contact between the child and the actor, or between children which is caused by the actor, or the actor causing the child to have self contact, any of which is intended to gratify the lust or sexual desire of the actor or a third party.

SECTION 2. That Section 18-6607, Idaho Code, be, and the same is hereby amended to read as follows:

18-~~6607~~1508. LEWD CONDUCT WITH MINOR OR CHILD UNDER SIXTEEN. Any person who shall wilfully and lewdly commit any lewd or lascivious act or acts upon or with the body or any part or member thereof of a minor or child under the age of sixteen (16) years, including but not limited to, genital-genital contact, oral-genital contact, anal-genital contact, oral-anal contact, manual-anal contact, or manual-genital contact, whether between persons of the same or oppo-

site sex, or who shall involve a minor or child in any act of bestiality or sado-masochistic abuse or lewd exhibition as any of such acts are defined in section 18-1507, Idaho Code, when any of such acts are done with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such minor or child, shall be guilty of a felony and shall be imprisoned in the state prison for a term of not more than life.

SECTION 3. That Section 19-2520C, Idaho Code, be, and the same is hereby amended to read as follows:

19-2520C. MANDATORY MINIMUM ENHANCEMENT OF PRISON TERMS FOR REPEATED SEX OFFENSES, EXTORTION AND KIDNAPPING. (1) Any person who is found guilty of violation of the provisions of sections 18-2801 (extortion), 18-4501 (kidnapping), 18-6101 (rape), 18-6605 (crime against nature), or 18-~~6607~~1508 (lewd and lascivious conduct), Idaho Code, or any attempt or conspiracy to commit such crime(s); and committed such crime(s) by force, violence, duress, menace or threat of great bodily injury and who has been previously found guilty of any such crime, shall receive a sentence enhancement of not less than three (3) years nor more than fifteen (15) years to be served in the state prison without eligibility for parole; provided, however, that no enhancement shall be imposed under this section for any such crime occurring prior to a period of fifteen (15) years during which the person remained free of prison custody, parole and being found guilty of a crime which is a felony; provided further that no enhancement shall be imposed under this subsection when the provisions of section 19-2520B, Idaho Code, would be applicable.

(2) Any person found guilty of an offense specified in subsection (1) of this section who has served two (2) or more prior prison terms for any crime specified in subsection (1) hereof, shall receive a sentence enhancement of not less than ten (10) nor more than twenty (20) years for each such prior term to be served in the state prison without eligibility for parole; provided, that no additional enhancement shall be imposed under this subsection for any prison term served prior to a period of fifteen (15) years during which the person remained free of prison custody, parole and being found guilty of a crime which is a felony.

(3) The terms of enhancement required by this section shall apply to any aider or abettor; a person who acts in concert with, or a person who conspires with, the perpetrator of the crime.

(4) Any term of enhancement required by this section shall be served consecutively to any other term of imprisonment and shall commence from the time such person would otherwise have been released from imprisonment. Any other term of imprisonment or enhancement imposed subsequent to such term of enhancement shall not be merged therein but shall commence at the time such person would otherwise have been released from prison.

(5) Any term of enhancement required by this section shall not be imposed unless the fact of the prior commission of a crime is separately charged in the accusatory pleading and admitted by the accused

or found to be true by the trier of fact after a verdict or finding of guilty on the substantive crime.

Approved March 19, 1984.

CHAPTER 64
(H.B. No. 662)

AN ACT

APPROPRIATING MONEYS TO THE STATE AUDITOR IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 282, LAWS OF 1983; STATING POLICY REGARDING THE EFFECTIVENESS OF THE ACT; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 282, Laws of 1983, there is hereby appropriated to the State Auditor for the Pre-Audit and Accounting Program the following amount to be expended according to the designated expense classes from the listed accounts for the period July 1, 1983, through June 30, 1984:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$13,800	$37,000	$ 50,800
Social Security Trust Account		60,000	60,000
TOTAL	$13,800	$97,000	$110,800

SECTION 2. This act is declared to be effective notwithstanding the provisions of Section 59-1107, Idaho Code, as such provisions restrict the use of the funds for purposes of making payments to the United States in accordance with Public Law 734.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 19, 1984.

CHAPTER 65
(H.B. No. 663)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR THE DESIGNATED PROGRAM; EXPRESSING LEGISLATIVE INTENT; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated to the Department of Correction the following amount, to be expended for the designated program according to the designated expense class from the listed account.

A. CORRECTIONAL INDUSTRIES:

FOR:	
Operating Expenditures	$160,000
FROM:	
General Account	$160,000

SECTION 2. It is Legislative intent that no moneys contained in this appropriation support any farm activities at the Idaho State Correctional Institution.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 19, 1984.

CHAPTER 66
(H.B. No. 454)

AN ACT

RELATING TO THE IDAHO INSURANCE GUARANTY ASSOCIATION; AMENDING SECTION 41-3608, IDAHO CODE, TO PROVIDE FOR A FINAL DATE FOR THE FILING OF CLAIMS AGAINST THE ASSOCIATION.

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

SECTION 1. That Section 41-3608, Idaho Code, be, and the same is hereby amended to read as follows:

41-3608. OBLIGATIONS AND POWERS OF ASSOCIATION. (1) The association shall:

(a) Be obligated to the extent of the covered claims existing prior to the determination of insolvency, or before the policy expiration date if less than thirty (30) days after the determination, or before the insured replaces the policy or causes its cancellation, if he does so within thirty (30) days of the determination, but such obligation shall include only that amount of each covered claim which is in excess of one hundred dollars ($100) and is less than three hundred thousand dollars ($300,000), except that the association shall pay the full amount of any covered claim arising out of a workmen's compensation policy. In no event shall the association be obligated to a policy holder or

claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

Notwithstanding any other provision of this chapter, a covered claim shall not include any claim filed with the association after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

(b) Be deemed the insurer to the extent of its obligation on the covered claims and to such extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent.

(c) Allocate claims paid and expenses incurred among the three (3) accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the association under paragraph (a) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under section 41-3613, Idaho Code, and other expenses authorized by this act. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than thirty (30) days before it is due. No member insurer may be assessed in any year on any account an amount greater than one per cent (1%) of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one (1) year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be pro rated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account for which the assessment is made.

(d) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims and may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which such settlements, releases and judgments may be properly contested.

(e) Notify such persons as the director directs under section 41-3610(2)(a).

(f) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the director, but such designation may be declined by a member insurer.

(g) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this act.

(2) The association may:

(a) Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

(b) Borrow funds necessary to effect the purposes of this act in accord with the plan of operation.

(c) Sue or be sued.

(d) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this act.

(e) Perform such other acts as are necessary or proper to effectuate the purpose of this act.

(f) Refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association in any account exceed the liabilities of that account as estimated by the board of directors for the coming year.

Approved March 22, 1984.

CHAPTER 67
(H.B. No. 495)

AN ACT

RELATING TO CORPORATIONS; AMENDING SECTION 7-802, IDAHO CODE, TO STRIKE FROM THIS TITLE THE NAME CHANGE PROCEDURE FOR CERTAIN CORPORATIONS; AMENDING SECTION 30-1-10, IDAHO CODE, TO PROVIDE A CREDIT TO REGISTERED CORPORATIONS WHO FILE FOR A CERTIFICATE OF AUTHORITY; AMENDING SECTIONS 30-1-62, 30-1-64, 30-1-65, 30-1-67, 30-1-69, 30-1-74, 30-1-75, 30-1-82, AND 30-1-93, IDAHO CODE, TO STRIKE OBSOLETE LANGUAGE; AMENDING SECTION 30-1-111, IDAHO CODE, TO REQUIRE A CERTIFICATE OF CORPORATE EXISTENCE OR STATUS; REPEALING SECTIONS 30-1-116 AND 30-1-117, IDAHO CODE; AMENDING SECTION 30-1-118, IDAHO CODE, TO REQUIRE EVIDENCE OF A NAME CHANGE BEFORE A CERTIFICATE OF AUTHORITY IS ISSUED; AND AMENDING SECTIONS 30-1-119, 30-1-120, AND 30-1-128, IDAHO CODE, TO STRIKE OBSOLETE LANGUAGE.

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

SECTION 1. That Section 7-802, Idaho Code, be, and the same is hereby amended to read as follows:

7-802. PETITION FOR CHANGE. All applications for change of names must be made to the district court of the county where the person whose name is proposed to be changed resides, by petition, signed by such person; and if such person is under the age of eighteen (18) years, by one (1) of the parents, if living; or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and reason for such change of name, and must, if the father of such person be not living, name, as far as known to the petitioner, the near relatives of such person, and their place of residence. ~~Any--religious, benevolent,--literary--or--scientific--corporation,-or-any-corporation bearing-or-having-for-its-name,-or-using-or-being-known-by-the-name-of any-benevolent-or-charitable-order-or-society,-may,-by-petition,-apply to-the-district-court-of-the-county-in-which-the-property-of-said-corporation-is-situated,-for-a-change-of-its-corporate-name.--Such--petition-must-be-signed-by-the-trustees-of-the-corporation,-or-by-a-majority--of-them,-and-must-specify-the-date-of-the-formation-of-the-corporation,-its-present-name,-the-name-proposed,-and-the-reason--for--such change--of--name.-Upon-filing-such-petition-on-behalf-of-such-corporation,-the-same-proceedings--must--be--had--as--upon--applications--for changes-of-names-of-natural-persons.~~

SECTION 2. That Section 30-1-10, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-10. REGISTERED NAME. Any corporation organized and existing under the laws of any state or territory of the United States may register its corporate name under this act, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, or any corporate name reserved or registered under this act.

Such registration shall be made by:

(a) Filing with the secretary of state (1) an application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is carrying on or doing business, and a brief statement of the business in which it is engaged, and (2) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations; and

(b) Paying to the secretary of state a registration fee in the

amount of five dollars ($5.00) for each month, or fraction thereof, between the date of filing such application and December 31 of the calendar year in which such application is filed.

Such registration shall be effective until the close of the calendar year in which the application for registration is filed.

Any foreign corporation which applies for a certificate of authority while its name is registered under this section or section 30-1-11, Idaho Code, shall receive credit on its filing fee for the application for certificate of authority at the rate of five dollars ($5.00) for each whole month remaining in the calendar year.

SECTION 3. That Section 30-1-62, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-62. FILING OF ARTICLES OF AMENDMENT. Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees ~~and franchise taxes~~ have been paid as in this act prescribed:

(a) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one (1) of such duplicate originals in his office.

(c) Issue a certificate of amendment to which he shall affix the other duplicate original.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

SECTION 4. That Section 30-1-64, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-64. RESTATED ARTICLES OF INCORPORATION. A domestic corporation may, at any time, restate its articles of incorporation as theretofore amended by a resolution adopted by the board of directors.

Upon the adoption of such resolution, restated articles of incorporation shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or assistant secretary and verified by one (1) of the officers signing such articles and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that such restated articles of incorporation conform to law, he shall, when all fees ~~and franchise taxes~~ have been paid as in this act prescribed:

(a) Endorse on each of such duplicate originals the word "Filed,"

and the month, day and year of the filing thereof.

(b) File one (1) of such duplicate originals in his office.

(c) Issue a restated certificate of incorporation, to which he shall affix the other duplicate original.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the issuance of the restated certificate of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

SECTION 5. That Section 30-1-65, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-65. AMENDMENT OF ARTICLES OF INCORPORATION IN REORGANIZATION PROCEEDINGS. (a) Whenever a plan of reorganization of a corporation has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of such corporation, pursuant to the provisions of any applicable statute of the United States relating to reorganizations of corporations, the articles of incorporation of the corporation may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and put it into effect, so long as the articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation at the time of making such amendment.

(b) In particular and without limitation upon such general power of amendment, the articles of incorporation may be amended for such purpose so as to:

(1) Change the corporate name, period of duration or corporate purposes of the corporation;

(2) Repeal, alter or amend the bylaws of the corporation;

(3) Change the aggregate number of shares or shares of any class which the corporation has authority to issue;

(4) Change the preferences, limitations and relative rights in respect of all or any part of the shares of the corporation, and classify, reclassify or cancel all or any part thereof, whether issued or unissued;

(5) Authorize the issuance of bonds, debentures or other obligations of the corporation, whether or not convertible into shares of any class or bearing warrants or other evidences of optional rights to purchase or subscribe for shares of any class, and fix the terms and conditions thereof; and

(6) Constitute or reconstitute the board of directors of the corporation, and appoint directors and officers in place of or in addition to all or any of the directors or officers then in office.

(c) Amendments to the articles of incorporation pursuant to this section shall be made in the following manner:

(1) Articles of amendment approved by decree or order of such court shall be executed and verified in duplicate by such person or persons as the court shall designate or appoint for the purpose, and shall set forth the name of the corporation, the amendments of the articles of incorporation approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered, and a statement that such decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the corporation pursuant to the provisions of an applicable statute of the United States.

(2) Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees ~~and franchise taxes~~ have been paid as in this act prescribed:

1. Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.
2. File one (1) of such duplicate originals in his office.
3. Issue a certificate of amendment to which he shall affix the other duplicate original.

(3) The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

(d) The amendment shall become effective upon the issuance of the certificate of amendment by the secretary of state, or on such later date, not more than thirty (30) days subsequent to the filing thereof with the secretary of state, as shall be provided for in the articles of amendment without any action thereon by the directors or shareholders of the corporation and with the same effect as if the amendments had been adopted by unanimous action of the directors and shareholders of the corporation.

SECTION 6. That Section 30-1-67, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-67. CANCELLATION OF REDEEMABLE SHARES BY REDEMPTION OR PURCHASE. When redeemable shares of a corporation are redeemed or purchased by the corporation, the redemption or purchase shall effect a cancellation of such shares. Thereupon such shares shall be restored to the status of authorized but unissued shares, unless the articles of incorporation provide that such shares when redeemed or purchased shall not be reissued, in which case a statement of cancellation shall be filed as provided in this section, and the filing of the statement of cancellation shall constitute an amendment to the articles of incorporation and shall reduce the number of shares of the class so cancelled which the corporation is authorized to issue by the number of shares so cancelled.

The statement of cancellation shall be executed in duplicate by the corporation by its president or a vice president and by its secre-

tary or an assistant secretary, and verified by one (1) of the officers signing such statement, and shall set forth:

(a) The name of the corporation.

(b) The number of redeemable shares cancelled through redemption or purchase, itemized by classes.

(c) The aggregate number of issued shares, itemized by classes, after giving effect to such cancellation.

(d) The amount, expressed in dollars, of the stated capital of the corporation after giving effect to such cancellation.

(e) The number of shares which the corporation will have authority to issue itemized by classes, after giving effect to such cancellation.

Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees ~~and franchise taxes~~ have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one (1) of such duplicate originals in his office.

(3) Return the other duplicate original to the corporation or its representative.

Upon such cancellation, the stated capital of the corporation shall be deemed to be reduced by that part of the stated capital which was, at the time of such cancellation, represented by the shares so cancelled.

Nothing contained in this section shall be construed to forbid a cancellation of shares or a reduction of stated capital in any other manner permitted by this act.

SECTION 7. That Section 30-1-69, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-69. REDUCTION OF STATED CAPITAL IN CERTAIN CASES. A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring an amendment of the articles of incorporation and not accompanied by a cancellation of shares, may be made in the following manner:

(a) The board of directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting.

(b) Written notice, stating that the purpose or one (1) of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the board of directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this act for the giving of notice of meetings of shareholders.

(c) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall require for its adoption the

affirmative vote of the holders of a majority of the shares entitled to vote thereon.

When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement shall be executed in duplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one (1) of the officers signing such statement, and shall set forth:

(1) The name of the corporation.

(2) A copy of the resolution of the shareholders approving such reduction, and the date of its adoption.

(3) The number of shares outstanding, and the number of shares entitled to vote thereon.

(4) The number of shares voted for and against such reduction, respectively.

(5) A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction.

Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees ~~and franchise taxes~~ have been paid as in this act prescribed:

1. Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.
2. File one (1) of such duplicate originals in his office.
3. Return the other duplicate original to the corporation or its representative.

Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth. No such reduction of stated capital shall be made under the provisions of this section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation, plus the aggregate par value of all issued shares having a par value but no preferential right in the assets of the corporation in the event of involuntary liquidation.

SECTION 8. That Section 30-1-74, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-74. ARTICLES OF MERGER -- CONSOLIDATION OR EXCHANGE. (a) Upon receiving the approval required by sections 30-1-71, 30-1-72, 30-1-72A and 30-1-73, Idaho Code, articles of merger, consolidation or exchange shall be executed in duplicate by each corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one (1) of the officers of each corporation signing such articles, and shall set forth:

(1) The plan of merger, consolidation, or exchange;

(2) As to each corporation, either:

(i) The number of shares outstanding, and, if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class; or

(ii) A statement that the vote of shareholders is not required by virtue of subsection (d) of section 30-1-73, Idaho Code;

(3) As to each corporation the approval of whose shareholders is required, the number of shares voted for and against such plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each such class voted for and against such plan, respectively.

(b) Duplicate originals of the articles of merger, consolidation or exchange shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees ~~and franchise taxes~~ have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof;

(2) File one (1) of such duplicate originals in his office; and

(3) Issue a certificate of merger, consolidation or exchange to which he shall affix the other duplicate original.

(c) The certificate of merger, consolidation or exchange together with the duplicate original of the articles affixed thereto by the secretary of state, shall be returned to the surviving, new or acquiring corporation, as the case may be, or its representative.

SECTION 9. That Section 30-1-75, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-75. MERGER OF SUBSIDIARY CORPORATION. Any corporation owning at least ninety percent (90%) of the outstanding shares of each class of another corporation may merge such other corporation into itself without approval by a vote of the shareholders of either corporation. Its board of directors shall, by resolution, approve a plan of merger setting forth:

(a) The name of the subsidiary corporation and the name of the corporation owning at least ninety percent (90%) of its shares, which is hereinafter designated as the surviving corporation.

(b) The manner and basis of converting the shares of the subsidiary corporation into shares, obligations or other securities of the surviving corporation or of any other corporation or, in whole or in part, into cash or other property.

A copy of such plan of merger shall be mailed to each shareholder of record of the subsidiary corporation.

Articles of merger shall be executed in duplicate by the surviving corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one (1) of its officers signing such articles, and shall set forth:

(a) The plan of merger;

(b) The number of outstanding shares of each class of the subsidiary corporation and the number of such shares of each class owned by

the surviving corporation; and

(c) The date of the mailing to shareholders of the subsidiary corporation of a copy of the plan of merger.

On and after the 30th day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares duplicate originals of the articles of merger shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees ~~and franchise taxes~~ have been paid as in this act prescribed:

(a) Endorse on each of such duplicate originals the word "Filed" and the month, day and year of the filing thereof;

(b) File one (1) of such duplicate originals in his office, and

(c) Issue a certificate of merger to which he shall affix the other duplicate original.

The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the secretary of state, shall be returned to the surviving corporation or its representative.

SECTION 10. That Section 30-1-82, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-82. VOLUNTARY DISSOLUTION BY INCORPORATORS OR INITIAL DIRECTORS. A corporation which has not commenced business and which has not issued any shares, may be voluntarily dissolved by its incorporators or its initial board of directors at any time in the following manner.

(a) Articles of dissolution shall be executed in duplicate by a majority of the incorporators or initial directors and verified by one of them, and shall set forth:

(1) The name of the corporation.

(2) The date of issuance of its certificate of incorporation.

(3) That none of its shares has been issued.

(4) That the corporation has not commenced business.

(5) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto.

(6) That no debts of the corporation remain unpaid.

(7) That a majority of the incorporators or initial directors elects that the corporation be dissolved.

(b) Duplicate originals of the articles of dissolution shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of dissolution conform to law, he shall, when all corporation fees ~~and corporation license taxes~~ have been paid:

(1) Endorse each of such duplicate originals with his approval.

(2) File and record one (1) of such duplicate originals in his office.

(3) Issue a certificate of dissolution to which he shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Secretary of State, shall be retained by the incorporators or initial directors

or their representative. Upon the issuance of such certificate of dissolution by the Secretary of State, the existence of the corporation shall cease.

SECTION 11. That Section 30-1-93, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-93. FILING OF ARTICLES OF DISSOLUTION. Duplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he shall, when all corporation fees ~~and corporation license taxes~~ have been paid:

(a) Endorse on each of such duplicate originals the word "Filed", and the month, day and year of the filing thereof.

(b) File one (1) of such duplicate originals in his office.

(c) Issue a certificate of dissolution to which he shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by shareholders, directors and officers as provided in this act.

SECTION 12. That Section 30-1-111, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-111. FILING OF APPLICATION FOR CERTIFICATE OF AUTHORITY. Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state, together with a ~~copy of its articles of incorporation and all amendments thereto, duly certified by the proper officer of the state or country under the laws of which it is incorporated~~ certificate of corporate existence or status, issued by the proper officer of the state or country of incorporation. The certificate must be dated not earlier than ninety (90) days before the date on which the application is filed.

If the secretary of state finds that such application conforms to law, he shall, when all fees and franchise taxes have been paid as in this act prescribed:

(a) Endorse on each of such documents the word "Filed," and the month, day and year of the filing thereof.

(b) File in his office one of such duplicate originals of the application and the ~~copy of the articles of incorporation and amendments thereto~~ certificate of corporate existence or status.

(c) Issue a certificate of authority to transact business in this state to which he shall affix the other duplicate original application.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be

returned to the corporation or its representative.

SECTION 13. That Sections 30-1-116 and 30-1-117, Idaho Code, be, and the same are hereby repealed.

SECTION 14. That Section 30-1-118, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-118. AMENDED CERTIFICATE OF AUTHORITY. A foreign corporation authorized to transact business in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

An application for an amended certificate of authority submitted because of a name change must be accompanied by a certificate from the proper filing officer in the jurisdiction of incorporation evidencing the name change.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

SECTION 15. That Section 30-1-119, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-119. WITHDRAWAL OF FOREIGN CORPORATION. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) That the corporation is not transacting business in this state.

(c) That the corporation surrenders its authority to transact business in this state.

(d) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereon in the manner provided in section 30-1-115, Idaho Code.

(e) A post-office address to which a copy of any process against the corporation may be served on it pursuant to the provisions of section 30-1-115, Idaho Code.

(f) Such additional information as may be necessary or appropri-

ate in order to enable the secretary of state to determine and assess any unpaid fees ~~or franchise taxes~~ payable by such foreign corporation as in this act prescribed.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one (1) of the officers signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

SECTION 16. That Section 30-1-120, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-120. FILING OF APPLICATION FOR WITHDRAWAL. Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this act, he shall, when all fees ~~and franchise taxes~~ have been paid as in this act prescribed:

(a) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(b) File one (1) of such duplicate originals in his office.

(c) Issue a certificate of withdrawal to which he shall affix the other duplicate original.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the issuance of such certificate of withdrawal, the authority of the corporation to transact business in this state shall cease.

SECTION 17. That Section 30-1-128, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-128. FEES FOR FILING DOCUMENTS AND ISSUING CERTIFICATES. The Secretary of State shall charge and collect for:

(a) Filing articles of incorporation and issuing a certificate of incorporation, sixty dollars ($60.00).

(b) Filing articles of amendment and issuing a certificate of amendment, twenty dollars ($20.00).

(c) Filing restated articles of incorporation, twenty dollars ($20.00).

(d) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty dollars ($20.00).

(e) Filing an application to reserve a corporate name, ten dollars ($10.00).

(f) Filing a notice of transfer of a reserved corporate name, ten dollars ($10.00).

(g) Filing a statement of change of address of registered office or change of registered agent, or both, ten dollars ($10.00).

(h) Filing a statement of cancellation of shares, twenty dollars ($20.00).

(i) Filing a statement of reduction of stated capital, twenty dollars ($20.00).

(j) Filing articles of dissolution, twenty dollars ($20.00).

(k) Filing an application of a foreign corporation for a certificate of authority to transact business in this state and issuing a certificate of authority, or for filing a certified copy of the articles of incorporation of a foreign insurance company, sixty dollars ($60.00).

(l) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, twenty dollars ($20.00).

(m) ~~Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, twenty dollars ($20.00).~~

~~(n) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, twenty dollars ($20.00).~~

~~(o)~~ Filing an application for withdrawal of a foreign corporation, ten dollars ($10.00).

(pn) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, ten dollars ($10.00).

(qo) Filing any document relating to a corporation organized for profit, when the filing party requires the certificate therefor to be returned within eight (8) working hours, a surcharge of ten dollars ($10.00).

Approved March 22, 1984.

CHAPTER 68
(H.B. No. 597)

AN ACT

RELATING TO CRIMES; AMENDING TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 22, TITLE 18, IDAHO CODE, TO PROVIDE FOR DEFINITIONS OF AND PUNISHMENT FOR COMPUTER CRIME.

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

SECTION 1. That Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW CHAPTER, to be known and designated as Chapter 22, Title 18, Idaho Code, and to read as follows:

CHAPTER 22
COMPUTER CRIME

18-2201. DEFINITIONS. As use 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.

Approved March 22, 1984.

CHAPTER 69
(H.B. No. 673)

AN ACT

APPROPRIATING MONEYS TO THE AGRICULTURAL COMMODITY COMMISSIONS IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. There is hereby appropriated to the following Agricultural Commodity Commissions in the Department of Self-governing Agencies the following amounts, to be expended according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. IDAHO APPLE COMMISSION:				
FROM:				
Apple Commission Account	$ 4,900	$ 195,000	$ 100	$ 200,000
B. IDAHO BEAN COMMISSION:				
FROM:				
Idaho Bean Marketing & Production Promotion Account	$ 64,600	$ 198,200		$ 262,800
C. IDAHO CHERRY COMMISSION:				
FROM:				
Cherry Commission Account	$ 1,800	$ 28,100	$ 100	$ 30,000
D. IDAHO DAIRY PRODUCTS COMMISSION:				
FROM:				
Idaho Dairy Products Commission Account	$197,500	$3,405,700		$3,603,200
E. IDAHO POTATO COMMISSION:				
FROM:				
Potato Commission Account	$393,200	$4,404,800	$2,000	$4,800,000
F. IDAHO WHEAT COMMISSION:				
FROM:				
Idaho Wheat Commission Account	$110,500	$ 938,700	$5,000	$1,054,200
G. IDAHO PRUNE COMMISSION:				
FROM:				
Idaho Prune Commission Account	$ 800	$ 8,200		$ 9,000
GRAND TOTAL	$773,300	$9,178,700	$7,200	$9,959,200

Approved March 22, 1984.

CHAPTER 70
(S.B. No. 1256)

AN ACT

RELATING TO TEACHING CERTIFICATES; AMENDING SECTION 33-1204, IDAHO CODE, TO PROVIDE FOR CERTAIN TEACHING CERTIFICATES TO BE CONTINUED WHEN THE HOLDER REACHES AGE SEVENTY.

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

SECTION 1. That Section 33-1204, Idaho Code, be, and the same is hereby amended to read as follows:

33-1204. VALIDITY, DURATION, RENEWAL AND LAPSE OF CERTIFICATES. The state board of education shall by uniform regulation provide for the validity, duration, renewal and lapse of certificates.

1. The validity of provisional certificates shall be limited to not more than three (3) years; they shall be endorsed for only the grade, grades or subjects the holders may teach; and their renewal shall be premised upon the completion of not less than eighteen (18) semester hours or twenty-seven (27) quarter hours of professional training applicable toward the issuance of a standard certificate and undertaken since the first issuance, or the latest renewal as the case may be, of said certificate;

2. Except as otherwise provided in this subsection, t~~T~~he validity of all certificates shall terminate when the holder thereof attains the age of seventy (70) years, except that the service thereunder may be continued until the close of the school year in which said age is attained. Subject to the provisions of section 33-1212, Idaho Code, certificates may be continued after the holder attains the age of seventy (70) years upon the specific annual request of the school district employing the holder.

3. No certificate shall lapse because of non-use while the holder thereof is serving in the armed forces of the United States in time of war, or has been called into service of the armed forces at any time. Upon filing a request therefor by the holder of such certificate, not later than one (1) year after the termination of such military service, the validity of such certificate shall be extended for a period equal to the time spent in such military service. The provisions of this paragraph shall not apply to any person who voluntarily enlists at the end of the period in which he was called into military service.

Approved March 22, 1984.

CHAPTER 71
(S.B. No. 1272)

AN ACT

RELATING TO TUBERCULOSIS EXAMINATIONS FOR SCHOOL PERSONNEL; REPEALING SECTIONS 33-1225, 33-1226 AND 33-1227, IDAHO CODE.

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

SECTION 1. That Sections 33-1225, 33-1226 and 33-1227, Idaho Code, be, and the same are hereby repealed.

Approved March 22, 1984.

CHAPTER 72
(S.B. No. 1337)

AN ACT

RELATING TO JOINT POWERS AGREEMENTS BETWEEN GOVERNMENTS; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 40, TITLE 67, IDAHO CODE, TO DEFINE THE TERM INDIAN TRIBE, TO PROVIDE AUTHORITY FOR PUBLIC AGENCIES, THE STATE OF IDAHO OR ANY OF ITS POLITICAL SUBDIVISIONS TO ENTER INTO AGREEMENTS WITH INDIAN TRIBES FOR TRANSFER OF REAL AND PERSONAL PROPERTY AND FOR JOINT CONCURRENT EXERCISE OF POWERS, TO PROVIDE REQUIREMENTS FOR SUCH AGREEMENTS, TO PROVIDE APPLICATION OF THE CHAPTER, AND TO PROVIDE THAT POLITICAL OR GOVERNMENTAL POWERS OF THE UNITED STATES, THE STATE OF IDAHO, A SISTER STATE, AN INDIAN TRIBE OR PUBLIC AGENCIES THEREOF SHALL NOT BE INCREASED OR DIMINISHED BECAUSE OF THE ENACTMENT OF THIS STATE-TRIBAL RELATIONS ACT; AMENDING SECTION 67-2327, IDAHO CODE, TO DELETE THE TERM INDIAN TRIBE FROM THE DEFINITION OF PUBLIC AGENCY; AND AMENDING SECTION 67-2328, IDAHO CODE, TO DELETE INDIAN TRIBES FROM BEING INCLUDED WITHIN THE DEFINITION OF PUBLIC AGENCIES.

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

SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 40, Title 67, Idaho Code, and to read as follows:

CHAPTER 40
STATE-TRIBAL RELATIONS ACT

67-4001. DEFINITIONS. For the purpose of this chapter, "Indian tribe" shall mean the Coeur d'Alene Tribe, the Kootenai Tribe of Idaho, the Nez Perce Tribe, the Shoshone Bannock Tribes of the Fort Hall Reservation, or the Shoshone-Paiute Tribes of the Duck Valley Reservation.

67-4002. AUTHORITY. Any public agency as defined in section 67-2327, Idaho Code, or the state of Idaho or any of its political subdivisions may enter into agreements with the Indian tribes enumerated in section 67-4001, Idaho Code, for transfer of real and personal

property and for joint concurrent exercise of powers provided such agreement is in substantial compliance with the provisions of sections 67-2327 through 67-2333, Idaho Code. No power, privilege or other authority shall be exercised under the authority of this chapter where otherwise prohibited by the constitution of the state of Idaho or the constitution or laws of the United States government. Additionally, the provisions of this chapter shall not be deemed to amend, modify, or repeal the provisions of chapter 51, title 67, Idaho Code (public law 280).

67-4003. POWERS OF AGENCIES NOT DIMINISHED. Nothing in this chapter shall be interpreted to grant to any state or public agency thereof or Indian tribe 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, an Indian tribe, nor any public agency of any of them.

SECTION 2. That Section 67-2327, Idaho Code, be, and the same is hereby amended to read as follows:

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~~;--and--any Indian-tribe~~.

"State" means a state of the United States and the District of Columbia.

SECTION 3. That Section 67-2328, Idaho Code, be, and the same is hereby amended to read as follows:

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, ~~any-Indian-tribe,~~ 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 ~~and-Indian-tribes~~, 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 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.

Approved March 22, 1984.

CHAPTER 73
(S.B. No. 1338)

AN ACT

RELATING TO ANTIQUITIES; REPEALING SECTIONS 18-7027 AND 18-7028, IDAHO CODE; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7027, IDAHO CODE, TO MAKE IT UNLAWFUL FOR PER-

SONS TO DESECRATE OR MOLEST GRAVES AND OTHER PLACES OF INTERMENT AND TO PROVIDE PENALTIES; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7028, IDAHO CODE, TO PROVIDE PENALTIES FOR UNLAWFUL REMOVAL OF HUMAN REMAINS FROM INTERMENT WITH INTENT TO SELL OR WITH MALICE OR WANTONNESS; AMENDING TITLE 27, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 5, TITLE 27, IDAHO CODE, TO DEFINE TERMS; TO PROVIDE PROHIBITED ACTS REGARDING CAIRNS OR GRAVES, TO PROVIDE FOR REINTERMENT AND TO PROVIDE EXCEPTIONS TO PROHIBITED ACTS, TO PROVIDE PERMITTED ACTS REGARDING BURIAL SITES, TO PROVIDE NOTICE IF THE CAIRN OR GRAVE CONTAINS INDIAN REMAINS AND TO PROVIDE DUTIES OF THE STATE HISTORICAL SOCIETY, TO PROVIDE FOR A CIVIL ACTION WITHIN A TIME CERTAIN, TO PROVIDE VENUE, DAMAGES, REMEDIES AND ATTORNEY FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Sections 18-7027 and 18-7028, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7027, Idaho Code, and to read as follows:

18-7027. DESECRATION OF GRAVE, CEMETERY, HEADSTONE OR PLACE OF BURIAL PROHIBITED. It shall be unlawful for any person, not acting in full compliance with all the terms of the law to desecrate or molest in any way any portion of any grave, cemetery, headstone, grave marker, mausoleum, crypt, or other place of burial, whether of whole bodies or ashes, or other evidence of remains of a deceased human body. Any person convicted or found guilty of violating the provisions of this section is guilty of a misdemeanor.

SECTION 3. That Chapter 70, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-7028, Idaho Code, and to read as follows:

18-7028. UNLAWFUL REMOVAL OF HUMAN REMAINS -- MALICE -- INTENT TO SELL. Every person who removes any part of any human remains from any place where it has been interred, or from any place where it is deposited while awaiting interment, with intent to sell it or to dissect it, without authority of law, or from malice or wantonness is guilty of a felony punishable by imprisonment in the state penitentiary for not more than five (5) years, by a fine not greater than ten thousand dollars ($10,000) or by both such fine and imprisonment.

SECTION 4. That Title 27, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 5, Title 27, Idaho Code, and to read as follows:

CHAPTER 5
PROTECTION OF GRAVES

27-501. DEFINITIONS. For the purposes of sections 27-501 through 27-504, Idaho Code:

(1) "Cairn" means a heap of stones or other material piled up as a memorial or monument to the dead.

(2) "Grave" means an excavation for burial of a human body.

(3) "Indian tribe" means any Idaho Indian tribe recognized by the Secretary of the Interior.

(4) "Professional archaeologist" means a person who has extensive formal training and experience in systematic, scientific archaeology.

27-502. PROHIBITED ACTS. (1) Except as provided in section 27-503, Idaho Code, no person shall wilfully remove, mutilate, deface, injure or destroy any cairn or grave. Persons disturbing graves through inadvertence, including by construction, mining, or logging, shall cause the human remains to be reinterred. The expense for such reinterment shall be at least partially borne by the state historical society.

(2) No person shall:

(a) Possess any artifacts or human remains taken from a cairn or grave on or after January 1, 1984, in a manner other than that authorized under section 27-503, Idaho Code.

(b) Publicly display or exhibit any human remains.

(c) Sell any human artifacts or human remains taken from a cairn or grave.

(3) The provisions of this section do not apply to:

(a) The possession or sale of artifacts discovered in or taken from locations other than cairns or graves or artifacts that were removed from cairns or graves by other than human action; or

(b) Actions taken in the performance of official law enforcement duties.

27-503. PERMITTED ACTS -- NOTICE. (1) If action is necessary to protect the burial site from forseeable destruction and upon prior notification to the director of the state historical society and to the appropriate Indian tribe in the vicinity of the intended action if the cairn or grave contains remains of an Indian, a professional archaeologist may excavate a cairn or grave and remove material objects and human remains for subsequent reinterment following scientific study. Reinterment shall be under the supervision of the appropriate Indian tribe if the cairn or grave contained remains of an Indian.

(2) Except as provided in subsection (1) of this section, any proposed excavation by a professional archaeologist of a native Indian cairn or grave shall be initiated only after prior written notification to the director of the state historical society and with prior written consent of the appropriate Indian tribe in the vicinity of the intended action. Failure of a tribe to respond to a request for

permission within sixty (60) days of its mailing by certified mail, return receipt requested, shall be deemed consent. All material objects and human remains removed during such an excavation shall, following scientific study, be reinterred at the archaeologist's expense under the supervision of the Indian tribe.

(3) In order to determine the appropriate Indian tribe under this section and section 27-502, Idaho Code, a professional archaeologist or other person shall consult with the director of the state historical society who shall designate the appropriate tribe.

27-504. CIVIL ACTION -- TIME FOR COMMENCING ACTIONS -- VENUE -- DAMAGES -- ATTORNEY FEES. (1) Apart from any criminal prosecution, any person shall have a cause of action to secure an injunction, damages or other appropriate relief against any person who is alleged to have violated the provisions of section 27-502, Idaho Code. The action shall be brought within two (2) years of the discovery of the violation by the plaintiff. The action may be filed in the district court of the county in which the subject grave or cairn, remains or artifacts are located, or within which the defendant resides.

(2) If the plaintiff prevails in an action brought pursuant to this section:

(a) The court may award reasonable attorney fees to the plaintiff;

(b) The court may grant injunctive or such other relief as is appropriate, including forfeiture of any artifacts or remains acquired or equipment used in the violation. The court shall order the disposition of any items forfeited as it sees fit, including the reinterment of any human remains in accordance with subsection (1) of section 27-502, Idaho Code;

(c) The plaintiff may recover actual damages. Actual damages include special and general damages, which include damages for emotional distress;

(d) The plaintiff may recover punitive damages upon proof that the violation was wilful. Punitive damages may be recovered without proof of actual damages.

(e) An award of punitive damages may be made only once for a particular violation by a particular person, but shall not preclude the award of such damages based on violations by other persons or on other violations.

(3) If the defendant prevails, the court may award reasonable attorney fees to the defendant.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 1984.

CHAPTER 74
(S.B. No. 1357)

AN ACT

APPROPRIATING MONEYS TO CERTAIN REGULATORY BOARDS IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES IN ADDITION TO THE APPROPRIATION CONTAINED IN SECTION 1, CHAPTER 108, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation contained in Section 1, Chapter 108, Laws of 1983, there is hereby appropriated to the following Regulatory Boards in the Department of Self-governing Agencies the following amounts to be expended according to the designated expense classes from the listed accounts for the period July 1, 1983, through June 30, 1984:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. Board of Medicine:			
FROM:			
State Board of Medicine Account		$5,900	$5,900
B. Public Works Contractors			
FROM:			
Public Works Contractors State License Board Account	$1,200		$1,200
GRAND TOTAL	$1,200	$5,900	$7,100

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 22, 1984.

CHAPTER 75
(S.B. No. 1211)

AN ACT

RELATING TO ELIGIBILITY FOR ADMISSION INTO THE IDAHO VETERANS' HOME; AMENDING SECTION 66-901, IDAHO CODE, TO STRIKE THE REQUIREMENT THAT A PERSON MAKING APPLICATION FOR ADMISSION TO THE IDAHO VETERANS' HOME BE A REGISTERED ELECTOR AND HAVE VOTED AT ONE OR MORE GENERAL ELECTIONS IN THE STATE.

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

SECTION 1. That Section 66-901, Idaho Code, be, and the same is hereby amended to read as follows:

66-901. ESTABLISHMENT OF HOME. There shall be established in the department of health and welfare in this state a home for veterans which shall hereafter be known and designated as the Idaho Veterans' Home, which institution shall be a home for honorably discharged male and female veterans who had actual service in any war or conflict officially engaged in by the government of the United States and for members of the state national guard disabled while in the line of duty who did not refuse military duty on account of conscientious objection: provided, that before a person is admitted to said home he shall have been a bona fide resident of this state for not less than two (2) years~~,-and-shall-have-registered-and-voted-at-one-(1)-or-more--general elections-in-the-state-of-Idaho~~ prior to making application for admission thereto. But such residence~~,-registration-and-voting~~ shall not be required of any person who, at the time of his enlistment or induction into such service, was a bona fide resident of this state.

Approved March 23, 1984.

CHAPTER 76
(S.B. No. 1231)

AN ACT

RELATING TO STATE FUNDS IN STATE DEPOSITORIES; AMENDING SECTION 67-2739, IDAHO CODE, TO PROHIBIT UNINSURED STATE FUNDS IN A DEPOSITORY FROM EXCEEDING THE TOTAL OF THE CAPITAL AND SURPLUS OF THAT DEPOSITORY, AND TO AUTHORIZE THE SETTING AND PAYMENT OF SERVICE FEES TO DEPOSITORIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-2739, Idaho Code, be, and the same is hereby amended to read as follows:

67-2739. DESIGNATION OF DEPOSITORY -- REPORTING OF CAPITAL AND SURPLUS. (1) The state treasurer shall designate institutions qualified under this chapter as a state depository or depositories. 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 state funds in any state depository <u>above the total covered by federal insurance</u> exceed at any one time, in the aggregate, the total of the capital and surplus of such state depository. In the event that any bank has been designated as a depository under this chapter, such designation shall continue in force until revoked by the treasurer.

(2) Every banking corporation or national banking association designated as a state depository and holding any deposit of the funds

of the state of Idaho under the provisions of this section shall, on or before beginning to hold such deposits or the effective date of this act, whichever shall be sooner, file with the state treasurer, the affidavit of one of its officers showing the amount of the capital stock and surplus of such association or corporation. In the event that such corporation or association has such an affidavit on file with the state treasurer on the effective date of this act, 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 corporation or association is to continue as a designated state depository under this section, a like affidavit shall be filed in like manner for the succeeding year. No such corporation or national banking association shall receive deposits from nor act as depository for the funds of the state of Idaho unless and until an affidavit as is herein required and which still continues in effect is on file with the state treasurer in accordance with this section.

(3) The state treasurer is authorized in his or her discretion and from time to time to negotiate for the payment to designated state depositories of reasonable compensation for services rendered in acting as such depositories. The method and/or rate of such compensation and the terms and conditions thereof shall be fixed by the state treasurer after such negotiation, which may include the calling for bids for specific services. All bids received, whether by a formal bidding process or by negotiation, and the compensation fixed by the treasurer, which shall be in the form of a written agreement, shall be a matter of public record.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 23, 1984.

CHAPTER 77
(S.B. No. 1249)

AN ACT

RELATING TO PARKING FOR THE HANDICAPPED; AMENDING SECTION 49-236, IDAHO CODE, TO REDESIGNATE, TO PROVIDE FOR THE ISSUANCE OF SPECIAL CARDS TO INDICATE THAT A MOTOR VEHICLE IS BEING USED TO TRANSPORT A HANDICAPPED PERSON, TO PROVIDE THAT THERE SHALL BE NO ADDITIONAL FEE FOR THE CARD, TO PROVIDE THAT THE CARD SHALL NOT OTHERWISE EXEMPT THE OWNER OF A MOTOR VEHICLE FROM REGISTERING AND LICENSING THE VEHICLE, TO PROVIDE PARKING PRIVILEGES FOR VEHICLES DISPLAYING A SPECIAL CARD, TO PROVIDE FOR PROMULGATION OF RULES AND REGULATIONS, TO PROVIDE CODE REFERENCES, TO PROVIDE PENALTIES FOR MISUSE

OF THE CARD AND TO PROVIDE PARKING PRIVILEGES FOR MOTOR VEHICLES DISPLAYING SPECIAL LICENSE PLATES FOR THE HANDICAPPED WHICH HAVE BEEN ISSUED BY ANOTHER STATE OR PROVINCE; AMENDING SECTION 49-237, IDAHO CODE, TO REDESIGNATE, TO PROVIDE CODE REFERENCES, AND TO PROVIDE FOR A PENALTY FOR VIOLATION; AMENDING CHAPTER 6, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-697, IDAHO CODE, TO PROVIDE SPECIAL PARKING PRIVILEGES AND CARDS FOR HANDICAPPED PERSONS, AND TO PROVIDE QUALIFICATIONS, RULES AND REGULATIONS, AND PENALTIES; AND AMENDING SECTION 49-238, IDAHO CODE, TO REDESIGNATE, TO PROVIDE FOR DESIGNATION OF PARKING SPACES AND ZONES TO BE USED FOR MOTOR VEHICLES DISPLAYING A SPECIAL CARD FOR THE HANDICAPPED, TO PROVIDE CODE REFERENCES, TO PROVIDE THAT SIGNS DESIGNATING PARKING AREAS OR SPACES FOR THE HANDICAPPED SHALL BE AT LEAST THIRTY-SIX INCHES ABOVE THE GROUND AND TO PROVIDE THAT THE PARKING SPACES SHALL BE CONSPICUOUSLY PAINTED.

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

SECTION 1. That Section 49-236, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~23~~695. SPECIAL LICENSE PLATES AND CARDS FOR HANDICAPPED -- SPECIAL PARKING PRIVILEGES. (1) Notwithstanding its gross weight, any motor vehicle which is owned by or used primarily to transport a handicapped person or persons shall be eligible for the use of special license plates in lieu of any other license plates for noncommercial vehicles or for the use of a special card bearing distinguishing marks, letters or numerals indicating that the vehicle is being used to transport a handicapped person.

(2) A "handicapped person" means a person:

(a) Who has lost, or has lost the use of, one (1) or both lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.

(b) Who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than twenty (20) degrees.

(c) Who suffers from lung disease to the extent that his forced (respiratory) expiratory volume for one (1) second when measured by spirometry is less than one (1) liter or his arterial oxygen tension (pO) is less than 60mm/Hg on room air at rest.

(d) Who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.

(3) The department shall specify the form of applications for

special cards or license plates for the handicapped, and provide for implementation of the provisions of this section.

(4) Fees for special license plates for the handicapped shall be as provided in section 49-126, Idaho Code, for vehicles not in excess of eight thousand (8,000) pounds gross weight, and as provided in section 49-127(d)4, Idaho Code, for vehicles eight thousand (8,000) pounds or more gross weight. Nothing in this section shall be construed as abrogating provisions of section 49-2802, Idaho Code. No additional fee shall be charged for the issuance of the special card. The use of the special card shall not exempt the owner of a motor vehicle from otherwise properly registering and licensing the motor vehicle.

(5) Special license plates for the handicapped shall be the same size and color as other license plates, and shall have displayed upon them the registration numbers assigned to the vehicle and to the owner thereof. The plates shall be numbered in a manner prescribed by the department, but all such plates shall display the international handicapped symbol as shown herein.

International Handicapped Symbol

(6) Any motor vehicle displaying the special card provided by subsection (1) of this section or by section 49-697, Idaho Code, in a conspicuous place or displaying valid special license plates for the handicapped issued by this state, another state or province, shall be allowed to park for unlimited periods of time in parking zones or areas which are otherwise restricted as to the length of time parking is permitted, and to park in any public parking space with metered parking without being required to pay any parking meter fee. This subsection shall not be applicable to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles.

(7) The board shall promulgate rules and regulations as it deems necessary for the issuance and use of the special cards provided by subsection (1) or this section. Any unauthorized use of such special card shall be an infraction.

SECTION 2. That Section 49-237, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~237~~696. CARDS FOR CERTAIN TEMPORARILY DISABLED PERSONS -- QUALIFICATIONS -- RULES AND PENALTY. Any person who shall submit satisfactory proof to the department that he is so temporarily disabled as to be unable to move without the aid of crutches or a wheelchair, shall be entitled to receive for one (1) motor vehicle only, a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, bearing distinguishing marks, letters or numerals indicating that the vehicle is utilized by such a temporarily disabled person, such card granting special parking privi-

leges temporarily as provided by section 49-~~23~~695(6), Idaho Code. The board shall promulgate such rules and regulations as he deems necessary to carry into effect this section. Any unauthorized use of such distinguishing card shall constitute ~~a misdemeanor~~ an infraction.

SECTION 3. That Chapter 6, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-697, Idaho Code, and to read as follows:

49-697. CARDS FOR HANDICAPPED PERSONS -- QUALIFICATIONS -- RULES AND PENALTY. Any person who shall submit satisfactory proof to the department that he is a handicapped person as provided in subsection (2) of section 49-695, Idaho Code, shall be entitled to receive a special card to be affixed to a motor vehicle in a conspicuous place designated by the department, letters or numerals indicating that the vehicle is utilized by such a handicapped person, such card granting special parking privileges as provided by subsection (6) of section 49-695, Idaho Code. The board shall promulgate such rules and regulations as it deems necessary to carry into effect the provisions of this section. Any unauthorized use of such distinguishing card shall constitute a misdemeanor.

SECTION 4. That Section 49-238, Idaho Code, be, and the same is hereby amended to read as follows:

49-~~23~~698. PARKING SPACES FOR THE HANDICAPPED -- MARKING AND SIGNING -- IMPOUNDMENT. (1) Local governments and owners of private property open to public use may designate parking zones and spaces to be used exclusively by vehicles displaying a special license plate for the handicapped, a special card for the handicapped as prescribed in sections 49-695 or 49-697, Idaho Code, or a special temporary card as prescribed by section 49-~~237~~696, Idaho Code. Any parking zones and spaces so designated shall conform to the following requirements:

(a) Parking lots shall be provided with spaces that are accessible and approximate to the entrance of the facility reserved and signed for use by the handicapped, as defined by section 49-~~23~~695, Idaho Code. Spaces shall be provided on the basis of one (1) space for each thirty-five (35) spaces or fraction thereof, and shall be twelve (12) feet wide, open on one (1) side to allow room for individuals in wheelchairs or requiring the aid of a mechanical device to egress and ingress from a motor vehicle on a level paved surface.

(b) One (1) parking space shall be provided in each downtown city block, to be parallel with the sidewalk where parallel parking is required, or angle to the sidewalk where angle parking is required, and shall be near curb cuts and ramps for wheelchair and other mechanical device usage.

(c) For each designated parking space or area there shall be posted immediately adjacent to, and visible from each stall or space, a sign, which is at least thirty-six (36) inches above the

ground, consisting of the international handicapped symbol as shown in section 49-~~23~~695, Idaho Code. The parking space shall be ~~indicated by blue paint~~ conspicuously painted.

(2) Parking in spaces reserved for the handicapped is prohibited except for a vehicle that is momentarily in the space for the purpose of allowing a handicapped person to enter or leave the vehicle. A violation of the provisions of this subsection is an infraction and punishable by a fine not exceeding twenty-five dollars ($25.00) and no imprisonment.

(3) If a local government or owner of private property open to public use has designated parking zones and spaces to be used exclusively for parking for the handicapped, there shall be posted in a conspicuous place immediately adjacent to, and visible from the stall or space, or in a conspicuous place immediately adjacent to, and visible from, the stall or space, or in a conspicuous place at each entrance to an off-street parking facility, not less than seventeen (17) by twenty-two (22) inches in size, with lettering not less than one (1) inch in height, a sign which clearly and conspicuously states the following: "Unauthorized vehicles not displaying distinguishing placards or license plates for the handicapped will be towed away at the owner's expense. Vehicles may be reclaimed at (location) or by telephone (telephone number of local law enforcement agency).". This shall be in addition to any signs and markings required by subsection (1)(c) of this section.

(4) Vehicles unlawfully parked in a space reserved for handicapped persons may, at the request of the property owner or his agent, be removed and impounded by the local unit of government, and an impounded vehicle not properly claimed within thirty (30) days shall be considered an abandoned vehicle.

(5) Law enforcement officials are empowered to enter upon private property open to public use to enforce the provisions of this section.

Approved March 23, 1984.

CHAPTER 78
(S.B. No. 1261)

AN ACT

RELATING TO THE RATE OF ALLOWANCE FOR OFFICIAL STATE TRAVEL EXPENSE REIMBURSEMENT; AMENDING SECTION 67-2008, IDAHO CODE, TO INCREASE THE RATE OF MILEAGE ALLOWANCE.

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

SECTION 1. That Section 67-2008, Idaho Code, be, and the same is hereby amended to read as follows:

67-2008. DETERMINATION OF RATE OF ALLOWANCE. At its first meeting after the effective date of this act, and thereafter as it shall deem

appropriate, the board of examiners shall by regulation fix a rate of allowance for per diem subsistence for officers, agents and all other employees of the state who are absent from their post of duty on official business, which shall be effective for the year in which such allowance is fixed, and shall fix a rate of allowance for mileage for official travel executed by privately owned means of conveyance, which rate of allowance shall be effective for the year in which it is fixed; provided, however, that the board shall fix no rate of per diem allowance which is higher than actual lodgings (maximum to be set by board of examiners) and fifteen dollars ($15.00) per day for travel within the state and actual lodgings (maximum to be set by board of examiners) and twenty dollars ($20.00) without the state and actual lodgings (maximum to be set by board of examiners), and the board shall fix no rate of mileage allowance which is higher than ~~eighteen~~ twenty-two cents (~~18~~22¢) per mile. The mileage allowance for private aircraft travel shall be set by the board and shall be no higher than ~~eighteen~~ twenty-two cents (~~18~~22¢) per mile, calculated as if the travel had been by highway route. In fixing rates of allowance under this act, the board shall consider the prevailing cost of executing such travel, generally prevailing economic conditions, and the rates of allowance made applicable to similar travel by the federal government and private employers within the state.

For a period where employees are to be absent from their post on official business for less than twenty-four (24) hours the board's regulations shall provide for partial days' subsistence rates.

Approved March 23, 1984.

CHAPTER 79
(S.B. No. 1303)

AN ACT

RELATING TO CLAIMS SUBMITTED TO THE BOARD OF EXAMINERS; AMENDING SECTION 18-2507, IDAHO CODE, TO REQUIRE THE BOARD OF EXAMINERS TO SUBMIT CERTAIN COUNTY TRIAL EXPENSE CLAIMS TO THE LEGISLATURE FOR POSSIBLE PAYMENT OF SUCH CLAIMS; AMENDING SECTION 31-2219, IDAHO CODE, TO REQUIRE THE BOARD OF EXAMINERS TO SUBMIT CERTAIN COUNTY EXPENSE CLAIMS FOR SERVICES TO THE STATE TO THE LEGISLATURE FOR POSSIBLE PAYMENT OF SUCH CLAIMS.

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

SECTION 1. That Section 18-2507, Idaho Code, be, and the same is hereby amended to read as follows:

18-2507. EXPENSE OF TRIALS -- HOW PAID. Whenever a trial shall be had of any person under any of the provisions of section 18-2505, Idaho Code, and whenever a state convict in the state prison shall be tried for any crime committed therein, the clerk of the district court

shall make out a statement of all the costs incurred by the county for the trial of such case, and for the guarding and keeping of such convict, and when certified by the judge who tried the case, such statement shall be audited by the board of examiners ~~and paid by the state treasurer~~. If approved, the board of examiners shall submit the claim, with a request for an appropriation, to the legislature at its first session after the rendition of such claim. If the legislature appropriates funds for such claim, the amount shall be paid by the board of examiners to the treasurer of the county where the trial was had.

SECTION 2. That Section 31-2219, Idaho Code, be, and the same is hereby amended to read as follows:

31-2219. COMPENSATION FOR SERVICES TO STATE. When the sheriff or other officer is legally required to perform a service in behalf of the people of this state, which is not chargeable to his county or private person, his account and claim for compensation therefor must be filed with the board of examiners, who shall consider the same and report thereon to the legislature, at its first session after the rendition of such service, for its action. The board of examiners shall request an appropriation for such claim. If the legislature appropriates funds for such claim, the amount shall be paid by the board of examiners to the treasurer of the county of the sheriff or other officer who performed the services.

Approved March 23, 1984.

CHAPTER 80
(S.B. No. 1328)

AN ACT

RELATING TO PROSECUTING ATTORNEYS; AMENDING SECTION 34-623, IDAHO CODE, BY PROVIDING FOR A TERM OF FOUR YEARS FOR A PROSECUTING ATTORNEY COMMENCING IN 1984; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-623, Idaho Code, be, and the same is hereby amended to read as follows:

34-623. ELECTION OF COUNTY PROSECUTING ATTORNEYS -- QUALIFICATIONS. (1) At the general election, 19~~72~~84, and every ~~alternate~~ four (4) years thereafter, a prosecuting attorney shall be elected in every county.

(2) No person shall be elected to the office of prosecuting attorney unless he has attained the age of twenty-one (21) years at the time of his election, is admitted to the practice of law within this state, is a citizen of the United States and a qualified elector within the county.

(3) Each candidate shall file his declaration of candidacy with the county clerk. Each declaration shall have attached thereto a petition which contains the signatures of not less than five (5) nor more than ten (10) qualified electors.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars ($40.00) which shall be deposited in the county treasury.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 23, 1984.

CHAPTER 81
(S.B. No. 1331)

AN ACT

RELATING TO THE YOUTH REHABILITATION ACT; REPEALING SECTIONS 16-1813, 16-1814, 16-1815, 16-1835, 16-1837, 16-1838 AND 16-1839, IDAHO CODE; AMENDING SECTION 16-1801, IDAHO CODE, TO DECLARE POLICY; AMENDING SECTION 16-1802, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING SECTION 16-1803, IDAHO CODE, TO REMOVE CERTAIN MOTOR VEHICLE, WATERCRAFT AND FISH AND GAME VIOLATIONS FROM THE JURISDICTION OF THIS ACT AND TO REMOVE THE VIOLENT JUVENILE OFFENDER FROM THE JURISDICTION OF THIS ACT; AMENDING SECTION 16-1805, IDAHO CODE, TO PROVIDE JURISDICTION OF THIS ACT OVER A PERSON UNTIL HE OR SHE IS NINETEEN YEARS OF AGE AND TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 16-1806A, IDAHO CODE, TO PROVIDE A DEFINITION OF SERIOUS CRIMES, AND TO PROVIDE A PROCEDURE FOR PERSONS TO WHICH THE PROVISIONS OF THIS SECTION APPLIES; AMENDING CHAPTER 18, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1807A, IDAHO CODE, TO PROVIDE A PROCEDURE FOR DIVERSION OR INFORMAL DISPOSITION OF A PETITION; AMENDING SECTION 16-1811, IDAHO CODE, TO ALLOW DETENTION OF A CHILD IF THERE ARE REASONABLE GROUNDS TO BELIEVE A STATUS OFFENSE HAS BEEN COMMITTED, TO PROHIBIT THE DETENTION OF A STATUS OFFENDER IN JAIL FACILITIES, TO PROVIDE PLACES WHERE THE CHILD MAY BE DETAINED, AND TO ALLOW FOR FINGERPRINTS AND PHOTOGRAPHS; AMENDING CHAPTER 18, TITLE 16, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 16-1813, 16-1814, 16-1814A AND 16-1815, IDAHO CODE, TO PROVIDE AN EVIDENTIARY HEARING, TO PROVIDE A PROCEDURE FOR A DISPOSITION HEARING AND TO PROVIDE THE COURT WITH ALTERNATIVE WAYS IN WHICH TO RESOLVE A CASE, TO PROVIDE A DEFINITION OF HABITUAL STATUS OFFENDER AND TO PROVIDE DISPOSITIONAL ALTERNATIVES, TO PROVIDE FOR REIMBURSEMENT OF CHILD SUPPORT AND SPECIAL EXPENSES IF THE CHILD IS NOT PLACED WITH A PARENT OR GUARDIAN; AMENDING SECTION 16-1826, IDAHO CODE, TO ADD A REFERENCE AND TO REQUIRE CONTROL BY THE DEPARTMENT UNTIL THE CHILD REACHES NINETEEN YEARS OF AGE; AMENDING SECTION 16-1833, IDAHO CODE, TO CORRECT

REFERENCES AND TO PROVIDE JURISDICTION OF THE ACT UNTIL A PERSON REACHES NINETEEN YEARS OF AGE; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Sections 16-1813, 16-1814, 16-1815, 16-1835, 16-1837, 16-1838 and 16-1839, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 16-1801, Idaho Code, be, and the same is hereby amended to read as follows:

16-1801. POLICY. The policy of the state of Idaho is hereby declared to be the establishment of a legal framework conducive to the constructive judicial processing of children's cases where the child's conduct is in conflict with the law; and the providing of professional assistance to courts handling children's cases, through a coordinated program of rehabilitation, thereby insuring integrated treatment and assistance to communities throughout the state in their programs of prevention and control of juvenile delinquency; to provide due process of law for each child alleged or adjudicated to be delinquent under this act; to divert the child into a program of treatment, counseling, rehabilitation and restitution prior to court action where the interests of the child and the community would best be served by such diversion; and to consider the needs and best interests of the child as well as the need for protection of the community and to achieve the foregoing purposes in the least restrictive setting necessary, with a preference at all times for the family home and the integration of parental responsibility for the child into the treatment and counseling program.

SECTION 3. That Section 16-1802, Idaho Code, be, and the same is hereby amended to read as follows:

16-1802. DEFINITIONS. When used in this act, unless context otherwise requires:

a. "Court" means district court or magistrate's division thereof.

b. "Judge" means district judge or a magistrate.

c. "Child" means a person less than eighteen (18) years of age, and is synonymous with juvenile.

d. "Adult" means a person eighteen (18) years of age or older.

e. ~~The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of the act.~~

~~f. "Juvenile traffic violator" shall mean a child who has violated any state laws or any ordinance or regulations of any county or city in this state pertaining to the operation of a motor vehicle or a snowmobile as defined in section 49-2603, Idaho Code.~~

~~g.~~ "Board" means the state ~~board~~ department of health and welfare.

~~h~~f. "Legal custody" means the relationship created by the court's

decree which imposes upon the custodian responsibilities of physical possession of the child, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

~~i~~g. "Commit" means to transfer legal custody.

~~j~~h. "Detention" means the temporary care of children who require secure custody for their own or the community's protection in physically restricting facilities pending court disposition.

~~k.--"Juvenile-watercraft-violator"-shall-mean-a-child-who-has-violated-any-state-laws-or-any-ordinance-or-regulations-of-any-county--or city--in--this--state--pertaining-to-the-operation-of-a-boat-or-watercraft.~~

~~l.--"Juvenile-fish-and-game-violator"-shall-mean-a-child--who--has violated--any-state-laws-or-any-ordinance-or-regulations-of-any-county or-city-in-this-state-pertaining-to-the-protection-and-conservation-of fish,-game-and-fowl.~~

i. "Diversion" means the utilization of local community resources, churches, counseling for the child and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.

j. "Department" means the state department of health and welfare.

SECTION 4. That Section 16-1803, Idaho Code, be, and the same is hereby amended to read as follows:

16-1803. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any child and over any adult who was a child at the time of any act, omission or status, in the county in which the minor resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

1. Where the act, omission or status is prohibited by federal, state, local or municipal law or ordinance by reason of minority only, regardless of where the same occurred;

2. Where the act or omission is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult, regardless of where the same occurred, except traffic, watercraft and fish and game violations~~;-provided,-however, that-the-prosecuting-attorney-of-any-county-may-bring-under--this--act the--operation--of--a-motor-vehicle-while-the-operator's-permit-or-license-to-drive-is-suspended-or-revoked;-the-operation-of-a-motor-vehicle-or-watercraft-while-under-the-influence-of-intoxicating-beer,-wine or-other-liquor-or-drugs;-the-operation-of-a-motor-vehicle-in-a--reckless--manner;--the--operation-of-a-watercraft-in-a-careless-manner;-or the-violation-of-any-motor-vehicle,-watercraft,-or-fish-and--game--law or--ordinance--having-theretofore-been-convicted-of-any-combination-of three-(3)-motor-vehicle,--watercraft--or--fish--and--game--violations, regardless--of--where-the-violation,-act,-omission,-revocation-or-suspension-occurred~~;

3. Concerning any child where the child comes under the purview

of the interstate compact on juveniles as set forth in chapter 19, title 16, Idaho Code~~.~~;

4. This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws;

5. This chapter shall not apply to the violent juvenile offender, as defined in this chapter.

SECTION 5. That Section 16-1805, Idaho Code, be, and the same is hereby amended to read as follows:

16-1805. RETENTION OF JURISDICTION. Jurisdiction obtained by the court in the case of a child shall be retained by it for the purposes of this act until he becomes ~~twenty-one~~ nineteen (~~21~~19) years of age, unless terminated prior thereto. If a child under the jurisdiction of the ~~probate~~ court and after attaining eighteen (18) years of age, is charged with a felony, he shall be treated as any other adult offender. If a child eighteen (18) years of age or older already under ~~probate~~ court jurisdiction is convicted of a felony that conviction shall terminate the jurisdiction of the ~~probate~~ court, provided, however, nothing herein contained shall prohibit any court from proceeding as provided in section 16-1806(2) of this act.

SECTION 6. That Section 16-1806A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1806A. VIOLENT OFFENSES AND OFFENDERS. (1) Any person, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes:

(a) Murder of any degree or attempted murder

(b) Robbery

(c) Rape, but excluding statutory rape

(d) Forcible sexual penetration by the use of a foreign object

(e) Infamous crimes against nature, committed by force or violence

(~~d~~f) Mayhem

(~~e~~g) Assault or battery with the intent to commit ~~murder,-or-forcible--rape,--or--robbery,--or--mayhem~~ any of the above serious felonies

shall be charged, arrested and proceeded against by complaint, indictment or information as an adult. All other felonies or misdemeanors charged in the complaint, indictment or information, which are based on the same act or transaction or on one or more acts or transactions as the violent offense shall similarly be charged, arrested and proceeded against as an adult. Any person proceeded against pursuant to this section shall be accorded all constitutional rights, including bail and trial by jury, and procedural safeguards as if that person were an adult defendant.

(2) Once a juvenile has been charged or indicted pursuant to this section or has been transferred for criminal prosecution pursuant to a waiver hearing, or information and has been found to have committed the offense for which he or she was charged, indicted or transferred,

the juvenile shall thereafter be handled in every respect as if he or she were an adult for any subsequent violation of Idaho law.

(3) The sentencing judge of any person convicted pursuant to this section may choose to sentence the convicted person in accordance with the juvenile sentencing options ~~in chapter 18, title 16, Idaho Code~~ set forth in this act, if ~~he makes~~ a finding is made that adult sentencing measures would be inappropriate.

SECTION 7. That Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1807A, Idaho Code, and to read as follows:

16-1807A. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the juvenile probation department to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the juvenile probation department, the department of health and welfare, or a community based-diversion program for informal probation and counseling, where exists a contract for probation services.

(2) After the petition has been filed and where, at the admission or denial hearing, the juvenile admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition. Informal adjustment includes, but is not limited to:

(a) Reprimand of the juvenile;

(b) Informal supervision with the probation department;

(c) Community service work;

(d) Restitution to the victim;

(e) Participation in a community-based diversion program.

Such informal adjustment of the petition shall be conducted in the manner prescribed by the Idaho juvenile rules.

SECTION 8. That Section 16-1811, Idaho Code, be, and the same is hereby amended to read as follows:

16-1811. APPREHENSION AND RELEASE OF CHILDREN -- DETENTION. 1. A peace officer may take a child into custody, or a private citizen may detain a child until the child can be delivered forthwith into the custody of a peace officer, without order of the court:

(a) When he has reasonable cause to believe that the child has committed an act which would be a felony if committed by an adult; or

(b) When in the presence of a peace officer or private citizen the child has violated any local, state or federal law or municipal ordinance; or

(c) When there are reasonable grounds to believe the child has ~~run away from his parents, guardian or legal custodian~~ committed a status offense. Status offenses are truancy, running away from or

being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the child pending transportation arrangements.

A peace officer may take a child into custody at any time upon a written order or warrant signed by the judge or other magistrate in the judge's absence when there is reasonable cause to believe the child has committed an act which would be a misdemeanor if committed by an adult where such misdemeanor was committed out of the presence of the officer. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the child is taken into custody. When an officer takes a child into custody, he shall notify the parent, guardian or custodian of the child as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the child into custody that it is contrary to the welfare of society or the child, such child shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the child to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the child as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the child.

2. When a child is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the child will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include but are not limited to the following:

(a) Parents of the child;

(b) Relatives of the child;

(c) Foster care;

(d) Group care;

(e) A juvenile detention facility; or

(f) Community-based diversion programs.

3. The person in charge of a detention facility shall give immediate notice to the court that the child is in his custody.

4. No child shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

5. As soon as a child is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms prescribed by the court that they may have a prompt hearing regarding release or detention.

6. ~~(a)--Neither-the-fingerprints-nor-a-photograph--of--any--child may--be-taken-without-the-consent-of-the-court;-except-as-provided by-subsection-6(b);~~

~~(b)~~ A law enforcement agency may fingerprint and photograph a child taken into custody for an offense. If the court finds a child's detention for an offense to be unlawful, the court shall order the fingerprints and photographs of the child taken pursuant to that detention expunged, unless the court, after a hearing, orders otherwise.

7. Peace officers' records of children shall be kept separate from records of adults and shall not be open to public inspection.

SECTION 9. That Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1813, Idaho Code, and to read as follows:

16-1813. EVIDENTIARY HEARING. If the child denies the allegations in the petition, the court shall conduct a full evidentiary hearing, in the manner prescribed by the Idaho juvenile rules. The child shall have the right to call witnesses on his or her own behalf. A record shall be made in all proceedings connected with the case and shall be preserved in the event of appeal. If at the conclusion of the evidentiary hearing the court finds the child to come within the purview of the act, the court shall so rule, and then shall set the matter down for disposition hearing, or may, in the interest of time, hold a disposition hearing at the conclusion of the evidentiary hearing if all information necessary to the disposition of the case is available at the time.

SECTION 10. That Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1814, Idaho Code, and to read as follows:

16-1814. DISPOSITION HEARING. Upon the entry of an order finding the child is within the purview of the act, the court shall then hold a disposition hearing in the manner prescribed by the Idaho juvenile rules to determine the treatment, rehabilitation or detention sentence that will best serve the needs of the child and the public interest. Prior to the entry of an order disposing of the case, other than order of discharge or dismissal, the court shall request and shall receive a report containing the results of an inquiry into the home environment, past history, social, physical and mental condition of the child. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to the disposition of the case as follows:

1. Place the child on formal probation for a period not to exceed one (1) year from the date of the order;

2. Commit the child to a period of detention, pursuant to this act, for a period of time not to exceed thirty (30) days for each unlawful or criminal act the child is found to have committed, or where the child has been adjudicated as an habitual status offender.

No child who is found to come within the purview of the act for the commission of a status offense shall be sentenced to detention in a jail facility unless such an adjudication has been made that the child is an habitual status offender;

3. Commit the child to detention and suspend the sentence on specific probationary conditions;

4. Order restitution to be paid by the child for any losses incurred by the victim of the unlawful act or crime;

5. Commit the child to the legal custody of the department of health and welfare for an indeterminate period of time not to exceed his or her nineteenth birthday, unless extended jurisdiction is necessary to complete the rehabilitation goals of the department, for appropriate disposition. When such a commitment order is entered, the child shall be transported to the facility designated by the department by the the sheriff of the county where the child resides or is committed, or by appointed agent. Any order of commitment to the department shall be subject to review at least once every six (6) months. When committing a child to the department the court shall at once forward to the department a certified copy of the order of commitment;

6. Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

7. Order the case and all documents and records connected therein transferred to the magistrate division of the district court for the county where the child and/or parents reside if different than the county where the child was charged and found to have committed the unlawful or criminal act, for the entry of a dispositional order;

8. Order medical care or psychological examination and treatment for the child;

9. Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the child and the community.

SECTION 11. That Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1814A, Idaho Code, and to read as follows:

16-1814A. HABITUAL STATUS OFFENDER. Any child who has been adjudicated for commission of two (2) status offenses within twelve (12) months may be charged, petitioned and adjudicated as an habitual status offender for the third status offense committed within that twelve (12) month period.

The court may utilize any dispositional alternative in rehabilitating an habitual status offender that is detailed in section 16-1814, Idaho Code, except that the child shall not be placed in the Idaho youth services center.

SECTION 12. That Chapter 18, Title 16, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 16-1815, Idaho Code, and to read as

follows:

16-1815. SUPPORT OF CHILD -- REIMBURSEMENT FOR COSTS INCURRED. 1. When a child is placed by the court in custody other than that of his or her parents, guardian or custodian, the court shall order the payment of child support on a regular monthly basis for support of the child.

2. When a child is given medical, psychological or other necessary treatment as ordered by the court, the court shall order reimbursement for costs incurred by such court-ordered treatment.

3. When a child is committed to the department under this act, the cost of support, treatment or care shall create a debt due and owing to the department in an amount equal to the amount expended unless there has been entered a court order for support.

4. Any child support or reimbursement order shall be entered only upon notice and hearing to the parent. Failure or refusal to pay such court-ordered support and reimbursement may result in contempt sanctions.

SECTION 13. That Section 16-1826, Idaho Code, be, and the same is hereby amended to read as follows:

16-1826. PERIOD OF ~~BOARD'S~~ DEPARTMENT'S CONTROL. The ~~board~~ department shall keep under continued study a ~~person~~ child in its control and shall retain him under supervision and control so long as, in its judgment, such control is necessary for the protection of the public, except no person may be retained under control after he becomes ~~twenty-one~~ nineteen (~~21~~19) years of age, except as provided in section 16-1814, Idaho Code. The ~~board~~ department shall discharge a person as soon as, in its opinion, there is reasonable probability that he can be given full liberty without danger to the public. Notification of final discharge shall be made in writing by the ~~board~~ department to the court, parents or legal guardian, and shall be entered on the court records.

SECTION 14. That Section 16-1833, Idaho Code, be, and the same is hereby amended to read as follows:

16-1833. DISPOSITION OF COMMITTED ~~PERSON~~ CHILD. When a ~~person~~ child has been committed to the ~~board~~ department it may:

(a) Permit him his liberty under supervision and upon such conditions as it believes conducive to satisfactory conduct;

(b) Order his confinement under such conditions as it believes best designed for the interest of the individual and protection of the public;

(c) Order reconfinement or renewed release under supervision as often as conditions indicate either is desirable;

(d) Revoke or modify any order, except an order of discharge, as often as conditions indicate it to be desirable;

(e) Discharge him from control when it is satisfied that such discharge is consistent with the protection of the public, or when he

reaches the age of ~~twenty-one~~ nineteen (~~21~~19) provided, however, that the ~~board~~ department may order transfer of a person to the Idaho ~~industrial-training-school~~ state youth services center without consent of the superintendent, and provided further that the superintendent of the Idaho ~~industrial-training-school~~ state youth training center, upon notification to the ~~board~~ department, may order, in his discretion, the permanent release of a child from the institution to the youth rehabilitation division, or the temporary release of a child for work purposes, and under such conditions as the superintendent considers conducive to satisfactory conduct.

SECTION 15. Section 6 of this act shall be in full force and effect on and after July 1, 1984 and all other sections of this act shall be in full force and effect on and after July 1, 1985.

Approved March 23, 1984.

CHAPTER 82
(S.B. No. 1335)

AN ACT

RELATING TO THE INCARCERATION OF JUVENILES; AMENDING CHAPTER 1, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-113B, IDAHO CODE, TO PROVIDE FOR ALTERNATIVE PLACEMENT OF JUVENILES FOUND TO BE IN VIOLATION OF LAWS WHICH LIE OUTSIDE THE SCOPE OF THE YOUTH REHABILITATION ACT.

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

SECTION 1. That Chapter 1, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-113B, Idaho Code, and to read as follows:

18-113B. INCARCERATION OF JUVENILES FOR MISDEMEANOR OR FELONY OFFENSES. (1) Juveniles committing offenses which lie outside the scope of the youth rehabilitation act, chapter 18, title 16, Idaho Code, and not charged under section 16-1806 or 16-1806A, Idaho Code, may, in the discretion of a court or arresting officer, be placed in a juvenile detention facility or juvenile shelter care facility rather than in a county jail pending arraignment or trial, if arrested or held on bond. The option of placing a juvenile in such a facility shall not affect the misdemeanor or felony status of the offense.

(2) Juveniles committing offenses which lie outside the scope of the youth rehabilitation act, chapter 18, title 16, Idaho Code, and not charged under section 16-1806 or 16-1806A, Idaho Code, may, in the discretion of the court, be sentenced:

(a) To serve time in a juvenile detention facility rather than in a county jail; or

(b) To serve time in a community sentencing alternative when a mandatory minimum period of incarceration is not required by statute.

The option of placing a juvenile in such a facility shall not affect the misdemeanor or felony status of the offense.

Approved March 23, 1984.

CHAPTER 83
(S.B. No. 1213, As Amended)

AN ACT

RELATING TO THE IDAHO HORSE RACING ACT; AMENDING SECTION 54-2502, IDAHO CODE, TO PROVIDE A DEFINITION THAT INCLUDES MULES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-2502, Idaho Code, be, and the same is hereby amended to read as follows:

54-2502. DEFINITIONS. Unless the context otherwise requires, words and phrases as used herein shall mean:

"Commission" shall mean the Idaho state horse racing commission, hereinafter created.

"Persons" shall mean and include individuals, firms, corporations and associations.

"Race meet" shall mean and include any exhibition of thoroughbred, purebred, and/or registered horse racing, or mule racing, where the pari-mutuel system of wagering is used. Singular shall include the plural and plural shall include the singular; and words importing one gender shall be regarded as including all other genders.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 23, 1984.

CHAPTER 84
(S.B. No. 1221)

AN ACT

RELATING TO SCHOOL BUS LICENSURE FEES; AMENDING SECTION 49-101, IDAHO CODE, TO EXPAND THE DEFINITION OF "SCHOOL BUS"; AMENDING SECTION 49-107, IDAHO CODE, TO PROVIDE FOR SCHOOL BUS REGISTRATION FEES

BASED ON GROSS VEHICLE WEIGHT; AMENDING SECTION 49-127, IDAHO CODE, TO PROVIDE FOR AN OPERATING FEE FOR SCHOOL BUSES OPERATED PURSUANT TO A SERVICE CONTRACT WITH A SCHOOL DISTRICT; AND AMENDING SECTION 49-147, IDAHO CODE, TO PROVIDE A PENALTY FOR NONCOMPLIANCE WITH THE PROVISIONS FOR SCHOOL BUS REGISTRATION.

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

SECTION 1. That Section 49-101, Idaho Code, be, and the same is hereby amended to read as follows:

49-101. DEFINITIONS. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meaning respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning.

a. The term "vehicle" shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

b. The term "motor vehicle" shall mean every vehicle as herein defined which is self-propelled.

c. The term "motorcycle" shall mean every motor vehicle designed to travel (on) not more than three (3) wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

d. The term "truck tractor" shall mean every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

e. The term "farm tractor" shall mean every motor vehicle designed or adapted and used primarily as a farm implement power unit operated with or without other farm implements attached in any manner consistent with the structural design of such power unit.

f. The term "maximum gross weight" shall be the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried thereon as declared by the owner in making application for registration. The term "light weight" or "unladen weight" shall be the scale weight of a vehicle, equipped for operation, but without any cargo thereon.

g. The term "trailer" shall mean every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

h. The term "semitrailer" shall mean every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

i. The term "specially constructed vehicle" shall mean any vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles.

j. The term "essential parts" shall mean all integral parts and

body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

k. The term "reconstructed vehicle" shall mean any vehicle which shall have been assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or makes of vehicles of various names, models and types, or which, if originally otherwise constructed, shall have been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

l. The term "foreign vehicle" shall mean every motor vehicle, trailer, or semitrailer which shall be brought into this state otherwise than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

m. The term "pneumatic tires" shall mean all tires inflated with compressed air.

n. The term "solid rubber tire" shall mean every tire made of rubber other than a pneumatic tire.

o. The term "metal tires" shall mean all tires the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

p. The term "person" shall mean every natural person, firm, copartnership, association or corporation.

q. The term "owner" shall mean the person legally responsible for the operation of a vehicle upon the highways of the state of Idaho, whether as owner, lessee or otherwise.

r. The term "resident" shall mean every person who has resided continuously in the state of Idaho for a period of ninety (90) days or any person residing in the state of Idaho and gainfully employed in the state of Idaho, notwithstanding that the period of residing therein is less than ninety (90) days. All other persons shall be nonresidents and shall include any association, partnership or corporation organized under the laws of any foreign country, federal district, territory, or another state.

s. The term "manufacturer" shall mean every person engaged in the business of manufacturing motor vehicles, trailers, or semitrailers.

t. The term "new motor vehicle dealer" as employed in this act, shall mean any person, who has a franchise from a manufacturer of motor vehicles to sell new motor vehicles and who is engaged in the business of selling or exchanging three (3) or more new or new and used motor vehicles in any one (1) calendar year.

u. The term "highway" shall mean every way or place of whatever nature open to the use of the public as a matter of right for the purposes of vehicular travel which is maintained by the state of Idaho or some taxing subdivision or unit thereof or the federal government or an agency thereof.

v. The term "department" shall mean the Idaho transportation department of this state acting directly or through its duly authorized officers and agents.

w. The term "board" shall mean the Idaho transportation board of this state.

x. The term "assessor" shall mean county assessor.

y. The term "ambulance" as employed in this chapter shall mean a motor vehicle designed and used primarily for the transportation of injured, sick, or deceased persons, on stretchers, cots, beds, or other devices for carrying persons in a prone position.

z. The term "hearse" as employed in this chapter shall mean a motor vehicle designed and used primarily for transporting deceased persons.

aa. The term "wrecker" as used in this chapter shall mean a motor vehicle designed and used primarily for towing other vehicles that may be disabled.

bb. The term "used motor vehicle dealer," as employed in this act, shall mean any person engaged in the business of buying, selling, or exchanging used motor vehicles, or who buys and sells, or exchanges, three (3) or more used motor vehicles in any one (1) calendar year.

Provided, however, that no insurance company, bank, finance company, public utilities company, or other person coming into possession of any motor vehicle, as an incident to its regular business, who shall sell such vehicle under any contractual rights it may have with respect thereto shall be considered a new motor vehicle dealer or used motor vehicle dealer.

cc. The term "used motor vehicle," as employed in this act, shall mean every motor vehicle, which has been sold, bargained, exchanged, given away or title transferred from the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer, and so used as to have become what is commonly known as "second hand" within the ordinary meaning thereof.

dd. The term "principal place of business," as employed in this act, shall mean a site or location devoted exclusively to the business for which the new motor vehicle dealer or used motor vehicle dealer is licensed, and businesses incidental thereto, sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary thereof and to admit of a definite description, with space thereon adequate to permit the display of one or more new or new and used or used motor vehicles, on which there shall be located or erected a permanent closed building or structure large enough to accommodate the office or offices of the dealer and to provide a safe place to keep the books and other records of the business of such dealer, at which site or location the principal portion of such dealer's business shall be conducted and the books and records thereof kept and maintained.

ee. The term "house trailer" shall mean:

(a) A trailer or semitrailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways; or

(b) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph (a), but which is used instead permanently or temporarily for advertising, sales, display or promotion of merchandise

or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

ff. The term "truck" shall mean every motor vehicle exceeding eight thousand (8,000) pounds gross weight which is designed, used or maintained primarily for the transportation of property.

gg. The term "bus" shall mean every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

hh. The term "school bus" shall mean every motor vehicle that complies with the color and identification requirements set forth in the most recent edition of Minimum Standards for School Buses as approved by the state board of education and is used to transport children to or from school or in connection with school activities~~, but--not--including--buses-operated-by-common-carriers-in-urban-transportation-of-school-children~~. Included in this definition are buses operated by contract carriers who meet the standards as outlined above and which are engaged in the transportation of school children to and from school or in connection with school approved activities.

ii. The term "pickup truck" shall mean every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property shall be exempt from the provisions of section 49-842, Idaho Code.

jj. The term "implements of husbandry" shall mean every vehicle, including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implements of husbandry" does not include semi-trailers, nor does it include motor vehicles or trailers unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations. "Incidentally operated" shall mean the transport of the implement of husbandry from one farm operation to another.

SECTION 2. That Section 49-107, Idaho Code, be, and the same is hereby amended to read as follows:

49-107. OWNER TO SECURE REGISTRATION IN COUNTY OF RESIDENCE OR FROM BOARD. a. Every owner of a motor vehicle, trailer or semi-trailer who intends to operate the same upon any highway in this state shall before the same is so operated, apply to the assessor of the county in which he resides and obtain the registration thereof, except the owner of any vehicle which is exempted by section 49-108, Idaho Code, and excepting, also, when an owner is permitted to operate a vehicle under the special provisions relating to lien holders, manufacturers, dealers, and vehicles registered in a foreign country, state, territory,

or federal district, contained in sections 49-117(c), 49-118, 49-120 and 49-206--49-211, Idaho Code, provided that the registration for commercial vehicles or commercial combinations having a maximum gross weight in excess of sixteen thousand (16,000) pounds and noncommercial vehicles or noncommercial combinations having a maximum gross weight in excess of sixteen thousand (16,000) pounds shall be procured from, and the registration and use tax fees therefor paid to, the board, except as hereinafter provided.

b. The following motor vehicles shall be registered for the appropriate gross weight scale with the county assessor of the county in which the owner resides:

(1) Motor vehicles equipped primarily to haul passengers on a commercial basis, doing strictly an intrastate business, and having gross weights of twenty-four thousand (24,000) pounds or less, including school buses as defined in subsection hh. of section 49-101, Idaho Code, operated by contract carriers pursuant to a service contract with a school district.

(2) Any farm vehicle or combination of vehicles where each vehicle or combination of vehicles shall not exceed a gross weight of sixty thousand (60,000) pounds, and utility farm trailers for the gross weight as shown in section 49-127(f), Idaho Code.

c. Nonresident vehicles or combination of vehicles owned by transient labor used in hauling unprocessed agricultural products for hire and not exceeding sixty thousand (60,000) pounds gross weight shall register their vehicle for the appropriate gross weight scale for the annual fee if registered on or before June 30, and for one-half (1/2) the annual fee if not registered until on or after July 1 of any year, with the county assessor of the county in which the owner resides.

SECTION 3. That Section 49-127, Idaho Code, be, and the same is hereby amended to read as follows:

49-127. OPERATING FEES -- SCHEDULES. The registration fee for operating each motor vehicle, trailer or semitrailer upon highways of the state of Idaho shall be as follows:

(a) On all motor vehicles, trailers and semitrailers equipped to carry passengers and operated primarily for hire exclusively within the limits of an incorporated city and adjacent thereto, when the service outside is a part of a regular service rendered inside such city, and on school buses operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the fee shall be twelve dollars ($12.00).

(b) On all hearses, ambulances and wreckers the annual fee shall be twenty-nine dollars ($29.00), and such vehicles shall bear passenger car plates. No operator of a hearse, ambulance, or wrecker shall be entitled to operate the same by virtue of any dealer's license that may have been issued under the provisions of this chapter.

(c) On all motorcycles the annual fee shall be six dollars ($6.00).

(d) For the purpose of this subsection, the following definitions

shall be applicable.

1. A commercial vehicle as herein defined shall mean a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 9, title 49, Idaho Code, and include but not be limited to drilling rigs, construction, drilling and wrecker cranes, and similar vehicles which are normally operated in an overweight or oversize condition or both, or designed, used or maintained primarily for the transportation of property for the owner of said vehicle, or for hire, compensation, or profit, and shall not include those vehicles set forth in subsections (a), (b) and (c) hereof or exempted by section 49-108, Idaho Code.

2. A farm vehicle as herein defined shall mean a vehicle or combination of vehicles owned by a farmer or rancher, which vehicles are operated over public highways, and which are used exclusively to transport to market or place of storage unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of such vehicle; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by such farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on such farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on such farm but not transported for hire, and shall not include vehicles of husbandry, and shall not include those vehicles set forth in subsections (a), (b) and (c) hereof.

3. A noncommercial vehicle as herein defined shall not include those vehicles required to be registered under section 49-126, Idaho Code, and shall mean all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles as herein defined, and shall not include those vehicles set forth in subsections (a), (b) and (c) hereof. A noncommercial vehicle as herein defined shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

4. There shall be paid on all noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule, provided, that when a vehicle against which said registration fee is assessed is a combination of vehicles, the term maximum gross weight as used in the following schedule shall mean the combined maximum gross weights of all vehicles in the combination to be registered; provided further that upon payment of said registration fee, the department shall issue an identification plate, to be attached to individual self-

propelled motor vehicles, and to the self-propelled motor vehicle in any combination of vehicles.

Maximum Gross Weight (Pounds)	Annual Registration Fee
8,001-16,000 inc.	$ 30.60
16,001-26,000 inc.	60.60
26,001-40,000 inc.	109.20
40,001-50,000 inc.	187.80
50,001-60,000 inc.	311.40

5. There shall be paid on all commercial vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule, provided, that when the vehicle against which said registration fee is assessed is a combination of vehicles, the term maximum gross weight as used in the following schedule shall mean the combined maximum gross weights of all vehicles in the combination to be registered; provided further that upon payment of said registration fee, the department shall issue an identification plate to be attached to individual self-propelled motor vehicles and to the self-propelled vehicle in any combination of vehicles.

Maximum Gross Weight (Pounds)	Annual Registration Fee
8,001-16,000 inc.	$ 30.60
16,001-26,000 inc.	143.40
26,001-40,000 inc.	223.80
40,001-50,000 inc.	360.00
50,001-60,000 inc.	515.40

6. There shall be paid on all commercial vehicles, irrespective of body type, and on all noncommercial vehicles, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount of one hundred twenty dollars ($120); provided, that when the vehicle against which such registration fee is assessed is a combination of vehicles, the term maximum gross weight shall mean the combined maximum gross weights of all vehicles in the combination to be registered; provided further, that upon payment of such registration fee, the department shall issue an identification plate, to be attached to individual self-propelled motor vehicles, and to the self-propelled motor vehicle in any combination of vehicles. In addition, an annual license fee shall be required for each trailer or semitrailer in a combination of vehicles in the amount of fifteen dollars ($15.00). Upon payment of said license fees, the department shall issue license plates for the appropriate year.

7. In addition to the registration and license fees hereinbefore provided there shall be paid on all commercial vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee in accordance with the schedule hereinafter set forth, provided, that if any such commercial vehicle is a combination of vehicles, said use fee shall be paid only on the self-propelled motor vehicle in the combination, but the maximum gross weight

thereof shall be deemed to be the maximum gross weight of all vehicles in the combination for the purpose of determining said use fee. The use fees herein provided for shall be based on mills per mile of operation, subject to the provisions of subsection (e) hereof, in accordance with the schedule hereinafter set forth.

Maximum Gross Weight of Vehicle (Pounds)	Mills per Mile
60,001-62,000	30.05
62,001-64,000	31.35
64,001-66,000	32.60
66,001-68,000	33.90
68,001-70,000	35.15
70,001-72,000	36.40
72,001-74,000	38.55
74,001-76,000	40.65
76,001-78,000	42.75
78,001-80,000	44.90

(e) An applicant for registration of a commercial vehicle, a non-commercial vehicle or a farm vehicle, as defined in subsection (d) hereof, shall set forth the maximum gross weight of such vehicle or combination of vehicles and the applicant shall pay any annual registration fees and any annual license fees on trailers and semitrailers required herein at the time he makes application for registration subject to the provisions of subsection (d)5, provided, no part of any such registration or license fees shall be subject to refund. Said use fee payment of which is herein required, shall be computed according to the schedule set forth in subsection (d)7, hereof on the mileage operated over the highways of the state of Idaho and the owner of any vehicle against which a use fee is assessed, shall at the time of making his next quarterly report pay said use fee, if any, for the three (3) calendar months immediately prior thereto. In determining the mileage subject to such use fee, payment of which is required by said subsection (d)7, there shall be deducted the miles traveled on roadways maintained with private funds by agreement with the public agency or agencies having jurisdiction over the same; provided, that in no event shall the total money credited to the owner for such mileage exceed the actual cost of maintenance expended by him.

(f) The license, registration and use fees as hereinbefore set forth shall not be applicable to utility trailers hereby defined as trailers or semitrailers where laden or maximum gross weight is eight thousand (8,000) pounds or less, designed primarily to be drawn behind passenger cars or pickup trucks for domestic and utility purposes, nor shall said fees be applicable to rental utility trailers hereby defined as utility trailers offered for hire to operators of private motor vehicles. The registration fees for utility trailers and rental utility trailers shall be in accordance with the following schedule:

Maximum Laden or Gross Weight (Pounds)	Annual Registration Fee	
	Utility Trailers	Rental Utility Trailers
0-2,000	$ 3.00	$ 6.00

2,001-5,000	6.00	12.00
5,001-8,000	10.00	18.00

Utility or domestic use shall include a farm trailer while being used to haul agricultural products or livestock from farm to storage, market or processing plant, or returning therefrom.

(g) The fee for all duplicate plates shall be two dollars ($2.00) for one (1) plate or two dollars and fifty cents ($2.50) per set of plates.

(h) Whenever a vehicle is completely destroyed by fire or accident and such operator submits satisfactory proof of such destruction to the department, the registration use increment and fees shall be transferred to the replacement vehicle for a service transfer fee of five dollars ($5.00). None of the original fees shall be subject to refund.

(i) In addition to the registration and license fees hereinbefore provided, there shall be paid on all noncommercial vehicles, farm vehicles, and any commercial vehicle exclusively engaged in the transportation of logs, pulp wood, stull, poles, piling, rough lumber, ores, ore concentrates, sand and gravel aggregates thereof in bulk, livestock and vehicles domiciled in Idaho used for the sole purpose of transporting milk from the farm to processing plant, having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee hereinafter set forth, provided, that if any such vehicle is a combination of vehicles, such use fee shall be paid only on the self-propelled motor vehicle in the combination, but the maximum gross weight thereof shall be deemed to be the maximum gross weight of all vehicles in the combination for the purpose of determining such use fee.

Maximum Gross Weight of Vehicle (Pounds)	Mills Per Mile
over 60,000	$22.45

SECTION 4. That Section 49-147, Idaho Code, be, and the same is hereby amended to read as follows:

49-147. PENALTY FOR MISDEMEANOR. a. It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this state declared to be a felony.

b. Every person convicted of a misdemeanor for the violation of any provision of this chapter shall be punished by a fine of not more than three hundred dollars ($300) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Contract carriers included in subsection hh. of section 49-101, Idaho Code, and registered under the provisions of subsection (a) of section 49-127, Idaho Code, who are found to be in violation of the provisions of this chapter by operating motor vehicles so registered for purposes other than the transportation of school children without first obtaining the proper registration under the provisions of subsection b(1) of section 49-107 and subsection (d)5. of section 49-127, Idaho Code, shall be

punished by a fine of not less than two hundred dollars ($200) nor more than three hundred dollars ($300).

Approved March 26, 1984.

CHAPTER 85
(S.B. No. 1260, As Amended)

AN ACT

RELATING TO THE BOARD OF CORRECTION; AMENDING SECTION 20-234, IDAHO CODE, TO PROVIDE THAT THE SHERIFF AS WELL AS THE PROSECUTING ATTORNEY BE SENT A COPY OF THE PAROLE AGREEMENT AND OTHER NECESSARY INFORMATION AND TO PROVIDE THAT THE SHERIFF SHALL NOTIFY LOCAL LAW ENFORCEMENT AND OTHER PERTINENT AGENCIES ABOUT CERTAIN INFORMATION REGARDING A PAROLED PRISONER.

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

SECTION 1. That Section 20-234, Idaho Code, be, and the same is hereby amended to read as follows:

20-234. PAROLE INFORMATION TO BE TRANSMITTED TO THE SHERIFF AND COUNTY PROSECUTOR. Whenever any person committed to the custody of the state board of correction shall have been granted a parole by the commission, it shall be the duty of the commission to transmit to the sheriff and the prosecuting attorney of the county within which said prisoner shall be paroled, a copy of the parole agreement, and information as to the place of residence of said prisoner within said county and the sheriff **prosecutor** shall notify local law enforcement and other pertinent agencies.

Approved March 26, 1984.

CHAPTER 86
(S.B. No. 1266)

AN ACT

RELATING TO COMPENSATION OF VICTIMS OF CRIME; AMENDING CHAPTER 53, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-5302, IDAHO CODE, TO REQUIRE THE DISTRICT COURT OR THE MAGISTRATE'S DIVISION TO ORDER THE DEFENDANT TO PAY RESTITUTION TO THE VICTIM OF THE CRIME BEFORE PAYMENT IS MADE TO ANY GOVERNMENTAL ENTITY.

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

SECTION 1. That Chapter 53, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 19-5302, Idaho Code, and to read as follows:

19-5302. VICTIMS OF CRIME -- RESTITUTION PRIORITY. If a district court or a magistrate's division orders a withheld judgment or probation and orders the defendant to pay restitution pursuant to Idaho criminal rule 33, the court shall order the defendant to pay such restitution to the party or parties injured by the defendant's action. There shall be a full restitution to such party or parties before the court may order any payment be made by the defendant to any governmental entity for any purpose.

Approved March 26, 1984.

CHAPTER 87
(S.B. No. 1273)

AN ACT

RELATING TO TECHNICAL CORRECTIONS TO THE MOTOR FUELS TAX STATUTES; AMENDING SECTION 63-2401, IDAHO CODE, TO CLARIFY THE DEFINITION OF HIGHWAY AND TO EXCLUDE FROM THE CALCULATION OF SPECIAL FUELS TAXES HIGHWAYS MAINTAINED BY THE TAXPAYER; AMENDING SECTION 63-2405, IDAHO CODE, TO STRIKE REFERENCE TO THE ONE CENT PER GALLON DEDICATED TO MAINTENANCE AND CONSTRUCTION OF LOCAL ROADS AND STREETS; AMENDING SECTION 63-2409, IDAHO CODE, TO REQUIRE THE COMMISSION TO FURNISH REPORTS IDENTIFYING LICENSED DISTRIBUTORS AND THE AMOUNT OF GASOLINE REPORTED BY EACH DISTRIBUTOR; AMENDING SECTION 63-2412, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF CERTAIN FEES RECEIVED BY THE COMMISSION FOR LICENSES AND PERMITS AS REQUIRED BY LAW AND TO PROVIDE FOR QUARTERLY DISTRIBUTION OF ONE CENT FOR EACH NET GALLON OF GASOLINE TAXED TO LOCAL GOVERNMENTS FOR CONSTRUCTION AND MAINTENANCE OF STREETS AND ROADS; AMENDING SECTION 63-2416, IDAHO CODE, TO PROVIDE FOR TAXATION OF ALL SPECIAL FUEL USED IN LICENSED MOTOR VEHICLES; AMENDING SECTION 63-2417, IDAHO CODE, TO CLARIFY THE RATE OF TAXATION FOR THE USE TAX ON SPECIAL FUELS; AMENDING SECTION 63-2418, IDAHO CODE, TO IMPOSE A LIABILITY UPON A SPECIAL FUEL DEALER WHO FAILS TO COLLECT OR TO REMIT TAX ON SPECIAL FUELS IN A MANNER REQUIRED BY LAW; AMENDING SECTION 63-2420, IDAHO CODE, TO IMPOSE A LIABILITY UPON A SPECIAL FUEL DEALER WHO FAILS TO COLLECT OR TO REMIT TAX ON SPECIAL FUELS IN A MANNER REQUIRED BY LAW; AMENDING SECTION 63-2438, IDAHO CODE, TO ELIMINATE THE REQUIREMENT OF BONDS BY OPERATORS OF MOTOR VEHICLES OVER 16,000 POUNDS MAXIMUM GROSS WEIGHT; AMENDING SECTION 63-2440, IDAHO CODE, TO PERMIT A RECIPROCAL EXEMPTION FOR VEHICLES OVER 16,000 POUNDS MAXIMUM GROSS WEIGHT OPERATED BY GOVERNMENTAL ENTITIES OF OTHER STATES; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2441, IDAHO CODE, TO PROVIDE CRIMINAL PENALTIES FOR OPERATING VEHICLES WITHOUT REQUIRED PERMITS OR WITH FICTITIOUS PERMITS; AMENDING CHAPTER 24,

TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2442, IDAHO CODE, TO PROVIDE FOR AGREEMENTS FOR EXCHANGE OF INFORMATION AND ADMINISTRATION BETWEEN THE TAX COMMISSION AND THE IDAHO TRANSPORTATION DEPARTMENT; AMENDING CHAPTER 24, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-2443, IDAHO CODE, TO PROVIDE CRIMINAL PENALTIES FOR FAILURE TO FILE RETURNS OR STATEMENTS, PAY TAX, FOR MAKING FALSE STATEMENTS, DESTROYING MATERIAL, CONDUCTING BUSINESS WITHOUT A LICENSE OR FAILING TO MAINTAIN RECORDS; AMENDING SECTION 40-405, IDAHO CODE, TO CORRECT A CROSS REFERENCE; AMENDING SECTION 49-120, IDAHO CODE, TO CHANGE THE FEE SCHEDULE FOR SPECIAL TRIP PERMITS AND TO ALLOW SPECIAL TRIP PERMITS TO BE PURCHASED BY RESIDENTS.

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

SECTION 1. That Section 63-2401, Idaho Code, be, and the same is hereby amended to read as follows:

63-2401. DEFINITIONS. As used in this chapter:

(1) "Aircraft engine fuel" means any substance, the primary use of which is fuel for the propulsion of aircraft.

(2) "Bond" means:

(a) A surety bond, in an amount required by this chapter, duly executed by a surety company licensed and authorized to do business in this state conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties and other obligations arising out of the provisions of this chapter; or

(b) A deposit with the commission by any person required to be licensed pursuant to this chapter under terms and conditions as the commission may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Idaho, or any county of the state.

(3) "Bulk storage tank" means a tank of more than sixty (60) gallons capacity which meets any of the following criteria:

(a) It is physically attached to the real property of a purchaser of special fuels which are delivered into the tank.

(b) It is primarily used to store special fuels which are used by the purchaser of the special fuels for purposes other than propelling a motor vehicle on a highway.

(4) "Commercial motor boat" means any boat, equipped with a motor, which is wholly or partly used in a profit-making enterprise or in an enterprise conducted with the intent of making a profit.

(5) "Commission" means the state tax commission of the state of Idaho.

(6) "Distributor" means any person who receives gasoline and/or aircraft fuel in this state.

(7) "Gasohol" means a motor fuel containing a mixture of at least ten percent (10%) blend anhydrous ethanol manufactured in the state of Idaho from agricultural or forest products grown in the state of Idaho or wastes of those products.

(8) "Gasoline" means a mixture of volatile hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motor boats. "Gasoline" also means aircraft engine fuel when used for propulsion of motor vehicles or motor boats and includes gasohol, but does not include special fuels.

(9) "Highways" ~~mean all roads, streets, alleys and bridges laid out or established for the public, or dedicated or abandoned to the public~~ mean every place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel which is maintained by the state of Idaho or an agency or taxing subdivision or unit thereof or the federal government or an agency or instrumentality thereof. Provided, however, if the cost of maintaining a roadway is primarily borne by a special fuel user who is registered under section 63-2438, Idaho Code, pursuant to a written contract during any period of time that a special fuel tax liability accrues to the user, such a roadway shall not be considered a "highway" for any purpose related to calculating that user's special fuel's tax liability or refund.

(10) "Licensed distributor" means any distributor who has obtained a license under the provisions of section 63-2409, Idaho Code.

(11) "Licensed special fuels dealer" means any special fuels dealer licensed under the provisions of section 63-2419, Idaho Code.

(12) "Motor vehicle" means every self-propelled vehicle designed for operation or required to be licensed for operation upon a highway.

(13) "Person" means any individual, firm, fiduciary, copartnership, association, corporation, governmental instrumentality including the state and all of its agencies and political subdivisions, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed by the context. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to an association means the partners or members, and as applied to corporations, the officers.

(14) "Recreational vehicle" means a snowmobile as defined in section 49-2603, Idaho Code; a motorbike as defined in section 49-2702, Idaho Code; and any vehicular type unit either as an integral part of, or required for the movement of, units defined in section 39-4105(15), Idaho Code.

(15) "Retail dealer" means any person engaged in the retail sale of gasoline and/or aircraft engine fuel to the public or for use in the state.

(16) "Special fuels" means all fuel suitable as fuel for diesel engines, or a compressed or liquified gas obtained as a byproduct in petroleum refining or natural gasoline manufacture, such as butane, isobutane, propane, propylene, butylenes, and their mixtures, and includes natural gas, either liquid or gas, and hydrogen, used for the generation of power for propulsion of motor vehicles. It does not include fuels for off-road agricultural use, domestic heating or other nonhighway use, nor does it include fuels used in motor vehicles over sixteen thousand (16,000) pounds maximum gross weight owned or leased

and operated by an instrumentality of the federal government or of the state of Idaho including the state and all of its political subdivisions.

(17) "Special fuels dealer" means any person in the business of handling special fuels and delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him.

(18) "Special fuels user" means any person who consumes special fuels for the propulsion of motor vehicles owned or controlled by him upon the highways of this state.

(19) "Use" means either:

(a) The receipt, delivery or placing of fuels by a licensed distributor or a special fuels dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while the vehicle is within this state; or

(b) The consumption of fuels in propulsion of a motor vehicle on the highways of this state.

SECTION 2. That Section 63-2405, Idaho Code, be, and the same is hereby amended to read as follows:

63-2405. IMPOSITION OF TAX. An excise tax is hereby imposed on all gasoline and/or aircraft engine fuel received. The tax is to be paid by the licensed distributor, and measured by the total number of gallons received by him, at the rate of fourteen and one-half cents (14 1/2¢) per gallon~~,-one-cent-(1¢)-of-which-shall--be--put--into--the account--for--local--units-of-government-to-be-used-in-the-maintenance and-construction-of-local-roads-and-streets~~. From May 1, 1981, to April 30, 1986, the rate of the excise tax to be imposed on gasohol, shall be four cents (4¢) per gallon less than the amount of the excise tax that is imposed on gasoline and/or aircraft engine fuel by this section. On and after May 1, 1986, the same amount of excise tax shall be imposed on gasohol as is imposed on gasoline and/or aircraft engine fuels. That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

SECTION 3. That Section 63-2409, Idaho Code, be, and the same is hereby amended to read as follows:

63-2409. LICENSE OF DISTRIBUTORS. It is unlawful for a person to act as a distributor without a license. The license shall be obtained by application to the commission upon a form furnished by it, accompanied by a fee of fifty dollars ($50.00) and a bond in the amount required by section 63-2428, Idaho Code. The distributor license shall be nonassignable and shall continue in force until surrendered or canceled. The commission shall furnish each licensed distributor with a list of all distributors licensed pursuant to this section <u>together with the amount of gasoline reported by each distributor to have been received during the period to which the list relates</u>. The list shall be supplemented by the commission from time to time to reflect addi-

tions and deletions.

SECTION 4. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-2405, Idaho Code, and any penalties, interest, or deficiency additions, or from the fees imposed by section 63-2409, Idaho Code, shall be paid over to the state treasurer by the commission, to be distributed as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by the commission and certified quarterly to the state auditor, shall be transferred back to the commission. The amount transferred back to the commission shall not exceed the amount authorized to be expended by appropriation by the legislature.

(b) An amount of money shall be transferred to the gasoline refund account, which is hereby created in the dedicated fund, sufficient to pay current refund claims. All refunds authorized to be paid shall be paid from the gasoline refund account and sufficient amounts to pay those refunds are hereby continuously appropriated for that purpose.

(c) At the beginning of each fiscal year, the sum of one hundred thousand dollars ($100,000) shall be transferred to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 62-304C, Idaho Code.

(d) At the beginning of each fiscal year, the sum of fifty thousand dollars ($50,000) shall be transferred to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-405A, Idaho Code.

(e) Within thirty (30) days after the beginning of each calendar quarter there shall be transferred to the account for local government for the construction and maintenance of local streets and roads an amount equal to one cent (1¢) for each gallon of gasoline, including gasohol, subjected to the tax imposed by section 63-2405, Idaho Code, as reported by distributors during the immediately preceding calendar quarter; less one cent (1¢) for each gallon of gasoline, including gasohol, upon which the commission has allowed any credit or refund of tax pursuant to section 63-2410, Idaho Code, during the immediately preceding calendar quarter.

~~(e)~~(f) From the balance remaining with the state treasurer after transferring the amounts in paragraphs (a), (b), (c) and (d) of subsection (1) of this section:

1. One per cent (1%) shall be transferred to the waterways improvement account, as created in chapter 15, title 57, Idaho Code;

2. One per cent (1%) shall be transferred to the off-road

motor vehicle account as created in section 57-1901, Idaho Code; and

3. Ninety-eight per cent (98%) shall be transferred to the state highway account, created in section 40-2210, Idaho Code.

(2) The revenues received from the taxes imposed by section 63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) An amount of money shall be transferred to the aircraft engine fuel tax refund account, which is hereby created in the dedicated fund, sufficient to pay current refund claims. All refunds authorized to be paid shall be paid from the aircraft engine fuel tax refund account, and sufficient amounts to pay those refunds are hereby continuously appropriated for that purpose.

(b) The balance remaining of all the taxes collected shall be paid over to the state treasurer by the commission to be deposited in the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 5. That Section 63-2416, Idaho Code, be, and the same is hereby amended to read as follows:

63-2416. TAX IMPOSED. (1) For the privilege of using the public highways, an excise tax is hereby imposed on all special fuels used for the propulsion of any motor vehicle <u>which is licensed or required to be licensed under the laws of this state or which is required to be licensed under the laws of another state and is</u> operated on a highway in this state. The tax shall apply at the same rate as the tax imposed by section 63-2405, Idaho Code. The tax shall attach and be collected at the time of delivery into the motor fuel supply tank of a motor vehicle. Special fuels dealers shall collect the tax and pay it over to the commission.

(2) When the motor vehicle to which the special fuel is delivered displays a valid special fuels permit under section 63-2438, Idaho Code, the tax imposed by subsection (1) of this section shall not be collected by the special fuels dealer.

(3) Special fuels delivered into a bulk storage tank shall be presumed to be fuel consumed for nonhighway use and therefore not subject to the tax imposed in subsection (1) of this section.

SECTION 6. That Section 63-2417, Idaho Code, be, and the same is hereby amended to read as follows:

63-2417. USE TAX IMPOSED. For the privilege of using the public highways, an excise tax is hereby imposed <u>at the rate established by section 63-2405, Idaho Code,</u> on the use or possession for use of all special fuels, including special fuel delivered into a bulk storage tank, used or consumed in the propulsion of a motor vehicle on a highway unless that fuel has been taxed under provisions of section 63-2416, Idaho Code. The tax imposed by this section shall be payable

to the state of Idaho by the user or consumer of the fuels and shall be a debt owing to the state until it is paid.

SECTION 7. That Section 63-2418, Idaho Code, be, and the same is hereby amended to read as follows:

63-2418. DISTRIBUTION OF TAX REVENUES. The revenues received from the tax imposed by sections 63-2416 and 63-2417, Idaho Code, and any penalties, interest, or deficiency additions, or from the fees imposed by section 63-2438, Idaho Code, shall be paid to the state treasurer by the commission, to be distributed as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fuels tax provisions by the commission, as determined by it and certified quarterly to the state auditor, shall be transferred back to the commission. The amount transferred back shall not exceed the amount authorized to be expended by appropriation by the legislature.

(2) An amount of money shall be transferred to the special fuels refund account, which is hereby created in the dedicated fund, sufficient to pay current refund claims. All refunds of special fuels taxes authorized to be paid by this chapter shall be paid from the special fuels refund account, the money being hereby continuously appropriated for that purpose.

(3) The balance remaining with the state treasurer after transferring the amounts specified in subsections (1) and (2) of this section shall be transferred to the state highway account, created in section 40-2210, Idaho Code.

SECTION 8. That Section 63-2420, Idaho Code, be, and the same is hereby amended to read as follows:

63-2420. RETURNS, PAYMENTS AND DEDUCTIONS BY SPECIAL FUELS DEALERS. (1) For the purpose of reporting the amount of tax due and payable under section 63-2416, Idaho Code, each special fuels dealer shall file with the commission in the manner and form prescribed by it a quarterly tax return or a return for any other reporting period as may be directed by the commission. The return shall include:

(a) An itemized statement of the total number of gallons of special fuels held in inventory by the dealer at the beginning of the period to which the return relates;

(b) An itemized statement of all special fuels received by the dealer during the period of time to which the return relates;

(c) An itemized statement of the number of gallons of special fuels sold or delivered by the dealer during the period to which the return relates which are not subject to tax imposed by this chapter;

(d) The total number of gallons of special fuels delivered into the fuel tank of motor vehicles in this state subject to tax under this chapter during the period to which the return relates;

(e) The total number of gallons of special fuels remaining in inventory at the end of the period to which the return relates;

and

(f) Any other information the commission may require.

(2) The amount of tax due shall be computed by multiplying the taxable gallons determined under subsection (1)(d) of this section by the tax rate established in section 63-2405, Idaho Code, and deducting from the result two percent (2%) of the result. The two percent (2%) deduction authorized herein may be retained by the special fuel dealer filing the return to reimburse him for the expenses incurred by him on behalf of the state of Idaho in collecting and remitting the tax.

(3) The return shall be accompanied by a remittance of the tax shown to be due on the return together with any applicable interest and penalty.

(4) Any special fuel dealer required to collect the tax imposed by section 63-2416, Idaho Code, who fails to collect such tax or any special fuel dealer required to remit tax pursuant to this section who fails to make such remittance shall be liable to the commission for the amount of tax not collected or remitted plus any applicable penalty or interest. The commission may collect such amounts in the manner provided in section 63-2434, Idaho Code.

SECTION 9. That Section 63-2438, Idaho Code, be, and the same is hereby amended to read as follows:

63-2438. SPECIAL FUELS PERMIT. (1) It shall be unlawful for any person to consume special fuels in the propulsion of a motor vehicle over sixteen thousand (16,000) pounds maximum gross weight on the highways of this state unless each such motor vehicle displays a valid special fuels permit issued by the commission or a valid special fuels trip permit under section 63-2440(2), Idaho Code.

(2) The application for a special fuels permit shall be made to the commission upon a form prepared and furnished by the commission and containing such information as the commission deems necessary.

(3) ~~No special fuels permit shall be issued to any person or continued in force unless such person has furnished bond, as defined in section 63-2401(2), Idaho Code, in such form as the commission may require to secure his compliance with this chapter, and the payment of any and all taxes, interest and penalties due and to become due hereunder.~~

~~The total amount of the bond required of any person shall be equivalent to twice his estimated monthly tax payments as hereinafter provided, determined in such manner as the commission may deem proper; provided, however, that the total amount of the bond shall never be less than five hundred dollars ($500).~~

~~(4)~~ Upon receipt of the application ~~and bond~~ in proper form, the commission shall issue to the applicant a special fuels permit unless the applicant:

(a) Is a person who formerly held a permit under the provisions of this chapter or any predecessor statute, which permit, prior to the time of filing the application, had been revoked for cause; or

(b) Who is not the real party in interest and the real party in interest is a person described in subsection (4~~3~~)(a) of this

section.

(5~~4~~) A special fuels permit shall be valid until suspended or revoked for cause, ~~for failure to maintain the bond required in this section;~~ or otherwise canceled.

(6~~5~~) No special fuels permit shall be transferable.

(7~~6~~) The special fuels permit may be in the form of a decal or a cab card. It may show the special fuels tax account number of the applicant but shall not be assigned to a specific motor vehicle. The commission may collect a fee for issuance of the special fuels permit, which fee shall not exceed the cost of issuance.

~~(8) A person who for two (2) years has (a) furnished the bond required under subsection (3) of this section; and (b) timely filed with the commission all returns required by this chapter; and (c) paid all taxes due under this chapter in a timely manner; may petition to the commission for a waiver of the bond required by subsection (3) of this section. The commission may, upon a showing of good cause, and finding no significant risk to the revenues of the state, waive the bonding requirement for such period of time as the commission may determine.~~

SECTION 10. That Section 63-2440, Idaho Code, be, and the same is hereby amended to read as follows:

63-2440. EXEMPTIONS FROM SPECIAL FUELS PERMITS AND RETURNS. (1) Any person who consumes special fuels in the propulsion of a motor vehicle over sixteen thousand (16,000) pounds maximum gross weight upon the highways of this state may apply to the commission for exemption from the provisions of sections 63-2438 and 63-2439, Idaho Code, and upon presentation of satisfactory evidence that such person confines his purchases of special fuels to those delivered into the motor fuels supply tank of his motor vehicles by a licensed special fuels dealer in this state, the commission may exempt such person from the display of special fuels permits, bonding and reporting requirements of sections 63-2438 and 63-2439, Idaho Code.

(2) In lieu of obtaining a special fuels permit under section 63-2438, Idaho Code, and in lieu of paying the tax imposed by sections 63-2416 and 63-2417, Idaho Code, any person operating a motor vehicle over sixteen thousand (16,000) pounds maximum gross weight, propelled by special fuels in this state, shall secure a temporary trip permit under section 49-120, Idaho Code, authorizing the operation of such vehicle in the state for a period not to exceed ninety-six (96) hours. The temporary trip permit shall be obtained through the Idaho transportation department. The fees shall be those provided by section 49-120, Idaho Code, and the revenues shall be distributed as provided by section 49-1301, Idaho Code.

(3) A motor vehicle owned or operated by another state of the United States or an agency or political subdivision thereof shall be exempt from the requirements of sections 63-2438 and 63-2439, Idaho Code, if the state where such vehicle is owned grants a substantially similar exemption to vehicles owned by the state of Idaho, its agencies or political subdivisions.

SECTION 11. That Chapter 24, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2441, Idaho Code, and to read as follows:

63-2441. PENALTIES. It shall be unlawful for any person to consume any special fuel in the propulsion of a motor vehicle over sixteen thousand (16,000) pounds maximum gross weight on the highways of this state unless such motor vehicle displays a valid special fuel permit issued by the commission or a valid special fuel trip permit under section 63-2440(2), Idaho Code, unless such person is exempt from such requirement under section 63-2440, Idaho Code, or other provision of state or federal law. Such unlawful operation or display of any fictitious or counterfeit special fuel permit or decal or any fictitious or counterfeit special trip permit or display of a permit issued to a person other than the owner or operator of the vehicle on which it is displayed shall be a misdemeanor and any person convicted thereof may be punished in the manner provided in section 49-147, Idaho Code.

SECTION 12. That Chapter 24, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2442, Idaho Code, and to read as follows:

63-2442. EXCHANGE OF INFORMATION AGREEMENTS. For the purpose of administering the provisions of this chapter, the commission and the Idaho transportation department may enter into such written agreements for the exchange of information or delegation of authority or both as the commission and the department may find necessary to properly implement the letter and intent of the provisions of this chapter.

SECTION 13. That Chapter 24, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-2443, Idaho Code, and to read as follows:

63-2443. VIOLATIONS AND PENALTIES. (a) Acts forbidden: It shall be unlawful for any person to:

(1) Refuse, or knowingly and intentionally fail to make and file any statement required by this chapter in the manner of within the time required;

(2) Wilfully fail to pay any tax due or any fee required by this chapter or any related penalties or interest;

(3) Knowingly and with intent to evade or to aid in the evasion of the tax imposed by this chapter to make any false statement or conceal any material fact in any record, return, or affidavit provided for in this chapter;

(4) Conduct any activities requiring a license under this chapter without a license or after a license has been surrendered, can-

celed, or revoked;

(5) Fail to keep and maintain the books and records required by this chapter.

(b) Penalties and remedies: Any person violating any provision of this section is guilty of a misdemeanor, unless the act is by any other law of this state declared to be a felony, and upon conviction is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(c) Penalties are cumulative: The fine and imprisonment provided for in this section shall be in addition to any other penalty imposed by any other provision of this chapter.

SECTION 14. That Section 40-405, Idaho Code, be, and the same is hereby amended to read as follows:

40-405. APPROPRIATION OF FUNDS -- APPORTIONMENT OF STATE HIGHWAY ACCOUNT. There is hereby appropriated and allocated out of the state highway account of the state of Idaho, to the local units of government of the state, thirty-three and one-third per cent (33 1/3%) of all highway user revenues accruing to such state highway account between January 1 and December 31 of each year, plus an additional amount equal to one cent (1¢) per gallon of motor fuels and aircraft fuels excise tax as set forth in section 63-24~~06~~12, Idaho Code, but in no event shall the total of the appropriation to the local units of government for any one (1) year be less than one million dollars ($1,000,000), which said appropriation shall be distributed among the local units of government as follows:

(a) Said sum shall be apportioned as follows: Thirty per cent (30%) of said sum to be apportioned among local units of government shall be divided among incorporated and specially chartered cities, in the same proportion as the population of said incorporated or specially chartered city bears to the total population of all such incorporated or specially chartered cities as shown by the last regular or special federal census.

(b) The remainder of said sum shall be apportioned as follows:

1. Ten per cent (10%) shall be divided equally among all counties of the state.

2. Forty-five per cent (45%) shall be divided among the counties of the state in the proportion that the amount collected from motor vehicle registrations in each county during the last calendar year bears to the total amount of such collections in all counties in the state.

3. Forty-five per cent (45%) shall be divided among the counties of the state in the proportion that the number of miles of improved roads in the county road system of each county bears to the total number of miles of improved roads in the county road systems of all counties in the state. The director of the Idaho transportation department is directed to certify to the state auditor, on or before January 1 of each year, the number of miles of improved roads in each county. An improved road shall be a graded and drained earth road or better, and a graded and drained

earth road shall be a traveled way of natural earth, aligned and graded to permit reasonable convenient use by a motor vehicle, and drained by longitudinal and transverse systems, natural or artificial, sufficiently to prevent serious impairment of the roadway by surface water.

(c) The appropriation hereby made shall be remitted to the counties, and incorporated or specially chartered cities on the following dates and in the following amounts: thirty-three and one-third per cent (33 1/3%) of all highway user revenues accruing to said account in the months of January, February, and March of each year not later than April 25 of each year; thirty-three and one-third per cent (33 1/3%) of all highway user revenues accruing to said account in the months of April, May and June of each year not later than July 25 of each year; thirty-three and one-third per cent (33 1/3%) of all highway user revenues accruing to said account in the months of July, August, and September of each year not later than the 25th of October of each year; thirty-three and one-third per cent (33 1/3%) of all highway user revenues accruing to said account in the months of October, November, and December of each year not later than January 25 of the succeeding year; the state auditor shall ascertain the sums set for the above and shall remit to the several local units of government their pro rata share of the amount so computed.

(d) Such moneys paid to incorporated or specially chartered cities shall be expended by the governing bodies thereof solely in the construction and maintenance of roads and streets within their corporate limits.

(e) Such moneys paid to the counties shall be placed by each county in a fund to be known as the county road fund and the county shall apportion the same as follows: To the interest and sinking fund of said county such amount as may be necessary to meet the interest and sinking fund requirements for the current year on any unpaid bonds issued by said county for road and bridge purposes, or refunding bonds issued to take up such bonds; the county shall pay over to each highway and good roads district within such county such portion of the balance of such county road fund as the following apportion shall apply:

1. Ten per cent (10%) shall be divided equally among the county, if the county maintains any roads, the highway districts and good roads districts;

2. Forty-five per cent (45%) shall be divided among the county, if the county maintains any roads, the highway districts and the good roads districts of the county in the proportion that the amount collected from motor vehicle registrations in each area designated herein during the last calendar year bears to the total amount of such collections in the entire county;

3. Forty-five per cent (45%) shall be divided among the county, if the county maintains any roads, the highway districts and good roads districts in the proportion that the number of miles of improved roads in the county road, highway or good roads district bears to the total number of miles of improved roads in the entire county road system as defined in subparagraph (b) 3 hereinbefore

set forth; and the county shall apportion as and when needed for disbursement for current expenses for the construction and maintenance of highways any further balance of such county road fund to the road and bridge fund of the said county, and the county may expend all or any portion thereof in the construction and maintenance of state highways in such county.

(f) Each highway and good roads district receiving such apportionment from the county road fund shall apportion the same as follows: To the interest and sinking fund of such district, such amount as may be necessary to meet the interest and sinking fund requirements for that year on any unpaid bonds issued by such district, and any balance of such funds shall be used for road and bridge maintenance and construction. Each district may expend all or any portion of such balance of such funds in the construction and maintenance of state highways in such district.

(g) No part of such county road fund or any apportionment therefrom shall ever be used for any purposes other than those hereinbefore provided, except as hereinafter provided, and if, at the end of any fiscal year there shall remain an unexpended balance of such funds in the hands of the treasurer of any highway district or good roads district, such balance shall be carried forward and retained and thereafter applied to the maintenance and construction of highways or the payment of bond interest and principal and sinking fund requirements as hereinbefore provided.

SECTION 15. That Section 49-120, Idaho Code, be, and the same is hereby amended to read as follows:

49-120. REGISTRATION BY NONRESIDENTS -- PERMITS IN LIEU OF LICENSE -- FEES. All motor vehicles, or combination of vehicles owned by nonresidents and operated in this state shall be subject to the same fees as are required with respect to like vehicles operated by residents of this state~~;--provided;--that-such-vehicles-may-be-operated without-the-payment-of-any-license;-use-or-registration--fees--to--the extent--that--exemption-therefrom-is-provided-in-agreements-or-regulations-for-reciprocal-privileges-issued-under-and-pursuant-to-the-Idaho motor-vehicle-reciprocity-act;-provided-further;-that-if-the--nonresident--vehicles'-state-of-residence-grants-temporary-trip-permit-privilege-in-that-state-to-like-vehicles-from-the-state-of-Idaho;-the~~.

(a) The nonresident operator of any such vehicle may in lieu of full licensing and registration under the laws of this state obtain a temporary trip permit from the department authorizing operation of such vehicle in the state for a period not to exceed ninety-six (96) hours ~~and-shall-pay~~, providing that the nonresident vehicle state of residence grants temporary trip permit privilege in that state to like vehicles from the state of Idaho.

(b) Motor vehicles or combinations of vehicles owned by Idaho residents and operated in this state may in lieu of full licensing and registration under the laws of the state obtain a temporary trip permit, authorizing operation of such vehicle in the state for a period not to exceed ninety-six (96) hours.

(c) Fees. There shall be a base issuance fee of twelve dollars ($12.00) per trip permit on any vehicle or combination of vehicles over eight thousand (8,000) pounds gross weight in addition to the following fees which shall be paid on the maximum gross weight of the motor vehicle or combination of vehicles:

Maximum Gross Weight of Vehicle or Combination of Vehicles	Fee Schedule Mills Per Mile	
~~8,001--16,000~~	~~10.00~~	
16,001- 26,000	~~21.65~~	24.75
26,001- 40,000	~~31.75~~	35.80
40,001- 50,000	~~39.70~~	44.20
50,001- 60,000	~~49.00~~	54.25
60,001- 80,000	~~71.85~~	78.95
80,001-~~105,500~~	~~108.90~~	116.65

A temporary trip permit shall contain such information, and be in a form, and shall be issued under rules and regulations as may be prescribed by the department, and shall be displayed at all times while the vehicle is being operated on the highways of this state by posting the same upon the windshield of each vehicle or in another prominent place thereon, where it may be readily legible.

(d) A vehicle or combination of vehicles requiring a trip permit as authorized by this act shall purchase the permit at the first available location where a trip permit is available. To proceed beyond such location and fail to purchase the trip permit shall constitute a violation of the uniform registration act.

(e) Trip permit vendors.

(1) Department fixed ports of entry are locations where trip permits are available.

(2) The department may select vendors to serve as agents on state highways for the purpose of selling trip permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of two dollars ($2.00) per permit sold, and he shall collect the fees herein provided by this section, and pay the same to the department. The vendor shall guarantee payment by giving a bond to the state of Idaho in a sum as shall be fixed by the board, the premium on the bond to be paid by the department.

~~The--board--may,--by--reasonable--rules,-permit-nonresident-owners and/or-operators-of-vehicles-in-lieu-of--obtaining--permits--for--each individual--trip,--to--make--monthly-reports-to-the-department,-by-the 20th-day-of-the-month,-showing-all-movements-of-such--vehicles--within the-state-during-the-previous-month-and,-at-time-of-making-the-report, pay--the--required--fees.-Owners-and/or-operators-shall-be-required-to furnish-a-bond-to-the-state-of-Idaho-in-a-sum-as-the-board-may--determine,--to--insure-payment-of-fees,-and-the-owner-or-operator-shall-pay the-cost-of-auditing-the-reports-by-the-board-at-least-once-a-year.~~

All fees received for the permits herein mentioned shall be remitted by the department to the state treasurer and by him placed in

the state highway account.

Approved March 26, 1984.

CHAPTER 88
(S.B. No. 1290, As Amended)

AN ACT
RELATING TO THE UNIFORM COMMERCIAL CODE; AMENDING SECTION 28-1-201, IDAHO CODE, TO PROVIDE A REVISED DEFINITION OF THE TERM "BANK".

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

SECTION 1. That Section 28-1-201, Idaho Code, be, and the same is hereby amended to read as follows:

28-1-201. GENERAL DEFINITIONS. Subject to additional definitions contained in the subsequent chapters of this act which are applicable to specific chapters or Parts thereof, and unless the context otherwise requires, in this act:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, set-off, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this act (sections 28-1-205 and 28-2-208). Whether an agreement has legal consequences is determined by the provisions of this act, if applicable; otherwise by the law of contracts (section 28-1-103). (Compare "contract.")

(4) "Bank" means any person engaged in the business of banking, including any insured bank, whether chartered by federal or state law, any insured savings and loan association, whether insured by federal or state law, and any insured credit union, whether chartered by federal or state law, offering deposit or other accounts on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others, including demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

(5) "Bearer" means the person in possession of an instrument, document of title, or security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading

does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous." A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NON-NEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this act and any other applicable rules of law. (Compare "agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper or securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall

be deemed fungible for the purposes of this act to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" means a person who is in possession of a document of title or an instrument or an investment security drawn, issued or indorsed to him or to his order or to bearer or in blank.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government as a part of its currency.

(25) A person has "notice" of a fact when

(a) he has actual knowledge of it; or

(b) he has received a notice or notification of it; or

(c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this act.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) it comes to his attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by

the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this act.

(30) "Person" includes an individual or an organization (See section 28-1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 28-2-401) is limited in effect to a reservation of a "security interest." The term also includes any interest of a buyer of accounts or chattel paper which is subject to chapter 9. The special property interest of a buyer of goods on identification of such goods to a contract for sale under section 28-2-401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with chapter 9. Unless a lease or consignment is intended as security, reservation of title thereunder is not a "security interest" but a consignment is in any event subject to the provisions on consignment sales (section 28-2-326). Whether a lease is intended as security is to be determined by the facts of each case; however, (a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party

with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature or indorsement means one made without actual, implied or apparent authority and includes a forgery.

(44) "Value." Except as otherwise provided with respect to negotiable instruments and bank collections (sections 28-3-303, 28-4-208 and 28-4-209) a person gives "value" for rights if he acquires them

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection; or

(b) as security for or in total or partial satisfaction of a pre-existing claim; or

(c) by accepting delivery pursuant to a pre-existing contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

Approved March 26, 1984.

CHAPTER 89
(S.B. No. 1307, As Amended)

AN ACT

RELATING TO PAYMENT AND COLLECTION OF TAXES ON REAL PROPERTY; AMENDING SECTIONS 63-1101, IDAHO CODE, TO DEFINE LAWFUL MONEY OF THE UNITED STATES; AMENDING SECTION 63-1107, IDAHO CODE, TO PROVIDE FOR THE RETENTION FOR FIVE YEARS OF A DAILY RECORD OF TAX PAYMENTS RECEIVED; AMENDING SECTION 63-1108, IDAHO CODE, TO PROVIDE FOR THE TAX COLLECTOR TO USE THE CHECK AS THE RECEIPT OR ISSUE A RECEIPT IF REQUESTED; AMENDING SECTION 63-1117, IDAHO CODE, TO CHANGE THE INTEREST RATE TO CONFORM WITH OTHER PROVISIONS OF LAW.

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

SECTION 1. That Section 63-1101, Idaho Code, be, and the same is hereby amended to read as follows:

63-1101. TAXES PAYABLE ONLY IN LEGAL TENDER. All taxes must be

paid in lawful money of the United States. "Lawful money of the United States" means currency and coin of the United States at par value and checks and drafts which are payable in dollars of the United States at par value, payable upon demand or presentment.

SECTION 2. That Section 63-1107, Idaho Code, be, and the same is hereby amended to read as follows:

63-1107. COLLECTION REGISTER. The tax collector must ~~keep--a collection-register-in-which-he-must-daily-enter-all-payments-of-taxes entered--upon--the--real-property-assessment-roll,-showing-in-separate columns-the-number-of-the-receipt,-the-date-of-payment,-the-amount--of state--tax,--county--tax--and-the-amount-of-every-city,-town,-village, school-district-or-other-tax-collected~~ retain for five (5) years, a daily record of tax payments received, and the total receipts recorded in the tax collector's cash book.

SECTION 3. That Section 63-1108, Idaho Code, be, and the same is hereby amended to read as follows:

63-1108. DELIVERY OF RECEIPT UPON PAYMENT. Upon payment of taxes, the tax collector shall date~~,-sign-and-complete-the--tax--receipt--and deliver--the-original-receipt-to-the-taxpayer-and-retain-the-duplicate receipt-and-shall-note-the-date--of--payment--of--such--taxes--in--the columns--provided--therefor-in-the-assessment-roll~~ the payment, either the check or receipt. The tax collector shall issue a receipt if requested by the taxpayer. The paid receipt must appear on the ledger sheet or on the computer file and must show the date paid and the amount of payment. If the taxpayer is other than the equitable titleholder, such as an escrowee, trustee of trust deed or other third party, the taxpayer shall, ~~within--ten--(10)--days--of--payment~~ upon request of the equitable titleholder, deliver to the equitable titleholder a ~~true-copy-of-said-tax-receipt~~ a receipt of taxes paid. In the event payment is mailed to the tax collector, the cancelled check may serve as a receipt.

SECTION 4. That Section 63-1117, Idaho Code, be, and the same is hereby amended to read as follows:

63-1117. INTEREST. All delinquent taxes and penalties, as shown in the delinquency entries~~{,}~~ bear interest at the rate of ~~eight~~ twelve per cent (~~8~~12%) per annum from the date of such entries until paid or until the issuance of tax deed, and ~~such~~ the interest must be paid by any redemptioner of the property as a condition of redemption.

Approved March 26, 1984.

CHAPTER 90
(H.B. No. 477)

AN ACT

RELATING TO WORKMEN'S COMPENSATION INSURANCE; AMENDING SECTION 72-523, IDAHO CODE, TO PROVIDE THAT DIVIDENDS PAID, DECLARED OR PAYABLE SHALL NOT BE DEDUCTED IN ARRIVING AT NET PREMIUMS COLLECTED.

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

SECTION 1. That Section 72-523, Idaho Code, be, and the same is hereby amended to read as follows:

72-523. SOURCE OF FUND -- PREMIUM TAX. The state insurance fund, every authorized self-insurer and every surety authorized under the Idaho insurance code or by the director of the department of insurance to transact workmen's compensation insurance in Idaho, in addition to all other payments required by statute, shall semiannually, within thirty (30) days after February 1 and July 1 of each year, pay into the state treasury to be deposited in the industrial administration fund a premium tax as follows:

(1) Every surety, other than self-insurers authorized to transact workmen's compensation insurance, a sum equal to one and three-tenths per cent (1 3/10%) of the net premiums collected by each respectively on workmen's compensation insurance in this state during the preceding six (6) months' period, but in no case less than fifty dollars ($50.00); and

(2) Each self-insurer, a sum equal to one and three-tenths per cent (1 3/10%) of the amount of premium such employer who is a self-insurer would be required to pay as premium to the state insurance fund, but in no case less than fifty dollars ($50.00).

(3) Any insurer making any payment into the industrial administration fund under the provisions of subsection (1) of this section shall be entitled to deduct the full sum so paid from any sum that it is required to pay into the department of insurance as a tax on workmen's compensation premiums.

(4) Computed upon the same basis as provided in subsections (1) and (2) of this section and payable at the time specified in this section, each surety and self-insurer shall pay a special and additional premium tax of four-tenths per cent (4/10%) covering the period July 1, 1974, through December 31, 1974, and thereafter seven-tenths per cent (7/10%) for the purpose of funding and administering a rehabilitation program and division within the commission as provided by law. In no case shall such special and additional premium tax be less than twenty-five dollars ($25.00) nor shall the amount paid for such purpose be deductible by sureties from any sums paid into the department of insurance as a tax on workmen's compensation premiums.

(5) In arriving at net premiums collected, dividends paid, declared or payable shall not be deducted.

Approved March 26, 1984.

CHAPTER 91
(H.B. No. 577)

AN ACT

RELATING TO RETIREMENT AGE OF JUDGES AND JUSTICES; REPEALING SECTION 1-2007, IDAHO CODE, TO ELIMINATE THE MANDATORY RETIREMENT AGE.

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

SECTION 1. That Section 1-2007, Idaho Code, be, and the same is hereby repealed.

Approved March 26, 1984.

CHAPTER 92
(H.B. No. 415)

AN ACT

RELATING TO THE CODE OF MILITARY JUSTICE; AMENDING SECTION 46-1103, IDAHO CODE, TO PROVIDE NEW DEFINITIONS; AMENDING SECTION 46-1104, IDAHO CODE, TO DESIGNATE PERSONS SUBJECT TO THE CODE; AMENDING SECTION 46-1105, IDAHO CODE, TO EXPAND APPLICABILITY OF THE CODE; AMENDING SECTION 46-1107, IDAHO CODE TO EXPAND CONCURRENT JURISDICTION OF MILITARY COURTS WITH COMMISSIONS, BOARDS AND TRIBUNALS; AMENDING SECTION 46-1108, IDAHO CODE, TO SET FORTH NONJUDICIAL PUNISHMENTS AND PROVIDE FOR APPEAL; AMENDING SECTION 46-1110, IDAHO CODE, TO REDUCE THE NUMBER OF MEMBERS OF A COURT-MARTIAL; AMENDING SECTIONS 46-1111 AND 46-1112, IDAHO CODE, TO CLARIFY JURISDICTION OF COURTS-MARTIAL; AMENDING SECTION 46-1113, IDAHO CODE, TO DESIGNATE CONVENING AUTHORITIES FOR COURTS-MARTIAL; REPEALING SECTION 46-1114, IDAHO CODE; AMENDING CHAPTER 11, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-1114, IDAHO CODE, TO PROVIDE STANDARDS FOR THE COMPOSITION OF COURTS-MARTIAL; AMENDING SECTION 46-1115, IDAHO CODE, TO PROVIDE FOR THE SELECTION OF AND DUTIES OF MILITARY JUDGES; AMENDING SECTION 46-1116, IDAHO CODE, TO PROVIDE STANDARDS FOR TRIAL AND DEFENSE COUNSEL; AMENDING SECTION 46-1117, IDAHO CODE, TO PROVIDE FOR EMPLOYMENT OF REPORTERS; AMENDING SECTION 46-1118, IDAHO CODE, TO PROVIDE FOR THE NUMBER OF MEMBERS OF COURTS-MARTIAL; AMENDING SECTION 46-1119, IDAHO CODE, BY STRIKING SUPERFLUOUS LANGUAGE PERTAINING TO ADMINISTRATION OF OATHS; AMENDING SECTION 46-1120, IDAHO CODE, TO RESTRICT THE RIGHT AGAINST COMPULSORY SELF-INCRIMINATION; AMENDING SECTION 46-1121, IDAHO CODE, TO SIMPLIFY INVESTIGATION PROCEDURES; AMENDING SECTION 46-1122, IDAHO CODE, TO PROVIDE FOR FORWARDING CHARGES FOR GENERAL COURT-MARTIAL; AMENDING SECTION 46-1123, IDAHO CODE, TO INSERT A MISSING WORD; AMENDING SECTION 46-1124, IDAHO

CODE, TO STRIKE IRRELEVANT LANGUAGE; REPEALING SECTION 46-1125, IDAHO CODE; AMENDING CHAPTER 11, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-1125, IDAHO CODE, TO PROVIDE RULES OF EVIDENCE; AMENDING SECTION 46-1126, IDAHO CODE, BY STRIKING SUPERFLUOUS LANGUAGE PERTAINING TO UNLAWFULLY INFLUENCING A COURT-MARTIAL; AMENDING SECTION 46-1127, IDAHO CODE, TO RESTRICT ACCESS TO COLLATERAL RELIEF AND TO STRIKE SUPERFLUOUS LANGUAGE; AMENDING SECTION 46-1128, IDAHO CODE, TO PROVIDE AUTHORITY TO THE ADJUTANT GENERAL TO MAKE RULES FOR PROCEDURE OF COURTS-MARTIAL; AMENDING SECTION 46-1129, IDAHO CODE, BY STRIKING SUPERFLUOUS LANGUAGE PERTAINING TO CONTINUANCES; AMENDING SECTION 46-1130, IDAHO CODE, TO REDUCE THE NUMBER OF PEREMPTORY CHALLENGES; AMENDING SECTION 46-1131, IDAHO CODE, BY STRIKING SUPERFLUOUS LANGUAGE PERTAINING TO OATHS; AMENDING SECTION 46-1132, IDAHO CODE, TO EXTEND THE STATUTORY LIMITATION PERIOD; AMENDING SECTION 46-1133, IDAHO CODE, TO LIMIT THE DEFINITION OF FORMER JEOPARDY; AMENDING SECTION 46-1134, IDAHO CODE, TO PROVIDE FOR A FINDING OF GUILTY OF ANY CHARGE TO WHICH A PLEA OF GUILTY HAS BEEN ENTERED; AMENDING SECTION 46-1135, IDAHO CODE, TO LIMIT THE SCOPE OF DISCOVERY; AMENDING SECTION 46-1136, IDAHO CODE, TO LIMIT APPEAL FROM INTERLOCUTORY RULINGS ON PRODUCTION OF EVIDENCE AND TO CLARIFY SEARCH AND SEIZURE AUTHORITY; AMENDING SECTION 46-1137, IDAHO CODE, BY STRIKING SUPERFLUOUS LANGUAGE; AMENDING SECTION 46-1140, IDAHO CODE, CODIFIED AS SECTION 46-1138, IDAHO CODE, TO CORRECT THE SECTION NUMBER AND BY STRIKING SUPERFLUOUS LANGUAGE; AMENDING SECTION 46-1139, IDAHO CODE, TO PROVIDE FOR DESIGNATION OF COUNSEL BY THE COURT-MARTIAL CONVENING AUTHORITY; REPEALING SECTION 46-1140, IDAHO CODE; AMENDING SECTION 46-1141, IDAHO CODE, BY STRIKING SUPERFLUOUS LANGUAGE; AMENDING SECTION 46-1142, IDAHO CODE, TO REQUIRE THE CONCURRENCE OF TWO-THIRDS OF THE MEMBERS OF A COURT-MARTIAL TO CONVICT AN ACCUSED; AMENDING SECTION 46-1144, IDAHO CODE, BY STRIKING SUPERFLUOUS LANGUAGE; AMENDING SECTION 46-1145, IDAHO CODE, TO PROVIDE FOR APPROVAL OF DISHONORABLE DISCHARGES OR DISMISSALS BY THE GOVERNOR; REPEALING SECTIONS 46-1146 AND 46-1147, IDAHO CODE; AMENDING SECTION 46-1148, IDAHO CODE, BY STRIKING LANGUAGE PERTAINING TO CONFINEMENT; REPEALING SECTIONS 46-1149 THROUGH 46-1153, IDAHO CODE; AMENDING SECTION 46-1154, IDAHO CODE, TO PROVIDE FOR REVIEW OF THE RECORD OF COURT-MARTIAL BY THE STATE JUDGE ADVOCATE; REPEALING SECTIONS 46-1156 AND 46-1157, IDAHO CODE; AMENDING SECTION 46-1158, IDAHO CODE, TO PROVIDE FOR A ONE-YEAR PERIOD FOR SUBMISSION OF A PETITION FOR A NEW TRIAL; AMENDING SECTION 46-1159, IDAHO CODE, BY STRIKING LANGUAGE PERTAINING TO FORFEITURES; AMENDING SECTION 46-1160, IDAHO CODE, TO CONFORM LANGUAGE TO FEDERAL LAW; REPEALING SECTIONS 46-1161 AND 46-1183, IDAHO CODE; AMENDING SECTION 46-1177, IDAHO CODE, TO STRIKE OBSOLETE LANGUAGE; AMENDING SECTION 46-1184, IDAHO CODE, TO LIMIT APPLICABILITY OF THE PROVISIONS OF THE SECTION TO DUTY TIME; REPEALING SECTIONS 46-1185 AND 46-1186, IDAHO CODE; AMENDING SECTION 46-1187, IDAHO CODE, TO CORRECTLY CITE FEDERAL LAW; REPEALING SECTIONS 46-1188 THROUGH 46-1190, IDAHO CODE; AMENDING SECTION 46-1191, IDAHO CODE, TO PROVIDE FOR ADMINISTRATION OF

OATHS BY COMMISSIONED OFFICERS; REPEALING SECTION 46-1193, IDAHO CODE; AND AMENDING CHAPTER 11, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-1193, IDAHO CODE, TO GRANT REGULATORY AUTHORITY TO THE ADJUTANT GENERAL.

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

SECTION 1. That Section 46-1103, Idaho Code, be, and the same is hereby amended to read as follows:

46-1103. DEFINITIONS. The definitions used in the command, administration, supply, training, discipline and employment of the armed forces of the United States, unless clearly inapplicable or contradictory, are adopted with respect to the Idaho national guard except as otherwise provided in this act. As used in this act:

(a) "Military" refers to all components of the Idaho national guard.

(b) "Idaho national guard" means both the Idaho army national guard and the Idaho air national guard.

(c) "In federal service" and "not in federal service" mean the same as those terms are used and construed in federal laws and regulations.

(d) "Officer" means both a commissioned officer and a warrant officer, unless a distinction between commissioned officer and warrant officer is clearly evident.

(e) "Superior officer" means an officer superior in rank or command.

(f) "Enlisted person" means any person who is serving in an enlisted grade in any force of the Idaho national guard.

(g) "Military court" means a court-martial~~,-a-court--of--inquiry,-or-a-military-commission~~.

(h) "Commanding officer" means a commissioned officer or warrant officer who is in command of any unit ~~larger~~ other than a platoon.

(i) ~~"Active-state-duty"-means-full-time-duty-in-the-active--military--service-of-the-state-under-an-order-of-the-governor-issued-under authority-vested-in-him-by-law,-and-includes-travel-to-and--from--such duty~~ "Command" means any unit other than a platoon.

(j) "Legal officer" means any legally trained commissioned officer of the Idaho national guard who is certified by the state judge advocate to perform legal duties under this code.

(k) "Duty status ~~other--than--active-state-duty" means-any-time when-members-and-units-of-the-Idaho-national-guard-shall-assemble--for drill--or-other-equivalent-training,-instruction-or-duties-during-each year-and-shall-participate-in-field-training,-encampments,--maneuvers, schools,-conferences,-cruises-or-other-similar-duties-each-year-as-may be--prescribed--by--the-laws-of-the-United-States-and-of-the-state-and the-regulations-issued-thereunder,-and-includes--travel--to--and--from such--duty~~ includes periods when a member is on duty or is lawfully ordered to duty.

(l) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by

another, and any person who has an interest other than an official interest in the prosecution of the accused.

(m) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command.

(n) "May" is used in a permissive sense. The words "no person may ...." mean that no person is required, authorized, or permitted to do the act prescribed.

(o) "Shall" is used in a mandatory sense.

(p) "Code" means this ~~act~~ chapter.

(q) "Arrest" is the taking of a person into custody.

SECTION 2. That Section 46-1104, Idaho Code, be, and the same is hereby amended to read as follows:

46-1104. PERSONS SUBJECT TO THE CODE. The Idaho Code of Military Justice applies to all members of the Idaho national guard not in federal service when they are ~~on-"active-state--duty"--or--"~~ in a duty status ~~other-than-active-state-duty"-as-defined-by-this-code~~.

SECTION 3. That Section 46-1105, Idaho Code, be, and the same is hereby amended to read as follows:

46-1105. APPLICATION OF CODE -- ALL PLACES WITHIN STATE -- PERSONS SERVING OUTSIDE THE STATE -- WHEN JURISDICTION ATTACHES. (a) This code shall be applicable in all places within the state. It shall also apply to all persons subject to this code while serving outside the state and while going to and returning from such service outside the state in like manner and to the same extent as when such persons are serving within the state.

(b) Courts-martial ~~and-courts-of-inquiry~~ may be convened and held in units of the Idaho national guard while serving outside the state with the same jurisdiction and powers as if held within the state, and offenses committed outside the state may be tried and punished either within the state or outside the state.

(c) Court-martial jurisdiction over an accused for any offense attaches only upon the preferral of charges pursuant to the provisions of section 46-1119, Idaho Code, ~~during-the-same-period-of-duty-in which-the-offense~~ for an offense punishable under this code which occurred ~~or,-if-the-offense-was-not-reasonably-discovered-by-the-commander-until-after~~ during a period ~~of-duty-or-a--later--nonduty--time, then--during--that--later-period-of-duty-or-during-the-first-period-of duty-following-discovery-at-a-later-nonduty-time~~ when an accused was ordered to or did actually perform duty with the Idaho national guard under state or federal law. Once jurisdiction is properly attached, the convening and holding of a court-martial may be accomplished at any subsequent period of authorized duty.

SECTION 4. That Section 46-1107, Idaho Code, be, and the same is hereby amended to read as follows:

46-1107. CONCURRENT JURISDICTION OF MILITARY COMMISSIONS, BOARDS, OR OTHER MILITARY TRIBUNALS. The provisions of this act conferring jurisdiction upon courts-martial shall not be construed as depriving military commissions, boards, or other military tribunals of concurrent jurisdiction ~~in-respect-to-offenders-or-offenses-that-by--statute or--by--law--of-war-may-be-tried-by-such-military-commissions-or-other military-tribunals.~~

SECTION 5. That Section 46-1108, Idaho Code, be, and the same is hereby amended to read as follows:

46-1108. COMMANDING OFFICER'S NONJUDICIAL PUNISHMENT. (a) ~~Under such-regulations-as-the-governor-of-Idaho-prescribes,-and--under--such additional-regulations-as-may-be-prescribed-by-the-adjutant-general-of Idaho,--limitations--may--be--placed-on-the-powers-granted-by-this-law with-respect-to-the-kind-and--amount--of--punishment--authorized,--the categories-of-commanding-officers-and-warrant-officers-exercising-command--authorized--to--exercise-those-powers,-the-applicability-of-this law-to-an-accused-who-demands-trial-by-court-martial,-and-the-kinds-of court-martial-to-which-the-case-may-be-referred-upon--such--a--demand. However,--punishment--may--not-be-imposed-upon-any-member-of-the-Idaho national-guard-under-this-law-if-the-member-has,-before-imposition--of such--punishment,--demanded--trial-by-special-court-martial-in-lieu-of such-punishment.-The-adjutant-general-by-written-order--shall--suspend the-implementation-of-any-punishments-authorized-hereunder.~~

~~(b)--Subject--to--subsection--(a)-of-this-section,-a~~Any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments for minor offenses without ~~convening~~ the intervention of a court-martial.

(1) upon officers of his command:

~~(a)--reprimand;~~

(~~b~~A) restriction to certain specified limits, with or without suspension from duty, for not more than seven (7) consecutive days during ~~annual-field-training;~~ any period of duty

~~(c)--during--all--other-periods-of-authorized-duty,-restriction-to specified-limits-with-or-without-suspension--from--duty,--for--not more--than-the-remainder-of-the-authorized-period-of-duty,-but-not to-exceed-seven-(7)-days;~~

~~(d)--forfeiture-of-not-more-than-seven-(7)-days'-pay;~~

(B) if imposed by a general officer:

(i) restriction to quarters for not more than seven (7) consecutive days during any period of duty;

(ii) restriction to certain specified limits, with or without suspension from duty, for not more than fourteen (14) days during any period of duty;

(2) upon other personnel of his command:

~~(a)--reprimand;~~

~~(b)--forfeiture-of-not-more-than-seven-(7)-days'-pay;~~

(~~c~~A) reduction to the next inferior grade, if the grade from which demoted is within the promotion authority of the

officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(~~d~~B) extra duties, including fatigue or other duties~~:~~

~~(i)~~ for not more than fourteen (14) consecutive days during ~~annual-field-training;~~

~~(ii)--during-all-other-periods-of-authorized--duty--for not--more--than--the--remainder--of--the-authorized~~ any period of duty~~,-but-not-to-exceed-fourteen--(14)--days~~;

(~~e~~C) restriction to certain specified limits, with or without suspension from duty~~:~~

~~(i)~~ for not more than fourteen (14) days during ~~annual field-training;~~

~~(ii)--during--all--other-periods-of-authorized-duty-for not-more-than--the--remainder--of--the--authorized~~ any period of duty~~,-but-not-to-exceed-fourteen-(14)-days.~~;

(D) if imposed by a commander of the grade of major or above:

(i) reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction, but an enlisted member above the grade of E-4 may not be reduced more than two (2) grades;

(ii) extra duties, including fatigue or other duties, for not more than seven (7) consecutive days during any period of duty;

(iii) restriction to certain specified limits, with or without suspension from duty, for not more than fourteen (14) consecutive days during any period of duty.

No two (2) or more of the punishments of extra duties and restrictions may be combined to run consecutively in the maximum amount imposable for each. Whenever any of those punishments are combined to run consecutively, there must be an apportionment.

(b) The member shall be given written notification of the punishment imposed and of his right to appeal within forty-eight (48) hours to the next higher authority.

(c) The officer who imposes the punishment authorized in subsection (~~b~~a) of this section, or his successor in command, may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade ~~or a-forfeiture~~ imposed under subsection (~~b~~a) of this section, whether or not executed. In addition, he may, at any time, remit or mitigate any part or amount of the unexecuted punishment imposed and may set aside in whole or in part the punishment, whether executed or unexecuted, and restore all rights and privileges~~,-and-property~~ affected. ~~He-may also-mitigate-reduction-in-grade-to-forfeiture-of-pay.~~ When mitigating extra duties to restriction, the mitigated punishment shall not be for a greater period than the punishment mitigated. ~~When-mitigating-reduction-in-grade-to-forfeiture-of-pay,-the-amount-of-the-forfeiture-shall not-be-greater-than-the-amount-that-could-have-been-imposed--initially under--this--article--by--the-officer-who-imposed-the-punishment-mitigated.~~

(d) A person punished under this law who considers his punishment unjust or disproportionate to the offense may~~;--through--the--proper channel;~~ appeal to the next ~~superior~~ higher authority by delivering written notice of the appeal within forty-eight (48) hours after receipt of written notification of the punishment. The appeal shall be promptly ~~forwarded and~~ decided, but the person punished shall not in the meantime be required to undergo the punishment adjudged. The ~~superior~~ higher authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (c) by the officer who imposed the punishment. ~~Before acting on an appeal from a punishment of forfeiture of pay; reduction to the next inferior pay grade; extra duty for more than three (3) days; or restriction for more than three (3) days, the authority who is to act on the appeal shall refer the case to the state judge advocate or a member of his staff.~~

(e) The imposition and enforcement of disciplinary punishment under this ~~article~~ section for any act or omission shall be a bar to trial by court-martial for a serious offense growing out of the same act or omission, and not properly punishable under this ~~article~~ section.

(f) ~~The adjutant general shall, by regulation, prescribe the form of records to be kept of proceedings under this law and direct the keeping of records as currently required by U.S. Army or Air Force regulations in like cases and shall also prescribe the categories of those proceedings which shall be in writing.~~

~~(g)~~ All records of nonjudicial punishment under this section shall be destroyed upon the termination of the person's current period of enlistment.

(~~h~~g) The term "minor offenses," as used in this code, includes only those acts or omissions constituting offenses under the punitive ~~articles~~ sections of this code.

SECTION 6. That Section 46-1110, Idaho Code, be, and the same is hereby amended to read as follows:

46-1110. TYPES OF COURTS-MARTIAL. In the Idaho national guard not in federal service, there shall be two (2) types of courts-martial:

(1) general courts-martial, consisting of:

(a) a military judge and ~~seven (7)~~ not fewer than five (5) members; or

(b) only a military judge if, before the court is assembled, the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge;

(2) special courts-martial consisting of:

(a) a military judge and ~~five (5)~~ not fewer than three (3) members; or

(b) only a military judge if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests in writing a court composed only of a military judge.

SECTION 7. That Section 46-1111, Idaho Code, be, and the same is hereby amended to read as follows:

46-1111. JURISDICTION OF COURTS-MARTIAL. Each ~~force~~ command of the Idaho national guard has court-martial jurisdiction over all persons subject to this code. ~~The-exercise-of-jurisdiction-by-one-force over-personnel-of-another-force-shall-be-in--accordance--with--regulations-prescribed-by-the-governor.~~

General courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code and may~~,-under such-limitations-as-the-governor-may-prescribe,~~ adjudge any of the following punishments:

(1) reprimand;

(2) fine of not more than two hundred dollars ($200);

(3) forfeiture of pay and allowances not to exceed two hundred dollars ($200) in lieu of fine;

(4) dismissal, ~~bad-conduct-discharge,-or~~ dishonorable discharge, or discharge under other than honorable conditions;

(5) reduction in rank of an enlisted man to the lowest enlisted grade; or

(6) ~~confinement-of-not-more-than-twelve-(12)-days,-to--be--served only--at--such-times-as-not-to-interfere-with-his-primary-civilian vocation;-or~~

~~(7)~~ any combination of the above.

SECTION 8. That Section 46-1112, Idaho Code, be, and the same is hereby amended to read as follows:

46-1112. JURISDICTION OF SPECIAL COURTS-MARTIAL. (a) Subject to section 46-1111, Idaho Code, special courts-martial have jurisdiction to try persons subject to this code for any offense for which they may be punished under this code and may~~,-under-such-limitations-as-the governor-may-prescribe,~~ adjudge any of the following punishments:

(1) reprimand;

(2) fine of not more than one hundred dollars ($100);

(3) forfeiture of pay and allowances not to exceed one hundred dollars ($100) in lieu of a fine;

(4) reduction in rank of an enlisted man by not more than two (2) grades;

(5) ~~confinement--of--not--more--than-six-(6)-days-to-be-served-at such-times-as-not-to-interfere-with-his-primary-civilian--vocation~~ dismissal, dishonorable discharge, or discharge under other than honorable conditions; or

(6) any combination of the above.

(b) A special court-martial may not try a commissioned or warrant officer.

SECTION 9. That Section 46-1113, Idaho Code, be, and the same is hereby amended to read as follows:

46-1113. CONVENING OF GENERAL AND SPECIAL COURTS-MARTIAL. In the Idaho national guard not in the federal service, general courts-martial may be convened ~~only~~ by the president of the United States or the governor ~~or the state adjutant general~~. The governor may, after covening a general court-martial, delegate to the adjutant general authority to take any or all further actions which the convening authority can take under this code.

In the Idaho national guard not in the federal service, special courts-martial may be convened by~~:~~

~~(1) the governor; or the state adjutant general;~~

~~(2)~~ the commanding officer of a battalion ~~size unit~~, squadron, wing, or ~~its~~ equivalent command, or ~~a brigade, wing, group, attached battalion, or separate or detached command, except where such commanding officer is the accused whereupon the court will be convened by his~~ any superior authority.

SECTION 10. That Section 46-1114, Idaho Code, be, and the same is hereby repealed.

SECTION 11. That Chapter 11, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-1114, Idaho Code, and to read as follows:

46-1114. COMPOSITION OF COURTS-MARTIAL. (a) Any commissioned officer in the Idaho national guard is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Any warrant officer in the Idaho national guard is eligible to serve on courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c) (1) Any enlisted member who is not a member of the same unit as the accused is eligible to serve on courts-martial for the trial of any enlisted member who may lawfully be brought before such courts for trial, but he shall serve as a member of a court only if, before the court is assembled for the trial of the accused, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a court-martial the membership of which does not include enlisted members in a number comprising at least one-third (1/3) of the total membership of the court.

(2) In this section, the word "unit" means any regularly organized body not larger than a company or equivalent size organization.

(d) (1) When it can be avoided, no person may be tried by a court-martial any member of which is junior to him in rank or grade.

(2) When convening a court-martial, the convening authority shall detail as members thereof such members of the Idaho national guard as, in his opinion, are best qualified for the duty by reason of age, edu-

cation, training, experience, length of service, and judicial temperament. No person is eligible to serve as a member of a court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

SECTION 12. That Section 46-1115, Idaho Code, be, and the same is hereby amended to read as follows:

46-1115. MILITARY JUDGES. (a) The authority convening a general or special court-martial shall ~~request-the-state-judge-advocate-to~~ detail a military judge to preside over each open session of the court-martial. The military judge shall:

(1) rule finally on all matters of law;

(2) rule finally on all motions; and

(3) except as otherwise provided, decide all other questions raised at the trial of the accused.

(b) A military judge shall be a commissioned officer who is a member of the bar of this state or a member of the bar of a federal court, and who is ~~certified-to-be-qualified~~ selected for such duty by the state judge advocate.

(c) ~~A--commissioned--officer-who-is-certified-as-a-military-judge of-a-court-martial-may-perform-duties-other-than-those-of--a--military judge--when-such-duties-are-assigned-to-him-by-or-with-the-approval-of the-state-judge-advocate-or-his-designee.~~

~~(d)~~ No person is eligible to act as a military judge in a case if he is the accuser, a witness for the prosecution, a counsel, or has acted as investigating officer in the same case.

~~(e)--The--military--judge--of-a-court-martial-may-not-consult-with the-members-of-the-court,-except-in-the-presence-of-the-accused,-trial counsel,-and-defense-counsel,-nor-may-he-vote-with-the-members-of--the court.~~

SECTION 13. That Section 46-1116, Idaho Code, be, and the same is hereby amended to read as follows:

46-1116. DETAIL OF TRIAL COUNSEL AND DEFENSE COUNSEL. (a) For each general and special court-martial the convening authority shall ~~request--the--state-judge-advocate-to~~ detail trial counsel and defense counsel and such assistants as he considers appropriate. No person who has acted as investigating officer, military judge, or court member in any case may act later as trial counsel or assistant trial counsel in the same case. No person who has acted for the prosecution may later act in the same case for the defense or vice versa.

(b) Trial counsel ~~or~~ and defense counsel detailed for a ~~general~~ court-martial must be:

(1) ~~A--m~~Members of the bar ~~of-the-highest-court~~ of this state, or ~~a~~ members of the bar of a federal court; and

(2) Certified as competent to perform such duties by the state judge advocate.

SECTION 14. That Section 46-1117, Idaho Code, be, and the same is

hereby amended to read as follows:

46-1117. DETAIL OR EMPLOYMENT OF REPORTERS AND INTERPRETERS. The convening authority of a ~~general-or-special~~ court-martial shall detail or employ ~~qualified-court~~ a reporters who shall record the proceedings of ~~and-testimony-taken-before-that~~ the court. The convening authority of a military court may, if he deems it necessary, detail or employ interpreters who shall interpret for the court.

SECTION 15. That Section 46-1118, Idaho Code, be, and the same is hereby amended to read as follows:

46-1118. ABSENT AND ADDITIONAL MEMBERS. (a) No member of a ~~general--or--special~~ court-martial shall be absent or excused after the court has been assembled for the trial of the accused except for a physical disability, as a result of a challenge, or by order of the convening authority for a good cause.

(b) A general court-martial shall be composed of ~~seven--(7)~~ ~~regular~~ at least five (5) members and at least one (1) alternate member ~~selected-as-described-for-regular-members~~.

(c) A special court-martial shall be composed of ~~five-(5)-regular~~ at least three (3) members and at least one (1) alternate ~~selected--as described-for-regular~~ members.

(d) If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence had previously been introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides, and such is consented to by the accused and defense counsel. If not consented to, the convening authority may order a new trial.

SECTION 16. That Section 46-1119, Idaho Code, be, and the same is hereby amended to read as follows:

46-1119. PREFERRAL OF CHARGES. (a) Any person subject to this code may prefer charges, even if he is under charges, in arrest, or in confinement.

(b) A person subject to this code cannot be ordered to prefer charges to which he is unable truthfully to make the required oath on his own responsibility.

(c) A person preferring charges shall sign such charges under oath before a commissioned officer ~~of-the-armed-forces-authorized-to administer-oaths~~ or before any person authorized under the laws of the state of Idaho to administer oaths, and shall state:

(1) that the signer has personal knowledge of or has investigated the matters set forth therein; and

(2) that they are true in fact to the best of his knowledge and belief.

(d) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him as soon as possible.

SECTION 17. That Section 46-1120, Idaho Code, be, and the same is hereby amended to read as follows:

46-1120. COMPULSORY SELF-INCRIMINATION PROHIBITED. (a) No person subject to this code may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

(b) No person subject to this code may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial, that he has a right to consult with a lawyer, that he has a right to have a lawyer present during questioning, that he has a right to request a lawyer and that upon his request one will be provided him without cost or, if he prefers, that he may retain counsel of his choice at his own expense.

(c) No person subject to this code may compel any person to make a statement or produce evidence before any ~~military---tribunal~~ court-martial if the statement or evidence is not material to the issue and may tend to ~~degrade~~ incriminate him.

(d) No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

(e) The requirements of this section are binding on all persons administering this code, but failure to follow them does not divest a military court of jurisdiction.

SECTION 18. That Section 46-1121, Idaho Code, be, and the same is hereby amended to read as follows:

46-1121. INVESTIGATION. (a) No charge or specification shall be referred to any court-martial~~,-special-or-general,~~ for trial until a thorough and impartial investigation of all the matters set forth therein has been made. The convening authority will ~~request-that-the state-judge-advocate~~ appoint an investigating officer. ~~Such--investigating--officer--will--be--qualified--as-indicated-in-section-46-1116, Idaho-Code.-It-shall-not-be-the-function-of-t~~The investigating officer ~~to-build-a-case-for-the-government-against-the-accused,-but--to~~ shall ascertain and impartially weigh all available facts in arriving at his conclusions. The investigating officer will submit a formal report to the ~~convening-authority-and-the~~ state judge advocate. This report will include, but need not be limited to, the following:

(1) A statement of the name, organization or address of counsel, and information as to the presence or absence of counsel throughout the proceedings in all cases in which counsel has been requested by the accused.

(2) A statement of the substance of the testimony taken on both sides, including any stipulated ~~testimony, as for example, when an accused withdraws a request for a witness upon being told that the testimony expected would be regarded as taken. One additional copy of the statement of the substance of the testimony taken will be prepared for each accused~~ facts, a copy of which shall be provided to the accused.

(3) Any other statements, documents, or matters considered by him in reaching his conclusions or making his recommendations, or recitals of the substance or nature of these items.

(4) A statement of any reasonable ground for the belief that the accused is, or was at the time of an offense, mentally defective, deranged, or abnormal.

(5) A statement as to whether essential witnesses will be available in the event of trial. If essential witnesses will not be available, the reasons for nonavailability will be stated.

(b) ~~The conclusions of the investigating officer, as above referred to, will be binding on the convening authority insofar as the investigating officer finds insufficient evidence to refer the charges to a court martial. Therefore, a convening authority can only refer those charges to a court martial which the investigating officer has found to allege an offense which is warranted by sufficient evidence introduced at the investigation.~~ The state judge advocate will review the report for legal sufficiency and forward the report with his recommendations to the covening authority.

(c) At the outset of the investigation, the accused will be informed of the following:

(1) The offense charged against him;

(2) The name of the accuser and of the witnesses against him as far as are then known by the investigating officer;

(3) The fact that charges are about to be investigated;

(4) His right to counsel to represent him at the investigation, if he so desires, including the several alternatives available to him as set forth in section 46-1110, Idaho Code;

(5) ~~His right to cross examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense, extenuation, or mitigation;~~

~~(6)~~ His right to have the investigating officer examine available witnesses requested by him;

(~~7~~6) His right to make a statement in any form, and further that, if he elects to make a statement in any form, it may be used against him in a court-martial.

(d) Unless he expressly and voluntarily states that he does not desire counsel and that he is willing to make statement, he will not be interrogated until counsel is present. If, during questioning, the accused declines to make any further statement or requests to consult with counsel before answering further questions, then questioning

shall cease.

(e) The requirements of this section are binding on all persons administering this code, but failure to follow them does not divest a military court of jurisdiction.

SECTION 19. That Section 46-1122, Idaho Code, be, and the same is hereby amended to read as follows:

46-1122. FORWARDING OF CHARGES FOR GENERAL COURT-MARTIAL. When a person is held for a trial by general court-martial, the commanding officer shall, within ~~eight-(8)-days-after-the-accused-is-informed--of the--charges--against--him~~ a reasonable time, forward the charges together with the investigation ~~and--allied--papers;~~ report to the ~~governor~~ convening authority. ~~If--that-is-not-practicable;-he-shall report-in-writing-to-the-governor-the-reasons-for-delay.~~

SECTION 20. That Section 46-1123, Idaho Code, be, and the same is hereby amended to read as follows:

46-1123. REFERENCE FOR TRIAL--CHANGING THE CHARGE TO CONFORM TO EVIDENCE OR CORRECT DEFECTS. (a) The convening authority may not refer any charge to a court-martial for trial unless an investigating officer properly appointed pursuant to section 46-1121, Idaho Code, has found that the charge alleges an offense under this code and ~~{is}~~ warranted by evidence indicated in the report of the investigation.

(b) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and changes in the charges and specification needed to make them conform to the evidence may be made.

SECTION 21. That Section 46-1124, Idaho Code, be, and the same is hereby amended to read as follows:

46-1124. SERVICE OF CHARGES. The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. ~~No person--shall;--against--his--objection;--be-brought-to-trial-before-a court-martial-within-a-period-of-one-(1)-week--after--the--service--of charges-against-him.~~

SECTION 22. That Section 46-1125, Idaho Code, be, and the same is hereby repealed.

SECTION 23. That Chapter 11, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-1125, Idaho Code, and to read as follows:

46-1125. RULES OF EVIDENCE. The Military Rules of Evidence prescribed by the president of the United States shall apply in all cases

tried under this code.

SECTION 24. That Section 46-1126, Idaho Code, be, and the same is hereby amended to read as follows:

46-1126. UNLAWFULLY INFLUENCING ACTION OF COURT. (a) No person subject to this code may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court or with respect to any other exercise of its or his functions in the conduct of the proceeding.

(b) No person subject to this code may attempt to coerce or, by any unauthorized means, influence the action of ~~the~~ a court-martial ~~or any military tribunal~~ or any member thereof in reaching the findings or sentence on any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts.

(c) ~~The foregoing provision shall not apply with respect to (1) general instructional courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or (2) statements and instructions given in open court by the military judge or counsel.~~

~~(d)~~ In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a member of the national guard is qualified to be advanced in grade, or in determining the assignment or transfer of a member or in determining whether a member should be retained, no person subject to this code may, in preparing such report (1) consider or evaluate performance of duty of any member as a member of a court-martial, or (2) give a less favorable rating or evaluation of any member because of the zeal with which such member, as counsel, represented any accused before a ~~military judge,~~ court-martial ~~or any other military or appellate tribunal~~. This section shall not apply to evaluations made by the state judge advocate on the performance of his personnel.

SECTION 25. That Section 46-1127, Idaho Code, be, and the same is hereby amended to read as follows:

46-1127. DUTIES OF TRIAL COUNSEL AND DEFENSE COUNSEL. (a) The trial counsel of a ~~general or special~~ court-martial shall prosecute in the name of the state, and shall, under the direction of the court, prepare the record of the proceedings.

(b) The accused has the right to be represented in his defense before a ~~general or special~~ court-martial by civilian counsel if provided by him or by military counsel of his own selection if reasonably available, or by the defense counsel detailed under section 46-1116, Idaho Code. Should the accused have counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused ~~by the president of the court~~.

~~(c)--In-every-court-martial-proceeding,-the-military-defense-counsel-may,-at-any-time,-at--government--expense,--seek--such--collateral relief--as--he-deems-necessary-to-protect-the-rights-of-the-accused-in any-court-having-jurisdiction-to-grant-such-relief.--In--every--court-martial--proceeding,--the-defense-counsel-may,-in-the-event-of-conviction,-forward-for-attachment-to-the-record-of-proceedings-a--brief--of such-matters-as-he-feels-should-be-considered-in-behalf-of-the-accused on-review,-including-any-objection-to-the-contents-of-the-record-which he-considers-appropriate.~~

~~(d)--An--assistant--trial--counsel--of-a-general-court-martial,-if any,-may,-under-the-direction-of-the-trial-counsel-or-when-he-is-qualified-to-be-a-trial-counsel-as--required--by--section--46-1116,--Idaho Code,--perform--any--duty-imposed-by-law,-regulation,-or-the-custom-of the-service-upon-the-trial-counsel-of-the-court.--An--assistant--trial counsel--of--a-special-court-martial-may-perform-any-duty-of-the-trial counsel.~~

~~(e)--An-assistant-defense-counsel-of-a-general-or--special--court-martial--may,-under-the-direction-of-the-defense-counsel-or-when-he-is qualified-to-be-the-defense-counsel-as-required--by--section--46-1116, Idaho-Code,-perform-any-duty-imposed-by-law,-regulation,-or-the-custom of-the-service-upon-counsel-for-the-accused.~~

SECTION 26. That Section 46-1128, Idaho Code, be, and the same is hereby amended to read as follows:

46-1128. SESSIONS. (a) At any time after the service of charges which have been referred for trial to a court-martial, the military judge may, subject to section 46-1124, Idaho Code, call the court into session without the presence of the members for the following purposes:

(1) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(2) Hearing and ruling upon any matter which may be ruled upon by the military judge under this code, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(3) ~~If-permitted--by--regulations--prescribed--by--the--governor,~~ h~~H~~olding the arraignment and receiving the pleas of the accused;

(4) Performing any other procedural function which may be performed by the military judge under this code or under rules prescribed ~~pursuant-to-section-46-1125,-Idaho-Code,~~ by the adjutant general and which does not require the presence of the members of the court.

(b) The proceedings described in paragraph (a) shall be conducted in the presence of the accused, the defense counsel, and the trial counsel, and shall be made a part of the record.

(c) When the members of a court-martial deliberate or vote, only the members may be present. ~~All-other-proceedings,-including-any-other consultation-of-the-members-of-the-court-with-counsel-or-the--military judge,-shall-be-made-a-part-of-the-record-and-shall-be-in-the-presence~~

~~of--the--accused,-the-defense-counsel,-the-trial-counsel,-and-in-cases in-which-a-military-judge-has-been-detailed-to-the-court,-the-military judge.~~

SECTION 27. That Section 46-1129, Idaho Code, be, and the same is hereby amended to read as follows:

46-1129. CONTINUANCES. The military judge~~,-or,--if--there--is--no military-judge,-the-members-of-a-general-or-special-court-martial~~ may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

SECTION 28. That Section 46-1130, Idaho Code, be, and the same is hereby amended to read as follows:

46-1130. CHALLENGES. (a) The military judge and members of a ~~general-or-special~~ court-martial may be challenged by the accused or ~~the~~ trial counsel for cause stated to the court. The military judge~~,-or, if-none-has-been-detailed,-the-court-members~~ shall determine the relevancy and validity of challenges for cause. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) Each accused and the trial counsel is entitled to ~~three--(3)~~ one (1) peremptory challenges of court members in a ~~general~~ court-martial ~~and-two-(2)-peremptory-challenges-of-court-members-in--a--special--court-martial~~, but the military judge may not be challenged except for cause.

SECTION 29. That Section 46-1131, Idaho Code, be, and the same is hereby amended to read as follows:

46-1131. OATHS. (a) Before performing their respective duties, military judges, interpreters, members of ~~general-and-special~~ courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, and reporters shall take an oath or affirmation in the presence of the accused to perform their duties faithfully. ~~The-form-of-the-oath,-the-time-and-place-of-the-taking-thereof, and--the--manner-of-recording-the-same,-shall-be-prescribed-in-regulations-promulgated-by-the-governor.~~

(b) All witnesses before military courts shall be examined on oath or affirmation.

SECTION 30. That Section 46-1132, Idaho Code, be, and the same is hereby amended to read as follows:

46-1132. STATUTE OF LIMITATIONS. (a) A person charged with desertion or fraudulent discharge, as defined by the punitive articles of this code, is not liable to be tried by court-martial, or punished, if the offense was committed more than three (3) years before the receipt of sworn charges and specifications by an officer exercising ~~general or--special~~ court-martial jurisdiction over the command, or before the

imposition of punishment under the nonjudicial punishment provisions of this code.

(b) Except as otherwise provided in subsection (a), a person charged with any offense, as defined in this code, is not liable to be tried by court-martial or punished under section 46-1108, Idaho Code, if the offense was committed more than ~~six-(6)-months~~ two (2) years before the receipt of sworn charges and specifications by an officer exercising ~~special-or-general~~ court-martial jurisdiction over the command, or before the imposition of punishment under section 46-1108, Idaho Code.

SECTION 31. That Section 46-1133, Idaho Code, be, and the same is hereby amended to read as follows:

46-1133. FORMER JEOPARDY. (1) No person may~~,-without-his-consent,~~ be tried a second time in a court-martial for the same offense;

(2) No person may be tried by court-martial for any offense if he has been tried for substantially the same offense in any state court or in any United States court;

(3) No proceeding in which an accused has been found guilty by a court-martial upon any charge is a trial in the sense of this article until the finding of guilty has become final after review of the case and all available appeals have been fully completed~~;~~

~~(4)--A-proceeding-which,-after-the-introduction--of--evidence--but before-a-finding,-is-dismissed-or-terminated-by-the-military-judge-for failure--of--available--evidence-or-witnesses-without-any-fault-of-the accused-is-a-trial-in-the-sense-of-this-article~~.

SECTION 32. That Section 46-1134, Idaho Code, be, and the same is hereby amended to read as follows:

46-1134. PLEAS OF ACCUSED. (a) If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with his plea, or if it appears that he has entered a plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty.

(b) With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge ~~or-by-a-court-martial-without-a-military--judge~~, a finding of guilty of the charge or specification ~~may,-if-permitted-by-regulations issued--pursuant--to--this--code,~~ shall be entered immediately ~~without vote~~. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn and such withdrawal is permitted by the military judge prior to announcement of the sentence, in which event the proceeding shall continue as though the accused had pleaded not guilty.

SECTION 33. That Section 46-1135, Idaho Code, be, and the same is hereby amended to read as follows:

46-1135. DISCOVERY. (a) At any session convened pursuant to section 46-1128, Idaho Code, and for good cause shown at trial, the military judge shall, upon a motion of the accused, order the ~~prosecutor~~ trial counsel to divulge to the accused, and, where necessary, permit the accused to inspect, copy or photograph:

(1) Any statement~~,-written-or-recorded,--verbatim--or--otherwise,~~ made by the accused relevant to the offense charged which is in the possession, custody or control of the ~~government~~ state, the existence of which is known or may become known to the trial counsel by the exercise of due diligence;

~~(2) The--substance--of--any--oral--statement--made-by-the-accused either-before-or-after-arrest-which-the-trial-counsel--intends--to offer-into-evidence-at-trial;~~

~~(3)~~ Written or recorded statements, or the substance of an oral statement made by a coaccused ~~either-before-or-after-arrest~~, which the trial counsel intends to offer into evidence at trial;

(~~4~~3) The prior military record, as is then available to the trial counsel, of the accused~~,~~ or of any coaccused~~,-or-of-any-person-the trial-counsel-intends-to-call-as-his-witness-at-trial~~;

(~~5~~4) The names and current addresses, if known, together with any relevant prior statement of all persons, civilian or military, whom the trial counsel intends to call as witnesses at trial;

~~(6)--The--military--personnel-records-(field-201-file)-of-all-persons-selected-as-prospective-jurors,-if-such-a-selection-has--been made-at-the-time-of-the-session,-or,-if-the-selection-has-not-been made--at-the-time-of-the-session,-the-motion-may-be-made-at-trial;~~

(~~7~~5) The report of any nonjudicial or quasi-judicial investigation conducted by the state relevant to the offense charged unless the military judge finds, on good cause shown, that the disclosure would be inimical to the state or national security;

(~~8~~6) The results and reports of any physical or mental examinations, or of scientific tests or experiments, made in connection with the case, within the possession, custody, or control of the trial counsel, the existence of which is known to the trial counsel, or which may become known by the exercise of due diligence; and

(~~9~~7) The report of the investigating officer made pursuant to section 46-1121, Idaho Code~~,-if-any,-and-all-exhibits--and--testimony-appended-thereto~~.

(b) At any session convened pursuant to section 46-1128, Idaho Code, and, for good cause shown at trial, the military judge may, upon a motion of the accused, order the trial counsel to permit the accused to inspect, copy, or photograph books, papers, documents, tangible objects, buildings, or places or copies or portions thereof, which are within the possession, custody, or control of the ~~government~~ state, upon a showing that they are material to the preparation of the defense and that the request is reasonable. If the relief requested hereunder is granted, the military judge may, upon motion of the trial counsel, inspect, copy, or photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions

thereof which the accused intends to introduce into evidence at trial, which are related to the discovery sought by the accused and which are within the possession, custody, or control of the defense upon a showing that they are material to the preparation of the **government's** state's case and that the request is reasonable.

(c) Notwithstanding any other provisions of this **article** section, the trial counsel shall disclose to the accused, as soon as it is discovered, all material, exculpatory evidence actually known to the trial counsel, whether or not a request for such evidence has been made by the accused.

(d) Except as provided in subsections (a) and (c) of this section, discovery or inspection is not authorized of reports, memoranda or other internal **government** documents made by **government** state agents in connection with the investigation or prosecution of the case, or to statements made by **government** state witnesses or prospective **government** state witnesses to agents of the **government** state except as provided in 18 USCA sec. 3500.

(e) The military judge in granting relief under this article, shall, if necessary, specify the time, place, and manner of making the discovery and inspection permitted, under such terms and conditions as are just.

(f) Whenever discovery is ordered or required under this article, a continuing duty to disclose exists, and whenever a party discovers additional material previously requested or ordered which is subject to discovery or inspection, he shall promptly notify the other party or his counsel and the military judge of the existence of such additional material. In the event that either party fails to comply with this article or with an order issued pursuant to this article, the military judge may grant a continuance or prohibit the party from introducing into evidence the material not disclosed or it may enter such other order, including dismissal of all charges **with--prejudice**, as it deems just under the circumstances.

(g) Upon a sufficient showing by either party the military judge may at any time order that discovery or inspection be denied, restricted or deferred, or make such other order as is appropriate.

(h)--The--military--judge--may--at--any--time,--upon-motion-of-the accused,-direct-the-filing-of-a-bill-of-particulars,-which-bill-may-be amended-at-any-time-subject-to-such-conditions-as-justice-requires.

SECTION 34. That Section 46-1136, Idaho Code, be, and the same is hereby amended to read as follows:

46-1136. OPPORTUNITY TO OBTAIN WITNESSES AND OTHER EVIDENCE. (a) **The--trial-counsel-and-defense-counsel-shall-have-equal-opportunity-to obtain-witnesses-and-other-evidence--in--accordance--with--regulations issued-by-the-governor-pursuant-to-this-code.** Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall be the same as that which the courts of this state having criminal jurisdiction may lawfully issue and shall run to any part of the state and to any other state in which the court-martial may be sitting. **A-refusal-of-a-request-for--such--as**

~~herein-provided-is-appealable-as-an-interlocutory-matter.~~

(b) (1) The authority to issue orders to conduct searches and seizures of persons and property subject to the provisions of this chapter in connection with any offense prohibited by this code may be exercised ~~only~~ by a military judges~~-in-accordance-with--regulations--promulgated-by-the-governor.-Such-authority-can-only-extend to-persons,-vehicles,-and-places-on-a-military-reservation~~ or by a judge or magistrate of a district court of this state.

(2) No search or seizure of persons or property shall be ordered ~~by--any--military-judge~~ except in writing upon probable cause supported by written affidavits and particularly describing the person or place to be searched or the person or thing to be seized.

(3) ~~No-other-search-or-seizure-is-authorized,-except--as--may--be necessary--to--protect-the-life-of-a-person-making-an-arrest-under the-authority-of-this-code,-or-to-prevent-the-destruction-of--evidence.~~

Nothing in this code shall limit commanding officers in the exercise of their authority to conduct reasonable searches and seizures pursuant to law or military regulation, whether state or federal.

SECTION 35. That Section 46-1137, Idaho Code, be, and the same is hereby amended to read as follows:

46-1137. PROCESS -- MANDATES -- SUBPOENAS DUCES TECUM -- ATTACHMENT OF WITNESSES AND BOOKS AND RECORDS -- FORM -- EXECUTION -- SERVICE WITHOUT CHARGE. (a) Military courts are empowered to issue all process and mandates necessary and proper to carry into full effect the powers vested in such courts. Such courts shall have power to issue subpoenas duces tecum and to enforce by attachment attendance of witnesses, the accused, and production of books and records.

(b) Such process and mandates may be issued by the military judge of a ~~special--and--general~~ court-martial and may be directed to any peace officer as defined in the laws of this state ~~and--shall--be--in such--form-as-may-be-prescribed-by-regulations-issued-pursuant-to-this act.~~

(c) It shall be the duty of all officers to whom such process or mandates may be directed to execute the same and make return of their acts thereunder according to the requirements of the same. ~~Except--as otherwise--specifically--provided--in--this-act,-no-such-officer-shall demand-or-require-payment-of-any-fee--or--charge--of--any--nature--for receiving,--executing--or-returning-any-such-process-or-mandate-or-for any-services-in-connection-therewith.~~

(d) Any person not subject to this code who:

(1) has been duly subpoenaed to appear as a witness before a court-martial,~~--court--of--inquiry,-or-any-other-military-court-or board,~~ or before any military or civil officer designated to take a deposition to be read in evidence before such a court or board;

(2) has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the courts of

the state of Idaho; and

(3) willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce;

commits an offense under this act and may be tried by complaint and information in an Idaho district court, jurisdiction hereby being conferred upon those courts for that purpose. Upon conviction, such a person shall be punished by a fine of not more than two hundred dollars ($200), or imprisonment for not more than thirty (30) days. The prosecuting attorney or the officer prosecuting for the state of Idaho in the district court shall, upon certification of the facts to him by the military ~~court-or-board-of-inquiry~~ judge, file an affidavit against and prosecute any person violating this ~~article~~ section.

SECTION 36. That Section 46-1138, Idaho Code, be, and the same is hereby amended to read as follows:

~~[~~46-1138~~]~~ ~~46-1140~~. CONTEMPTS. (a) A military judge ~~or--military court~~ may punish for contempt any person subject to this code who uses any disrespectful word, sign or gesture in its presence, or who disturbs its proceedings by any riot or disorder.

(b) Any person not subject to this code who engages in conduct described in subsection (a) of this section, may be fined not more than two hundred dollars ($200) or imprisoned not more than thirty (30) days or both. Upon certification of the facts by the military court ~~or-tribunal~~ to the prosecuting attorney of the county where the offense occurred, the prosecuting attorney shall prosecute the accused in any court of record, jurisdiction hereby being conferred upon such courts for this purpose.

SECTION 37. That Section 46-1139, Idaho Code, be, and the same is hereby amended to read as follows:

46-1139. DEPOSITIONS. (a) At any time after charges have been signed, as provided in section 46-1119, Idaho Code, any party may take oral or written depositions unless the military judge ~~or-court-martial without--judge,~~ or, if a military judge ~~or-court-martial-have~~ has not yet been appointed, the convening authority forbids it for good cause. If a deposition is to be taken before charges are referred for trial, the convening authority shall ~~request-that-counsel-be~~ designated ~~by the-state-judge-advocate-to-represent-the-prosecution-and-the--defense~~ trial and defense counsel for the purpose of taking the deposition of any witness. ~~Such-counsel-will-be-qualified-as--indicated--in--section 46-1116,-Idaho-Code.~~

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions shall be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read into evidence before any court-martial ~~or any proceeding before a court of inquiry~~, if it appears:

(1) that the witness resides or is beyond the state in which the court-martial ~~or court of inquiry~~ is ordered to sit, or beyond the distance of one hundred (100) miles from the place of trial or hearing.

(2) that the witness, by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, ~~nonamendability~~ ~~{~~nonamenability~~}~~ to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) that the present whereabouts of the witness is unknown.

~~(e) Such depositions as provided for in this section will be at the expense of the government.~~

SECTION 38. That Section 46-1140, Idaho Code, be, and the same is hereby repealed.

SECTION 39. That Section 46-1141, Idaho Code, be, and the same is hereby amended to read as follows:

46-1141. VOTING AND RULINGS. (a) Voting by members of a general or special court-martial on the findings and on the sentence~~, and by members of a court-martial without a military judge upon questions of challenge,~~ shall be by secret written ballot. The junior member of the court shall, in each case, count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(b) The military judge ~~and, except for question of challenge, the president of a court-martial without a military judge~~ shall rule upon all questions of law and all interlocutory questions ~~arising during the proceedings~~. Such ruling made by the military judge upon any question of law or any interlocutory question other than the factual issue of mental responsibility of the accused~~, or by the president of a special court-martial without a military judge upon any question of law other than a motion for a finding of not guilty,~~ is final and constitutes the ruling of the court. However, the military judge ~~or the president of a court-martial without a military judge~~ may change the ruling at any time during the trial. ~~Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote beginning with the junior in rank.~~

(c) Before a vote is taken on the findings, the military judge ~~or the president of a court-martial without a military judge~~ shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court:

(1) That the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

(2) That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused, and he must be acquitted; and

(3) ~~That,--if--there--is--a--reasonable-doubt-as-to-the-degree-of guilt,-the-finding-must-be-in-a-lower-degree-as-to-which-there--is no-reasonable-doubt;-and~~

~~(4)~~ That the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the state.

(d) ~~Divisions~~ Subsections (a), (b), and (c) of this section do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and in addition shall, on request, find the facts specially. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

SECTION 40. That Section 46-1142, Idaho Code, be, and the same is hereby amended to read as follows:

46-1142. NUMBER OF VOTES REQUIRED. (a) No person shall be convicted of any offense, except by the concurrence of ~~three-quarters~~ two-thirds (2/3) of the members ~~present-at-the-time-the-vote-is-taken.~~

(b) All sentences shall be determined by the concurrence of ~~three-quarters~~ two thirds (2/3) of the members ~~present-at-the-time that-the-vote-is-taken.~~

~~(c)--All-other-questions-to-be-decided-by-the-members-of-a-general or-special-court-martial-shall-be-determined-by-a-majority-vote,-but-a determination-to-reconsider-a-finding-of-guilty--or--to--reconsider--a sentence,--to--decrease-or-to-lessen-it-may-be-made-by-any-lesser-vote which-indicates-that-the-reconsideration-is-not-opposed-by-the--number of--votes-required-for-that-finding-or-sentence.-A-tie-vote-on-a-challenge-disqualifies-the-member-challenged.-A-tie-vote-on-a-motion-for-a finding-of-not-guilty-or-on-a-motion-relating-to-the-question--of--the accused's-sanity-is-a-determination-in-favor-of-the-accused.~~

SECTION 41. That Section 46-1144, Idaho Code, be, and the same is hereby amended to read as follows:

46-1144. RECORD OF TRIAL. (a) ~~Each-general~~ A court-martial shall keep a ~~separate~~ record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by that of a member if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. ~~The-record-shall-contain-matters-as may-be-prescribed-by-regulations-of-the-governor.~~

(b) ~~Each-special-court-martial-shall-keep-a--separate--record--of the--proceedings--in-each-case,-which-record-shall-contain-such-matter~~

~~and-be-authenticated-in-such-manner-as-may-be-required-by--regulations which-the-governor-may-prescribe.~~

A copy of the record of the proceedings of ~~each-general-and special~~ a court-martial shall be given to the accused as soon as it is authenticated. ~~If-a-verbatim-record-of-trial-by--general--or--special court-martial--is--not--required-under-subsections-(a)-and-(b)-of-this section,-the-accused-may-buy-such-a-record-under-such--regulations--as the-governor-may-prescribe.~~

SECTION 42. That Section 46-1145, Idaho Code, be, and the same is hereby amended to read as follows:

46-1145. DISHONORABLE ~~OR--BAD-CONDUCT~~ DISCHARGE, DISCHARGE UNDER LESS THAN HONORABLE CONDITIONS OR DISMISSAL -- PROCEDURE. (a) A dishonorable discharge, ~~bad-conduct~~ discharge under less than honorable conditions, or dismissal may not be adjudged by any court-martial unless a complete ~~and-verbatim~~ record of the proceedings and testimony before the court has been made.

(b) A sentence of dishonorable discharge or dismissal may not be executed until it is approved by the governor.

SECTION 43. That Sections 46-1146 and 46-1147, Idaho Code, be, and the same are hereby repealed.

SECTION 44. That Section 46-1148, Idaho Code, be, and the same is hereby amended to read as follows:

46-1148. EFFECTIVE DATE OF SENTENCES. ~~(a)~~ Sentences of courts-martial shall become effective on the date when all reviews provided by this code have been ~~finally~~ completed.

~~(b)--Any--period-of-confinement-included-in-a-sentence-of-a-court-martial-shall-be-executed-on-the-next-eligible-day-on-which--the--confinement--can--be-served-after-the-final-completion-of-all-reviews-and appeals,-provided-that-the-convening-authority,-or,-if-the-accused--is no--longer--subject--to-his-command,-the-current-commanding-officer-of the-accused,-may-permit-service-of-confinement-by-the-accused-within-a reasonable-time-after-the-sentence-becomes-effective.~~

SECTION 45. That Sections 46-1149 through 46-1153, Idaho Code, be, and the same are hereby repealed.

SECTION 46. That Section 46-1154, Idaho Code, be, and the same is hereby amended to read as follows:

46-1154. REVIEW OF RECORD BY STATE JUDGE ADVOCATE. (a) ~~When-t~~The convening authority ~~has-taken-final-action-in-a-court-martial-case,-he~~ shall forward the ~~entire~~ record~~,-including-his-action-thereon-and--the opinion--or--opinions-of-the-staff-judge-advocate-or-legal-officer,~~ to the state judge advocate for review.

(b) The state judge advocate shall review the record of trial in every case forwarded to him for review as provided in this section.

(c) The state judge advocate shall have authority to:
(1) ~~Act--only--with--respect--to--the--findings--and--sentence-as approved-by-the-convening-authority;~~
~~(2)~~ Affirm only such findings of guilty, and the sentence or such part or amount of the sentence as he finds correct in law and fact and determines on the basis of the entire record should be approved;
~~(3)--Weigh--the--evidence;-judge-the-credibility-of-witnesses;-and determine-controverted-questions-of--fact;--recognizing--that--the trial-court-saw-and-heard-the-witnesses;~~
(4~~2~~) Order a rehearing if he sets aside the findings and sentence, except where the setting aside is based on lack of sufficient evidence to support the findings;
(5~~3~~) Order that the charges be dismissed if he sets aside the findings and sentence ~~and-does-not-order-a-rehearing~~ based on lack of sufficient evidence to support the findings.

SECTION 47. That Sections 46-1156 and 46-1157, Idaho Code, be, and the same are hereby repealed.

SECTION 48. That Section 46-1158, Idaho Code, be, and the same is hereby amended to read as follows:

46-1158. PETITION FOR NEW TRIAL -- NEWLY DISCOVERED EVIDENCE -- FRAUD. At any time within one (1) year after ~~approval-by-the-convening authority-and-the-state-judge-advocate--of--a--court-martial--sentence which--extends--to--dismissal;--dishonorable-or-bad-conduct-discharge;~~ sentence is imposed the accused may petition the ~~governor~~ adjutant general for a new trial on the grounds of newly discovered evidence or fraud on the court-martial. ~~The-governor-shall-act-upon-the-petition.~~

SECTION 49. That Section 46-1159, Idaho Code, be, and the same is hereby amended to read as follows:

46-1159. UNEXECUTED SENTENCE -- ~~UNCOLLECTED-FORFEITURES~~-- REMISSION -- SUSPENSION. (a) ~~Authority-of-governor-or-convening--authority.~~ The governor or the adjutant general may remit or suspend any part or amount of the unexecuted portion of any sentence~~;-including-all-uncollected-forfeitures.-The-convening-authority-may-remit-or--suspend--any part--or--amount--of-the-unexecuted-portion-of-any-sentence;-including all-uncollected-forfeitures;-other-than-a--sentence--approved--by--the governor~~.
(b) Administrative discharge. The governor or the adjutant general may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

SECTION 50. That Section 46-1160, Idaho Code, be, and the same is hereby amended to read as follows:

46-1160. RESTORATION. (a) Under such regulations as may be pre-

scribed pursuant to this act, all rights, privileges, and property affected by an executed portion of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed portion is included in a sentence imposed upon the new trial or rehearing.

(b) Where a previously executed sentence of dishonorable ~~or bad conduct~~ discharge or discharge under less than honorable conditions is not sustained on a new trial, the adjutant general shall substitute therefor a form of honorable discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(c) Where a previously executed sentence of dismissal is not sustained on a new trial, the adjutant general shall substitute therefor a form of honorable discharge authorized for administrative issuance or the officer dismissed by such sentence may be reappointed by the governor alone to such commissioned rank as in the opinion of the governor such former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be made effective as of the date of dismissal and he shall be carried on an unassigned list until a position vacancy shall occur. All time between the dismissal and such reappointment shall be considered as service for all state purposes.

SECTION 51. That Sections 46-1161 and 46-1183, Idaho Code, be, and the same are hereby repealed.

SECTION 52. That Section 46-1177, Idaho Code, be, and the same is hereby amended to read as follows:

46-1177. FAILURE TO OBEY ~~GENERAL~~ ORDERS -- DERELICTION IN DUTY. Any person subject to this code who, without justifying circumstances:

(a) Violates or fails to obey any lawful ~~general~~ order or regulation; or

(b) Is derelict in the performance of his duties,

shall be punished as a court-martial may direct.

SECTION 53. That Section 46-1184, Idaho Code, be, and the same is hereby amended to read as follows:

46-1184. PUBLIC PROPERTY -- CAPTURED OR ABANDONED PROPERTY -- PRIVATE DISPOSAL FOR PROFIT -- LOOTING. (a) All persons subject to this code shall secure all public property taken for the service of the state of Idaho and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody or control.

(b) Any person subject to this code who, while on duty:

(1) Fails to carry out the duties prescribed in subsection (a) of this section; or

(2) Buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he shall receive or expect

any profit, benefit, or advantage to himself or another directly or indirectly concerted with himself; or

(3) Engages in looting or pillaging,

shall be punished as a court-martial may direct.

SECTION 54. That Sections 46-1185 and 46-1186, Idaho Code, be, and the same are hereby repealed.

SECTION 55. That Section 46-1187, Idaho Code, be, and the same is hereby amended to read as follows:

46-1187. TRIAL OF CIVIL-TYPE OFFENSES BY GUARDSMEN IN EVENT OF PROLONGED STATEWIDE SUSPENSION OF CIVIL COURTS. In the event that the civil judiciary is not functioning to try cases for long periods of time statewide so that there is no ~~form~~ forum in which to try allegations against guardsmen of felonious civil offenses, this code incorporates ~~Articles-116,-118,-119,-120-130-and-132-of--the--UCMJ~~ 10 U.S.C. secs. 916, 918-930 and 932 for trial by courts-martial, pursuant to the provisions of section 46-1183, Idaho Code.

SECTION 56. That Sections 46-1188 through 46-1190, Idaho Code, be, and the same are hereby repealed.

SECTION 57. That Section 46-1191, Idaho Code, be, and the same is hereby amended to read as follows:

46-1191. ADMINISTRATION OF OATHS -- AFFIDAVITS. ~~The-following national-guard~~ Commissioned officers shall have the power to administer oaths for the purpose of military administration, including military justice, and affidavits may be taken for such purposes before such officers~~:~~

~~(1)--All-judge-advocates-of-the-Idaho-national-guard;~~

~~(2)--All-legal-officers;~~

~~(3)--All-adjutants,-assistant-adjutants,-acting-adjutants-and-personnel---adjutants,---including---warrant---officers--acting--in--such capacities.~~

SECTION 58. That Section 46-1193, Idaho Code, be, and the same is hereby repealed.

SECTION 59. That Chapter 11, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-1193, Idaho Code, and to read as follows:

46-1193. REGULATORY AUTHORITY. The adjutant general shall have authority to promulgate such regulations as he deems necessary and proper to carry out the intent of this code.

Approved March 28, 1984.

CHAPTER 93
(H.B. No. 419)

AN ACT
RELATING TO THE TRANSPORT OF FEMALE INMATES FOR ATTENDANCE AT COURTS; REPEALING SECTION 20-503, IDAHO CODE.

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

SECTION 1. That Section 20-503, Idaho Code, be, and the same is hereby repealed.

Approved March 28, 1984.

CHAPTER 94
(H.B. No. 463)

AN ACT
RELATING TO TRUSTEE ZONES OF SCHOOL DISTRICTS; AMENDING SECTION 33-313, IDAHO CODE, TO PROVIDE THE TERM OF A TRUSTEE APPOINTED TO A NEWLY CREATED TRUSTEE ZONE, AND TO PROVIDE FOR THE ELECTION OF A TRUSTEE TO THE NEWLY CREATED TRUSTEE ZONE; AND AMENDING SECTION 33-504, IDAHO CODE, TO PROVIDE THE TERM OF A TRUSTEE APPOINTED TO FILL A VACANCY ON THE BOARD OF TRUSTEES AND TO PROVIDE FOR THE ELECTION OF A TRUSTEE TO FILL THE UNEXPIRED TERM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 33-313, Idaho Code, be, and the same is hereby amended to read as follows:

33-313. TRUSTEE ZONES. Each elementary school district shall be divided into three (3) trustee zones and each other school district shall be divided into no fewer than five (5) or more than nine (9) trustee zones according to the provisions of section 33-501, Idaho Code. Any proposal to define the boundaries of the several trustee zones in each such school district shall include the determination, where appropriate, of the number of trustee zones in such district, and the date of expiration of the term of office for each trustee. The boundaries of the several trustee zones in each such school district shall be defined and drawn so that, as reasonably as may be, each such zone shall have approximately the same population. For the purpose of this act, population shall be construed to be the legal residents of the district and children of such legal residents as provided in article 6, section 2 of the constitution of the state of Idaho.

Whenever the area of any district has been enlarged by the annexation of all or any part of another district, or by the correction of

errors in the legal description of school district boundaries, any such additional territory shall be included in the trustee zone or zones contiguous to such additional territory until such time as the trustee zones may be redefined and changed. Trustee zones may be redefined and changed, but not more than once every two (2) years in the manner hereinafter provided.

A proposal to redefine and change trustee zones of any district may be initiated by its board of trustees, and submitted to the state board of education, or by petition signed by not less than fifty (50) school electors residing in the district, and presented to the board of trustees of the district. Within sixty (60) days following the receipt of a petition to redefine and change the trustee zones of a district the board of trustees shall prepare a proposal for a change which will equalize the population in each zone in the district and shall submit the proposal to the state board of education. Any proposal, or petition, shall include a legal description of each trustee zone as the same would appear as proposed, a map of the district showing how each trustee zone would then appear, and the approximate population each would then have, should the proposal to change any trustee zones become effective.

Within sixty (60) days after it has received the said petition and plan the state board of education may approve or disapprove any proposal to redefine and change trustee zones and shall give notice thereof in writing to the board of trustees of the district wherein the change is proposed. Should the state board of education approve the proposal, the board of trustees shall within sixty (60) days after notification of the approval of such proposal submit to the school district electors residing in the district, in an election to be held not less than thirty (30) days prior to the date of the next ensuing annual election of school district trustees, the question of approving or disapproving the proposal to change trustees zones. Notice of such election shall be posted and published, the election shall be held and conducted and the ballots canvassed, as provided in sections 33-401--33-406, Idaho Code. If a majority of the school district electors residing in the district, and voting in the election, should approve the proposal, the trustee zones shall be changed in accordance with the proposal.

At the next regular meeting of the board of trustees following the approval of the proposal the board shall appoint from its membership or from the patrons resident in each trustee zone, a person from that zone to serve as trustee until the next ~~regularly-scheduled-trustee election-for-that-zone~~ annual meeting. At the annual election a trustee shall be elected to serve during the term specified in the election for the zone. The elected trustee shall assume office at the annual meeting of the school district next following the election.

SECTION 2. That Section 33-504, Idaho Code, be, and the same is hereby amended to read as follows:

33-504. VACANCIES ON BOARDS OF TRUSTEES. A vacancy shall be declared by the board of trustees when any nominee has been elected

but has failed to qualify for office, or when any trustee shall (a) die; (b) resign as trustee; (c) remove himself from his trustee zone of residence; (d) no longer be a resident or school district elector of the district; (e) refuse to serve as trustee; or (f) without excuse acceptable to the board of trustees, fail to attend four (4) consecutive regular meetings of the board.

Such 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 are determined to exist.

The board of trustees shall appoint to such vacancy a person qualified to serve as trustee of the school district providing there remain in membership on the board of trustees a majority of the membership thereof, and the board shall notify the state board of education of the appointment. Otherwise, appointments shall be made by the board of county commissioners of the county in which the district is situate, or of the home county if the district be a joint district.

Any person appointed as herein provided shall serve until the annual ~~election~~ meeting of school district trustees next following such appointment. At ~~such~~ the annual election a trustee shall be elected to complete the unexpired term of the office which was declared vacant and filled by appointment.

The elected trustee shall assume office at the annual meeting of the school district next following the election.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 28, 1984.

CHAPTER 95
(H.B. No. 497)

AN ACT

RELATING TO CREDIT UNIONS; REPEALING SECTION 26-2145, IDAHO CODE; AMENDING CHAPTER 21, TITLE 45, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 26-2145, IDAHO CODE, TO PROVIDE PROCEDURES BY WHICH STATE CHARTERED CREDIT UNIONS MAY ENGAGE IN ACTIVITIES THAT MAY BE EXERCISED BY A FEDERAL CREDIT UNION, AND TO PROVIDE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF FINANCE.

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

SECTION 1. That Section 26-2145, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 21, Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 26-2145, Idaho Code, and to read as

follows:

26-2145. AUTHORITY TO EXERCISE FEDERAL POWERS. (a) Notwithstanding any other provision of law, but subject to the limitations provided for in this section, a credit union may engage in any activity in which it could engage, exercise any power it could exercise, or make any loan or investment which it could make if it were operating as a federal credit union. Any such activity must be authorized by federal law or regulation.

(b) Before engaging in any activity or exercising any power afforded under this section, a credit union shall first notify the director of its intent to do so. This notice shall be sent to the director by U.S. mail, postage prepaid, certified or registered, with return receipt requested. Should the director take no action on the request within twenty (20) days of delivery to the director, the right to engage in the action or power so requested shall be deemed granted.

(c) Should the director deny the request, the affected credit union shall have the right to request a hearing before the director, which hearing shall be held within thirty (30) days of the date of the denial.

(d) The director shall have the discretion to deny any request which is inconsistent with the purposes of this chapter.

(e) No such approval shall operate to deny the director of any of his authority under this chapter and such permitted activity shall be subject to regulation by the director.

Approved March 28, 1984.

CHAPTER 96
(H.B. No. 527)

AN ACT

RELATING TO THE IDAHO TORT CLAIMS ACT; AMENDING SECTION 6-924, IDAHO CODE, TO INCREASE THE DOLLAR LIMIT OF LIABILITY OF A GOVERNMENTAL ENTITY OR ITS INSURER FOR TORTIOUS CONDUCT BY THE GOVERNMENTAL ENTITY OR ITS EMPLOYEES; REPEALING SECTION 6-926, IDAHO CODE; AMENDING CHAPTER 9, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-926, IDAHO CODE, TO PROVIDE LIMITS OF LIABILITY FOR GOVERNMENTAL ENTITIES, TO PROVIDE FOR JUDGMENT OR CLAIMS IN EXCESS OF A COMPREHENSIVE LIABILITY INSURANCE PLAN, AND TO PROVIDE FOR REDUCTION BY A COURT; TO PROVIDE APPLICATION AND TO PROVIDE AN EFFECTIVE DATE.

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

SECTION 1. That Section 6-924, Idaho Code, be, and the same is hereby amended to read as follows:

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 ~~act~~ chapter shall provide~~:~~

~~1.--In--respect-to-personal-injury-or-death,-exclusive-of-interest and-costs,~~ that the insurance carrier ~~shall~~ pay on behalf of the insured governmental entity or its employee to a limit of not less than ~~one~~ five hundred thousand dollars ($~~1~~500,000) ~~per-person--limited to--three--hundred-thousand-dollars-($300,000)-in-any-one-(1)-accident where-two-(2)-or-more-persons-have-claims-or-judgments.~~

~~2.--In-respect-to-damage-or-loss-of-property,-the--insurance--carrier--shall--pay--on--behalf-of-the-insured-governmental-entity-or-its employee-to-a-limit-of-not-less--than--one--hundred--thousand--dollars ($100,000)--because--of--damage--or--loss--of--property-in-any-one-(1) accident~~ 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.

SECTION 2. That Section 6-926, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 9, Title 6, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 6-926, Idaho Code, and to read as follows:

6-926. JUDGMENT OR CLAIMS IN EXCESS OF COMPREHENSIVE LIABILITY PLAN -- REDUCTION BY COURT -- LIMITS OF LIABILITY. The combined, aggregate liability of a governmental entity and its employees for damages, costs and attorney fees under this chapter, on account of bodily or personal injury, death, or property damage, or other loss as the result of any one (1) occurrence or accident regardless of the number of persons injured or the number of claimants, shall not exceed and is limited to five hundred thousand dollars ($500,000), unless the governmental entity has purchased applicable, valid, collectible liability insurance coverage in excess of said limit, in which event the controlling limit shall be the remaining available proceeds of such insurance. If any judgment or judgments, including costs and attorney fees that may be awarded, are returned or entered, and in the aggregate total more than five hundred thousand dollars ($500,000), or the limits provided by said valid, collectible liability insurance, if any, whether in one or more cases, the court shall reduce the amount of the award or awards, verdict or verdicts, or judgment or judgments in any case or cases within its jurisdiction so as to reduce said aggregate loss to said applicable statutory limit or to the limit or limits provided by said valid, collectible insurance, if any, whichever was greater.

Limits of liability above specified shall not be increased or altered by the fact that a decedent, on account of whose death a wrongful death claim is asserted hereunder, left surviving him or her more than one (1) person entitled to make claim therefor, nor shall the aggregate recovery exceed the single limit provided for injury or

death to any one (1) person in those cases in which there is both an injury claim and a death claim arising out of the injury to one (1) person, the intent of this section being to limit such liabilities and recoveries in the aggregate to one (1) limit only.

The entire exposure of the entity and its employee or employees hereunder shall not be enlarged by the number of liable employees or the theory of concurrent or consecutive torts or tort feasors or of a sequence of accidents or incidents if the injury or injuries or their consequences stem from one (1) occurrence or accident.

In no case shall any court enter judgment, or allow any judgment to stand, which results in the limit of liability herein provided to be exceeded in any manner or respect. If any court has jurisdiction of two (2) or more such claims in litigation in which the adjudication is simultaneous and, in the aggregate, exceeds the limits above provided, the reduction shall be pro rata in a proportion consistent with the relative amounts of loss of the claimants before the court; otherwise, the reduction shall be determined and made in view of limits remaining after the prior settlement of any other such claims or the prior satisfaction of any other such judgments, and no consideration shall be given to other such outstanding claims, if any, which have not been settled or satisfied prior thereto.

The court shall reduce any judgment in excess of the limits provided by this act in any matter within its jurisdiction, whether by reason of the adjudication in said proceedings alone or of the total or aggregate of all such awards, judgments, settlements, voluntary payments or other such loss relevant to the limits above provided.

SECTION 4. This act shall be in full force and effect on and after October 1, 1984, and shall apply to all claims under the Idaho tort claims act which arise out of any accident occurring or any negligent or wrongful act or omission of any governmental entity or its employee committed on and after October 1, 1984.

Approved March 28, 1984.

CHAPTER 97
(H.B. No. 565)

AN ACT

RELATING TO THE EDUCATIONAL SUPPORT PROGRAM; AMENDING SECTION 33-1003, IDAHO CODE, TO PROVIDE FOR A TIME PERIOD OF FIVE YEARS FOR ADJUSTMENT OF THE PRECONSOLIDATION SUPPORT PROGRAM ALLOWANCE FOR NEW SCHOOL DISTRICTS FORMED BY CONSOLIDATION.

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

SECTION 1. That Section 33-1003, Idaho Code, be, and the same is

hereby amended to read as follows:

33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PROGRAM. 1. Decrease in Average Daily Attendance. -- Any school district which has a decrease in total average daily attendance of one percent (1%) of its average daily attendance in the then current school year from the total average daily attendance used for determining the allowance in the educational support program for the school year immediately preceding, the allowance of funds from the educational support program may be based on the average daily attendance of the school year immediately preceding, less one percent (1%). When this provision is applied, the decrease in average daily attendance shall be proportionately distributed among the various categories of support units that are appropriate for the district.

2. Application of Support Program to Separate Schools in District.

a. Separate Elementary School. -- Any separate elementary school shall be allowed to participate in the educational support program as though the school were the only elementary school operated by the district.

b. Hardship Elementary School. -- Upon application of the board of trustees of a school district, the state board of education is empowered to determine that a given elementary school or elementary schools within the school district, not otherwise qualifying, are entitled to be counted as a separate elementary school as defined in section 33-1001, Idaho Code, when, in the discretion of the state board of education, special conditions exist warranting the retention of the school as a separate attendance unit and the retention results in a substantial increase in cost per pupil in average daily attendance above the average cost per pupil in average daily attendance of the remainder of the district's elementary grade school pupils.

c. Separate Secondary School. -- Any separate secondary school shall be allowed to participate in the educational support program as though the school were the only secondary school operated by the district.

d. Minimum Pupils Required. -- Any elementary school having less than ten (10) pupils in average daily attendance shall not be allowed to participate in the state or county support program unless the school has been approved for operation by the state board of education.

3. Remote Schools. -- The board of trustees of any Idaho school district which operates and maintains a school which is remote and isolated from the other schools of the state because of geographical or topographical conditions may petition the state board of education to recognize and approve the school as a remote and necessary school. The petition shall be in form and content approved by the state board of education and shall provide such information as the state board of education may require. Petitions for the recognition of a school as a remote and necessary school shall be filed annually at least ninety (90) days prior to the date of the annual meeting of the board of

trustees as established in section 33-510, Idaho Code.

Within forty-five (45) days after the receipt of a petition for the recognition of a remote and necessary school, the state board of education shall either approve or disapprove the petition and notify the board of trustees of its decision. Schools which the state board of education approves as being necessary and remote shall be allowed adequate funding within the support program for an acceptable educational program for the students of the school. In the case of a remote and necessary secondary school, grades 7-12, the educational program shall be deemed acceptable when, in the opinion of the state board of education, the accreditation standard relating to staff size, established in accordance with section 33-119, Idaho Code, has been met. The final determination of an acceptable program and adequate funding in the case of a remote and necessary elementary school shall be made by the state board of education.

4. Support program when district boundaries are changed.

a. In new districts formed by the division of a district, the support program computed for the district divided in its last year of operation, shall be apportioned to the new districts created by the division, in the proportion that the average daily attendance of pupils, elementary and secondary combined, residing in the area of each new district so created, is to the average daily attendance of all pupils, elementary and secondary combined, in the district divided in its last year of operation before the division.

b. When boundaries of districts are changed by excision or annexation of territory, the support program of any district from which territory is excised for the last year of operation before such excision shall be divided, and apportioned among the districts involved, as prescribed in subsection 4a hereof.

c. In new districts formed by consolidation of former districts, the support program allowance shall be the combined support program allowances of the component districts in the last year of operation before consolidation. Provided, however, the board of trustees of the new district may petition the state board of education for special consideration in determining financial unit factors for the educational support program of the consolidated district. The petition shall be in form and content approved by the state board of education. The petition shall include a plan for annual adjustments to move from the support unit factors which were allowed the individual districts prior to consolidation to the support unit factor allowed the consolidated districts. The plan must use divisors that are authorized in the tables of section 33-1002, Idaho Code, and must be fully adjusted within a ~~three~~ five (~~3~~5) year period following the formation of the district.

Within sixty (60) days after the receipt of a petition for special consideration of support unit factors the state board of education shall approve or disapprove the petition and notify the board of trustees of its decision. Districts which the state board of education approves for special consideration of support unit factors in the support program shall be allowed to use the approved fac-

tors for computation of its entitlement under the support program.

Approved March 28, 1984.

CHAPTER 98
(H.B. No. 630)

AN ACT

RELATING TO HOSPITAL AND PROFESSIONAL SERVICE CORPORATIONS; AMENDING SECTION 41-3423, IDAHO CODE, TO PROVIDE THAT A SERVICE CORPORATION CAN INVEST IN REAL ESTATE FOR USE AS A BRANCH OFFICE OR BRANCH OFFICES, AND TO PROVIDE CORRECT TERMINOLOGY.

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

SECTION 1. That Section 41-3423, Idaho Code, be, and the same is hereby amended to read as follows:

41-3423. INVESTMENTS. (1) A service corporation shall invest and have invested its funds in the following investments only:

(a) Cash on deposit or in savings accounts in banks or trust companies;

(b) Deposits in or shares of such savings and loan associations as are insured by an instrumentality of the United States government, and not in excess of the amount of such insurance in any one (1) such institution; and

(c) Public obligations, as provided under section 41-707 (public obligations);

(d) Corporate obligations, as provided under section 41-711 (corporate obligations); and

(e) Real estate for use as a home office and/or one or more branch offices, at a cost not exceeding ten per cent (10%) of the corporation's assets at the time of investment, unless a larger amount has been approved by the director.

(2) The following sections shall likewise apply as to the investments of service corporations, to the extent so applicable, and for the purposes of such application a service corporation shall be deemed to be an "insurer":

(a) Section 41-702, Idaho Code, (eligible investments);

(b) Section 41-703, Idaho Code, (general qualifications);

(c) Section 41-704, Idaho Code, (authorization of investments);

(d) Section 41-705, Idaho Code, (record of investments);

(e) Section 41-706(1), Idaho Code, (diversification of investments -- one person);

(f) Section 41-729, Idaho Code, (time limit for disposal of real estate); and

(g) Section 41-730, Idaho Code, (disposal of ineligible property and securities).

Approved March 28, 1984.

CHAPTER 99
(H.B. No. 641)

AN ACT
RELATING TO CARE FOR THE MEDICALLY INDIGENT; AMENDING SECTION 31-3502, IDAHO CODE, TO PROVIDE MAXIMUM REIMBURSEMENT RATES FOR LONG-TERM CARE FACILITIES.

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

SECTION 1. That Section 31-3502, Idaho Code, be, and the same is hereby amended to read as follows:

31-3502. DEFINITIONS. As used in this chapter, and chapter 34, title 31, Idaho Code, the terms defined in this section shall have the following meaning, unless the context clearly indicates another meaning:

(1) "Medically indigent" means any person who is in need of hospitalization and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor, does not have income and other resources available to him from whatever source which shall be sufficient to enable the person to pay for necessary medical services. Nothing in this definition shall preclude the board of county commissioners from requiring medically indigent persons to reimburse the county for a portion of their medical expenses, when investigation of their application pursuant to chapters 34 and 35, title 31, Idaho Code, determines their ability to do so.

(2) "Hospital" means a facility licensed as such in Idaho providing community service for in-patient, medical and/or surgical care of acute illness or injury and/or obstetrics, and excluding state institutions.

(3) "Dependent" means any person whom a taxpayer could claim as a dependent under the income tax laws of the state of Idaho.

(4) "Reimbursement rates" mean the unadjusted medicaid rate of reimbursement for medical charges allowed pursuant to title XIX of the social security act, as amended. For long-term care facilities, maximum "reimbursement rates" mean the unadjusted medicaid rate of reimbursement allowed pursuant to the medical assistance program as determined by chapter 1, title 56, Idaho Code, or the unadjusted medicare rate of reimbursement established under title XVIII of the social security act, as amended, whichever is greater.

(5) "Board" means the board of county commissioners.

(6) "Sick" means any person affected with disease or who is unable to care for himself and who does not have the means to provide

for his own support, but who does not necessarily require the services of a hospital as defined in subsection (2) of this section.

(7) "Indigent" means any person who is destitute of property and unable to provide for the necessities of life.

(8) "County hospital" means any county approved institution or facility for the care of sick persons.

(9) "Administrator" means the administrator appointed by the counties, collectively, by a valid agreement under the joint exercise of powers act, sections 67-2326 through 67-2333, Idaho Code.

(10) "Catastrophic health care costs" mean all medical expenses for which an applicant for relief under this chapter or any third party are not liable and which are incurred by a recipient, and not paid for or reimbursed by third party payers, during any twelve (12) month period, which exceed in aggregate the sum of ten thousand dollars ($10,000), or a lesser amount as determined by the negotiated catastrophic insurance policy.

(11) "Recipient" means an individual determined eligible for county medical assistance under uniform county guidelines on indigent eligibility adopted by the administrator pursuant to law.

Approved March 28, 1984.

CHAPTER 100
(H.B. No. 649)

AN ACT

RELATING TO EXAMINATION EXPENSE IN THE DEPARTMENT OF INSURANCE; AMENDING SECTION 41-228, IDAHO CODE, TO PROVIDE THAT THE EXAMINATION EXPENSE PAID BY A DOMESTIC INSURER MAY BE OFFSET AGAINST PREMIUM TAXES PAYABLE TO THE DEPARTMENT OF INSURANCE AND THAT THIS OFFSET WILL BE ALLOWED FOR ANY OF THE THREE CALENDAR YEARS FOLLOWING PAYMENT OF THE EXAMINATION EXPENSE, AND TO PROVIDE THAT THIS OFFSET WILL APPLY TO ALL EXAMINATION EXPENSES PAID IN 1983 AND SUCCESSIVE YEARS.

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

SECTION 1. That Section 41-228, Idaho Code, be, and the same is hereby amended to read as follows:

41-228. EXAMINATION EXPENSE. (1) Every insurer or corporation so examined shall, at the direction of the director, pay to the examiners and other persons assisting in making the examination, the actual travel expenses, reasonable living expense allowance, and compensation, at reasonable rates customary for such examination and as approved by the director, necessarily incurred on account of the examination, upon presentation of a detailed account of such charges and expenses. A consolidated account of all such charges and expenses for the examination shall be certified to in duplicate by the insurer

or corporation examined, one (1) copy of which shall be retained by such insurer or corporation and the other copy filed in the department as a public record.

(2) No person shall pay and no examiner shall accept any additional emolument on account of any examination.

(3) A domestic insurer shall be entitled to offset against its premium taxes payable to the department of insurance of the state of Idaho ~~in--the--next--succeeding-calendar-year~~ the examination expense paid by it to or for the account of an examiner, actuary, or other assistant designated by the director for the purpose of the examination, inclusive of such personnel as may be so designated on behalf of other states participating in any such examination. The offset, or any remaining portion thereof, will be allowed for any of the three (3) calendar years following the year in which such examination expense was paid.

(4) The offset provided in subsection (3) of this section shall be applicable to all examination expenses paid in 1983 and successive years.

Approved March 28, 1984.

CHAPTER 101
(S.B. No. 1269, As Amended)

AN ACT

RELATING TO A STATE GEOLOGICAL SURVEY; AMENDING SECTION 47-201, IDAHO CODE, TO CREATE THE IDAHO GEOLOGICAL SURVEY, TO PROVIDE DUTIES, TO CREATE AN ADVISORY BOARD, AND TO PROVIDE MEMBERSHIP FOR THE ADVISORY BOARD; AMENDING SECTION 47-202, IDAHO CODE, TO PROVIDE FOR MEETINGS OF THE ADVISORY BOARD AND TO PROVIDE FOR DESIGNATION OF THE STATE GEOLOGIST; AMENDING SECTION 47-203, IDAHO CODE, TO PROVIDE DUTIES OF THE STATE GEOLOGICAL SURVEY, TO ALLOW THE SURVEY TO SEEK AND ACCEPT FUNDED PROJECTS FROM AND COOPERATIVE PROGRAMS WITH OTHER AGENCIES FOR SUPPORT OF THE SURVEY'S RESEARCH AND SERVICE ACTIVITIES AS AUTHORIZED BY THE BOARD OF REGENTS, TO PROVIDE FOR DISPOSITION OF FUNDS RECEIVED FROM THESE PROJECTS AND TO ALLOW THE SURVEY TO HAVE SATELLITE OFFICES; AND AMENDING SECTION 47-204, IDAHO CODE, TO PROVIDE FOR REPORTS AND BUDGET REQUESTS OF THE STATE GEOLOGICAL SURVEY.

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

SECTION 1. That Section 47-201, Idaho Code, be, and the same is hereby amended to read as follows:

47-201. ~~BUREAU~~ GEOLOGICAL SURVEY CREATED -- PURPOSE -- ADVISORY BOARD. There is hereby created ~~in-the-department-of-lands-a-state~~

~~bureau-of-mines-and-geology-which-shall-be-under-the-direction-of--the state--board--of-land-commissioners~~ the Idaho geological survey, to be administered as a special program at the university of Idaho under the authority of the board of regents of the university of Idaho. This survey will conduct business heretofore carried out by the Idaho bureau of mines and geology. The survey shall be the lead state agency for the collection, interpretation, and dissemination of geologic and mineral data for Idaho. Such information is to be acquired through field and laboratory investigations by the staff of the survey and through cooperative programs with other governmental and private agencies. There is hereby established an advisory board for the ~~bureau~~ survey, consisting of the following members~~,~~: The dean of the ~~school~~ college of mines and earth resources of the university of Idaho, who shall be ~~chief-of-the-bureau~~ director of the survey and ~~secretary--of--the~~ board chairperson (nonvoting); the chairman of the department of geology at Boise state university; the chairman of the department of geology at Idaho state university; the president of the Idaho ~~M~~mining ~~A~~association, so long as said association continues to exist and elect a president~~,-otherwise-the-state-senator-from-that county-having-the-greatest-assessed-valuation-of--mining--and--mineral property--in--the-year-preceding-any-annual-meeting-of-this-board;-the head-of-the-department-of-mining-and-metallurgy-or--the--head--of--the department--of-geology-of-the-university-of-Idaho,-as-the-governor-may designate;-and-the-director-of-the-department-of-lands--who--shall--be chairman~~; the governor of the state of Idaho or his designated representative; a member of the board of land commissioners designated by the state land board; the president or his designee of the Idaho association of professional geologists; and two (2) members at large selected by the director from other state or federal organizations, or from the private sector with a direct interest in the survey's programs, both serving two (2) year staggered terms; all of whom shall serve as members of the said board and shall be compensated as provided by section 59-509(b), Idaho Code.

SECTION 2. That Section 47-202, Idaho Code, be, and the same is hereby amended to read as follows:

47-202. MEETINGS -- OFFICE -- STATE GEOLOGIST. The advisory board shall hold annual meetings at ~~Boise,-Idaho,~~ the university of Idaho, Boise state university or Idaho state university on the first Monday of ~~April~~ June of each year and such other meetings as it may determine ~~upon~~. The chief office of said ~~bureau~~ survey and the office of its secretary shall be maintained at the ~~U~~university of Idaho. The director of the survey, or a professional geologist in the survey if so appointed by the director, is designated state geologist.

SECTION 3. That Section 47-203, Idaho Code, be, and the same is hereby amended to read as follows:

47-203. DUTIES -- PUBLICATIONS -- COOPERATION WITH ~~FEDERAL~~ OTHER AGENCIES ~~---SURVEYS----BULLETINS~~ -- SATELLITE OFFICES. It shall be

the duty of the said state ~~bureau-of-mines-and-geology~~ survey to conduct ~~cooperative-work-with--departments--and--bureaus--of--the--United States--government-in-the-activities-and-investigations-for-which-said bureau-is-created;-providing-the-federal-expenditure-for-such--purpose shall-at-least-equal-that-of-the-state.-The-said-bureau-shall-conduct, map--and~~ statewide studies in the field; laboratory studies; prepare and publish reports on the geology and mineral resources of the state; ~~prepare-or-cooperate-in-preparing-topographic-maps--for--use--as--base maps--in--geological-field-study-and-in-mining-development;-for-use-in the-planning--of--power--developments;--agricultural--and--reclamation works;--and-highways;-make-hydrographic-surveys-deemed-by-the-board-of land-commissioners-to-be-advantageous-to-the--mining--and--milling--of mineral--deposits;--water-power-utilization;-reclamation;-or-as-proper cooperative-investigations-with-other-departments-of-the-state-or-federal--governments;--to--do--laboratory--research---upon---mining---and metallurgical-problems-of-the-state's-mineral-industry;-publish-bulletins;--pamphlets-and-circulars-embodying-reports-approved-by-the-board of-land-commissioners~~ maintain laboratory facilities to perform non-commercial mineral and chemical analyses; fix a price upon printed ~~bulletins;~~ reports not used in exchange with other state bureaus or surveys, universities or public libraries, and deposit receipts from sales in a printing fund to be used ~~under-the-direction-of--the--board of--land--commissioners~~ for the preparation and publication of reports of the ~~bureau~~ survey, and for no other purpose~~;--and--carry--on--the duties--imposed--by--this-chapter~~. The survey shall be allowed to seek and accept funded projects from and cooperative programs with other agencies for support of the survey's research and service activities as authorized by the board of regents. All funds received from these projects shall be used for said projects and services. The survey shall be allowed to have satellite offices at the geology departments of Boise state university and Idaho state university.

SECTION 4. That Section 47-204, Idaho Code, be, and the same is hereby amended to read as follows:

47-204. REPORTS. The state ~~bureau-of-mines-and-geology~~ geological survey shall annually ~~through-the-director-of-the-department-of-lands~~, on or before the first day of January, make to the governor of the state and to the president of the university of Idaho a report detailing major events during the previous year concerning the geology and mineral resources of the state, a report of its expenditures and of the work of said ~~bureau~~ survey during the preceding year, and budget requests for the following year; and it shall make a similar report of its doings and its expenditures to the state legislature~~; which-report-shall-contain-any-recommendations--which--it--desires--to make-for-the-development-of-the-mineral-resources-of-the-state~~ through the legislative council.

Approved March 30, 1984.

CHAPTER 102
(S.B. No. 1302)

AN ACT

RELATING TO DREDGE AND PLACER MINING; REPEALING SECTIONS 47-1313, 47-1314 AND 47-1321, IDAHO CODE; AMENDING CHAPTER 13, TITLE 47, IDAHO CODE, BY ADDING A NEW SECTION 47-1313, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 13, TITLE 47, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 47-1314, IDAHO CODE, TO REQUIRE NOTICE AND RESTORATION OF EXPLORATION OPERATIONS; AMENDING SECTION 47-1315, IDAHO CODE, TO REVISE REFERENCE TO WATER QUALITY STANDARDS; AMENDING SECTION 47-1317, IDAHO CODE, TO PROVIDE THAT NO APPLICATION FEE SHALL EXCEED ONE THOUSAND DOLLARS, TO REQUIRE A BOND BASED ON ESTIMATED COSTS, TO PROVIDE EXPRESS AUTHORITY TO APPROVE OR DENY A PERMIT OR BOND, TO ALLOW RELEASE OF A DUPLICATIVE OR PARTIALLY DISCHARGED BOND, AND TO REMOVE THE PROHIBITION OF TRANSFER OF PERMITS; AMENDING SECTION 47-1319, IDAHO CODE, TO CREATE THE DREDGE AND PLACER MINING ACCOUNT AND TO SPECIFY WHAT MONEYS IN THE ACCOUNT CAN BE UTILIZED FOR; AMENDING SECTION 47-1320, IDAHO CODE, TO PROVIDE JUDICIAL REVIEW UNDER THE ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 47-1324, IDAHO CODE, TO PROVIDE REMEDIES FOR VIOLATION OF THE DREDGE AND PLACER MINING ACT; AND PROVIDING AN EFFECTIVE DATE AND PROVIDING THAT ANY PERSON CONDUCTING A PLACER OR DREDGE MINING OPERATION UNDER A VALID PERMIT AND BOND AS OF JULY 1, 1984, SHALL NOT BE REQUIRED TO OBTAIN AN AMENDED PERMIT OR BOND PRIOR TO JULY 1, 1985.

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

SECTION 1. That Sections 47-1313, 47-1314, and 47-1321, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 13, Title 47, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 47-1313, Idaho Code, and to read as follows:

47-1313. DEFINITIONS. As used in this chapter:

(a) "Board" means the state board of land commissioners or such representative as may be designated by the board.

(b) "Director" means the director of the department of lands or such representative as may be designated by the director.

(c) "Disturbed land" means land, natural watercourses, or existing stockpiles and waste piles affected by placer or dredge mining, remining, exploration, stockpiling of ore or wastes from placer or dredge mining, or construction of roads, tailings ponds, structures, or facilities appurtenant to placer or dredge mining operations.

(d) "Mineral" means any ore, rock, or substance extracted from a placer deposit or from an existing placer stockpile or waste pile, but does not include coal, clay, stone, sand, gravel, phosphate, uranium,

oil, or gas.

(e) "Motorized earth-moving equipment" means backhoes, bulldozers, front loaders, trenchers, core drills, suction dredges with an intake diameter exceeding eight (8) inches, and other similar equipment.

(f) "Natural watercourse" means any stream in the state of Idaho having definite bed and banks, and which confines and conducts continuously flowing water.

(g) "Permit area" means that area designated under section 47-1317, Idaho Code, as the site of a proposed placer or dredge mining operation, including all lands to be disturbed by the operation.

(h) "Person" means any person, corporation, partnership, association, or public or governmental agency engaged in placer or dredge mining, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.

(i) "Placer deposit" means naturally occurring unconsolidated surficial detritus containing valuable minerals, whether located inside or outside the confines of a natural watercourse.

(j) "Placer or dredge exploration operation" means activities including, but not limited to, the construction of roads, trenches, and test holes, performed on a placer deposit for the purpose of locating and determining the economic feasibility of extracting minerals by placer or dredge mining.

(k) "Placer or dredge mining" or "dredge or other placer mining" means the extraction of minerals from a placer deposit, including remining for sale, processing, or other disposition of earth material excavated from previous placer or dredge mining. The term "dredge or other placer mining," wherever used in this chapter, is subject to this definition and all provisions regarding it.

(l) "Placer or dredge mining operation" means placer or dredge mining which disturbs in excess of one-half (1/2) acre of land.

(m) "Road" means a way, including bed, slopes, and shoulders, (1) constructed within the circular tract circumscribed by a placer or dredge mining operation, or (2) constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation, provided, that a way dedicated to public multiple use or being used by a governmental land manager or private landowner at the time of cessation of operations, and not constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation, shall not be considered a road for purposes of this act.

SECTION 3. That Chapter 13, Title 47, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 47-1314, Idaho Code, and to read as follows:

47-1314. DISTURBED LANDS TO BE RESTORED -- NOTICE AND RESTORATION OF PLACER OR DREDGE EXPLORATION OPERATIONS. (a) Any person conducting a placer or dredge mining operation shall, within one (1) year of permanent cessation of operations as to the whole or any part of the permit area, commence restoration of disturbed lands in the permit

area or in any portion thereof as to which operations are permanently ceased. In accordance with a permit approved for the operation under section 47-1317, Idaho Code, surfaces shall be returned to a contour reasonably comparable to that contour existing prior to disturbance, topsoil shall be replaced where deemed appropriate by the board, and vegetation shall be planted reasonably comparable to that vegetation existing prior to disturbance. Any disturbed natural watercourse shall be restored to a configuration and pool structure conducive to good fish and wildlife habitat and recreational use.

(b) Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment shall, within seven (7) days of commencing exploration, notify the director by certified mail of the name and address of the person, and the location, anticipated size, and method of exploration. The director shall treat such notice as confidential. Any placer or dredge exploration operation which causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, shall be considered a placer or dredge mining operation. Lands disturbed by any placer or dredge exploration operation which causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, shall be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation.

SECTION 4. That Section 47-1315, Idaho Code, be, and the same is hereby amended to read as follows:

47-1315. WATER CLARIFICATION. Where any person~~,---firm---or corporation~~ conducts a ~~dredge-or-other~~ placer or dredge mining operation where the water used in such mining process flows in, or into a ~~stream-in-the-state-of-Idaho,-it-is-hereby-required-that-such-operator~~ natural watercourse, such person shall construct and use settling ponds of sufficient capacity and character and/or install and use filtration processes fully adequate to clarify the water used in the mining process to conform to the standards and regulations of the state ~~board--of--health--for--water--quality-control-as-authorized-by section-39-112,~~ department of health and welfare regarding water quality as authorized under chapter 1, title 39, Idaho Code, before such water is discharged into the ~~stream~~ natural watercourse.

SECTION 5. That Section 47-1317, Idaho Code, be, and the same is hereby amended to read as follows:

47-1317. APPLICATION, PERMIT AND BOND REQUIRED. (a) Before any person~~,--firm--or--corporation~~ may conduct a ~~dredge-or-other~~ placer or dredge mining operation on lands ~~and--beds--of--streams~~ or natural watercourses in the state of Idaho, such person~~,-firm-or-corporation~~ shall file with the director ~~of-the-department-of-lands~~ an application for a permit upon a form provided by ~~said~~ the director, and shall pay an application fee of fifty dollars ($50.00), for each ten (10) acres or fraction thereof above involved in such application, provided that no application fee shall exceed one thousand dollars ($1,000). Appli-

cation fees shall be deposited in the dredge and placer mining account.

(b) The permit to issue in any such case shall be in a form provided and approved by the ~~Idaho-state~~ board ~~of-land-commissioners~~. No such permit shall be issued to any applicant ~~to-conduct-dredge-or other-placer-mining-operations;~~ until ~~such~~ the applicant files with ~~said~~ the director an initial ~~surety~~ bond in ~~the-sum-of-fifteen-thousand-dollars-($15,000)-for-a-specified-and-particularly-described--ten (10)--acre--tract--of-the-area-covered-by-the-permit-or-for-all-of-the land-covered-by-the-permit-if-the-permit-covers-an-area-less-than--ten (10)--acres,-with-sureties-acceptable-to-said-director-conditioned-for the-faithful-performance-by-the-applicant-of-all-of--the--requirements of--this-act,-relative-to-land-and-watercourse-restoration.-In-lieu-of such-surety-bond,-cash-may-be-deposited-with-said-director-in-the--sum computed--in--the-same-manner-as-hereinabove-set-forth,-to-be-retained as-security-for-the-faithful-performance--by--the--applicant--of--said requirements-of-this-act.~~

~~It--shall--be-unlawful-for-any-person,-firm-or-corporation-to-conduct-dredge-or-other-placer-mining-operations-in-this-state-on-any--of the--permit--area--not-covered-by-the-initial-or-subsequent-bond-until and-unless-a-similar-bond-has-been-filed--with--the--director--for--at least--ten--(10)--additional--specified--acres-of-the-permit-area-upon which-the-operations-are-being-conducted-or-for-all-of--the--remaining area-covered-by-the-permit-in-cases-where-it-totals-less-than-ten-(10) acres,--which--bond--shall--be-in-the-sum-of-the-number-of-acres-to-be covered-by-the-bond-times-one--thousand--dollars--($1,000).--Provided, however,--that--no-bond-filed-after-the-initial-bond-shall-be-in-a-sum of-less-than-fifteen-thousand-dollars--($15,000).--Provided,--further, that-such-subsequent-bonds-may-be-in-the-form-of-cash~~ an amount determined by the board to be the estimated reasonable costs, in the event of failure to reclaim by the permittee, of reclamation of lands proposed to be disturbed in the permit area, plus ten percent (10%). The determination by the board of the bond amount shall constitute a final decision subject to judicial review as set forth in subsection (d) of section 47-1320, Idaho Code. The bond may be submitted in the form of a surety, cash, certificate of deposit, or other bond acceptable to the director, provided that any bond shall be in the applicable amount set forth above.

(c) It shall be unlawful for any person~~,-firm-or-corporation~~ to conduct ~~dredge-or-other~~ placer or dredge mining operations in this state without first having obtained a permit and bond as herein provided. ~~Such-application-shall-be-on-form-supplied-by-the-director--and shall--include--an--accurate--description--of--the-land-proposed-to-be dredged-or-otherwise-placer-mined,-by-legal-subdivisions--and--specify the--number--of--acres--involved.--The-permit-issued-in-each-such-case shall-in-like-manner-describe-the-land-and-acres-involved-as-shown--by the-related-application.--Each-permit-to-conduct-dredge-or-other-placer mining--operations--pursuant--to--the--provisions-of-this-act-shall-be valid,-unless-terminated-for-cause-as-hereinafter-provided,--for--continuous--operations-upon-the-lands-described,-commencing-with-the-date of-said-permit.~~ The board shall determine whether a permit application

and bond submitted by an applicant satisfies the requirements of this act and regulations promulgated thereto. Upon such determination, the board shall notify the applicant in writing of approval or denial of the permit application and bond. Any notice of rejection shall state the reasons for such rejection. An applicant may submit an amended permit application and bond.

(d) It shall be the duty of the ~~Idaho--state~~ board ~~of-land commissioners~~ in its administration of this act to cause periodic inspections to be made of the operations under such permits to determine compliance with this law and to make rules and regulations with respect thereto and the cost and expense of making such inspections shall be borne by the permittee, which such costs and expenses shall constitute a lien upon ~~the-lands-specified-in-the-permit~~ equipment, personal property, or real property of the permittee and ~~the~~ upon minerals produced ~~therefrom~~ from the permit area, and the failure to pay the amount thereof on demand by the board shall be cause for termination of the permit. All inspection fees shall be deposited in the dredge and placer mining account.

(e) The board may release an applicant from the requirement that the applicant submit a bond if the director determines that the applicant has insured faithful performance of the requirements of this act and regulations promulgated thereto pertinent to land and watercourse restoration by submitting and having on file a current and valid bond with the United States government, which bond equals or exceeds the amount set forth above, provided that such release by the director shall not release an applicant from bonding under this act, should the permittee fail to continuously maintain a valid bond with the United States government or from compliance with any other requirement of this act or regulations promulgated thereto.

(f) ~~Permits-issued-hereunder-are-not-transferable,-and-persons-to whom--such-permits-are-issued-shall-not-transfer-nor-attempt-to-transfer--them--to--another.~~ Upon determination by the director that restoration has been satisfactorily completed on a portion of a permit area in accordance with the applicable approved permit and with subsection (a) of section 47-1314, Idaho Code, the board may reduce the bond amount to reflect the completed restoration.

(~~e~~g) That if any applicant for such dredge or other placer mining operations as contemplated by this act be not the owner of the lands described in the application or any part thereof, the owner of such lands shall indorse his approval of the application, and no permit shall be issued in the absence of such approval by the owner of lands described in the application not owned by the applicant.

(~~g~~h) No permit shall be issued proposing to alter or occupy the bed of a navigable stream or to dredge any stream or watercourse without notification to the department of water resources of the pending application. The department of water resources shall respond to said notification within twenty (20) days, and the response shall be included in any permit granted hereunder by a showing whether the permit constitutes a permit from the department of water resources or whether an additional permit from the department of water resources shall be required.

(~~h~~i) No permit shall issue hereunder to dredge nor otherwise placer mine any lands owned by the state of Idaho, including the beds of navigable streams, and including the mineral reservations in lands sold by the state, unless a mineral lease shall be made of such terms and at such royalty to the state as its board of state land commissioners shall prescribe and determine.

(~~i~~j) The Idaho state board of land commissioners shall have the power to deny any application for a permit on state land, stream or river beds, or on any unpatented mining claims, upon its determination that a dredge mining operation on the land proposed would not be in the public interest, giving consideration to economic factors, recreational use for such lands, fish and wildlife habitat and other factors which in the judgment of the state land board may be pertinent, and may deny an application upon notification by the department of water resources that the grant of such permit would result in permanent damage to a stream channel.

(~~j~~k) Upon default, in the event that the amount of the bond is insufficient to reclaim the land in compliance with the act and the approved plan, the attorney general is empowered to commence legal action against the operator in the name of the **state** board ~~of--land commissioners~~ to recover the amount in excess of the bond necessary to reclaim the land in compliance with the act and the approved plan.

SECTION 6. That Section 47-1319, Idaho Code, be, and the same is hereby amended to read as follows:

47-1319. BOND FORFEITURE ON DEFAULT. (a) The surety bond required by this act to be given by a permittee for dredge or other placer mining purposes under permit shall be exonerated and discharged upon the completion or termination of such mining operation as specified in the permit granted therefor and upon full compliance with the requirements of this act and the rules and regulations of said board of land commissioners made for the administration thereof.

(b) That in event the holder of any permit issued under this act fails to comply with the requirements of this act and the rules and regulations of the Idaho board of land commissioners for the administration hereof, then the applicable bond of such operator shall be forfeited to the state of Idaho in such amount and to such extent as the state board of land commissioners shall estimate and determine will be necessary to pay all cost and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of said defaulting permittee and covered by such bond and remaining unrestored, and such forfeited funds are to be ~~administered through--a special--fund by said board of land commissioners to restore the lands and beds of streams damaged by dredge or other placer mining--of--such defaulting--permittee;--and--all--funds--from--all bonds forfeited are hereby perpetually appropriated to a special fund to--be--administered by--the--said--board of land commissioners for the restoration of such lands and watercourses--damaged--in--dredge--or--other--placer--mining operations~~ deposited in the dredge and placer mining account, which is hereby created in the dedicated fund of the state treasury. All moneys

deposited in the dredge and placer mining account pursuant to this section or other provisions of this chapter shall be utilized by the state board of land commissioners for the restoration of lands and watercourses damaged by placer or dredge mining operations.

(c) No forfeiture of bond of a permittee shall be made until after hearing duly noticed and held as provided in sections 47-1318 and 47-1320 hereof and the findings of facts and rulings of law in support of the order of forfeiture have been made and the time for appeal has expired.

SECTION 7. That Section 47-1320, Idaho Code, be, and the same is hereby amended to read as follows:

47-1320. HEARING PROCEDURES AND APPEALS. (a) Process and procedure under this act shall be as summary and simple as reasonably may be and as far as possible in accordance with the rules of equity. The board, or any member thereof, or the hearing officer designated by such board, shall have power to subpoena witnesses and administer oaths. The district court shall have power to enforce by proper proceedings the attendance and testimony of witnesses, and the production for examination of books, papers and records. A stenographic report of the testimony at any hearing shall be made. Witnesses subpoenaed by the board or a member thereof or the hearing officer shall be allowed such fees and traveling expenses as are allowed in civil actions in the district court, to be paid by the party in whose interest such witnesses are subpoenaed. The board, or any member thereof, or the hearing officer, shall make such inquiries and investigations as shall be deemed relevant. Each hearing shall be held at the county seat in any county where the dredge or other placer mining is being conducted or where any of the lands involved in the hearing are situate, or in the county of Ada, as the board may designate.

(b) If the hearing involves a permit or application for a permit, the decision of the board, or the decision of the member to whom the matter may have been assigned, or the decision of the hearing officer, together with the transcript of the evidence, findings of fact, and any other matter pertinent to the questions arising during any hearing shall be filed in the office of the director of the department of lands. A copy of such findings of fact and decision shall be ~~immediately~~ sent to the applicant or holder of the permit involved in such hearing by United States mail. If the matter has been assigned for hearing by a member of the board or a hearing officer and a claim for review is not filed by any such party in the proceedings within thirty (30) days after his decision is filed, such decision may be adopted as the decision of the board, and notice thereof shall be immediately sent to the applicant or permit holder involved in such hearing by United States mail.

(c) If a claim for review is filed, the board ~~shall~~ may hear arguments and ~~may--hear-the~~ evidence in regard to any or all matters pertinent to the ~~matter~~ decision, and may revise the decision in whole or in part, or may refer the matter back to the member or hearing officer for further findings of fact ~~and~~. The board shall file its

decision with the records of the proceedings and notify the parties thereof.

(d) Any applicant or permit holder aggrieved may appeal from a decision or order of the board to the district court for the county where the dredge mining is being conducted or where any of the lands involved are situate or the county of Ada, by filing with the board and the clerk of the district court a notice of appeal and serving a similar notice on all other parties to the proceedings. Such notice shall be filed within thirty (30) days after notice of the final decision of the board has been mailed to the party appealing and such notice of appeal shall briefly describe the decision and state the intention of the party to appeal therefrom. Within sixty (60) days after service of such notice upon the board, the secretary of the board shall certify three (3) copies of its records, proceedings and transcript of the stenographic report of the testimony introduced in the hearing, if a hearing was had, or three (3) copies of a transcript of the agreement or stipulation of the parties if such decision be based thereon in whole or in part, and shall file one (1) with the clerk of said court, and shall serve one (1) on the attorney general of the state of Idaho, and the case thereafter shall be tried by the court.

An appeal may be taken by any party from any decision of the district court, to the Supreme Court of the state of Idaho as in other civil cases.

This section does not limit the use of or the scope of judicial review available under any other means of review, redress or relief provided by law by any final decision or order of the board shall be entitled to judicial review in accordance with the provisions and standards set forth in sections 67-5215 and 67-5216, Idaho Code.

SECTION 8. That Section 47-1324, Idaho Code, be, and the same is hereby amended to read as follows:

47-1324. DREDGE OR PLACER MINING WITHOUT PERMIT ---- INJUNCTION ---- PROCEDURE ENFORCEMENT AND PENALTIES FOR VIOLATION. (a) The state board of land commissioners may maintain an action in the name of the state of Idaho to enjoin any person, firm or corporation from operating or maintaining a dredge or placer mine placer or dredge mining operation without holding a valid permit therefor or bond as provided in this act. Such action shall be brought in the district court of this state in the county in which such mining is alleged to have been conducted by filing a verified complaint setting forth the alleged violation, or in the appropriate courts of the United States where the rules and statutes governing such courts permit or regulations promulgated thereto. The court, or a judge thereof at chambers, if satisfied from such a complaint or by affidavits that the alleged acts have been or are being committed, may issue a temporary restraining order, without notice or bond, enjoining the defendant, his agents and employees, from operating or maintaining such dredge or placer mine or dredge mining operation without obtaining a permit and bond as provided in this act and without complying with other provisions of this act or

regulations promulgated thereto. No showing of injury shall be required other than that this act is being violated by the operation or maintenance of a placer or dredge mining operation without the approved permit and bond. Upon a showing of good cause therefor, the ~~temporary restraining order~~ court may require the defendant to ~~make~~ undertake mitigation or restoration of the ~~mined~~ disturbed area in conformity with section 47-1314, Idaho Code, pending final disposition of the action. The action shall proceed as in other cases for injunctions. If at the trial the operation and maintenance of ~~dredge or~~ a placer ~~mine~~ or dredge mining operation without a permit or bond be established, and the court further finds that it is probable that the defendant will continue therein or in similar violations, the court shall enter a decree perpetually enjoining said defendant, his agents and employees from thereafter committing said or similar actions in violation of this act.

(b) The board may maintain an action in the name of the state of Idaho to enjoin any person from operating or maintaining a placer or dredge mining operation when, under an existing approved permit and bond, an operator violates or exceeds the terms of the permit or violates a provision of this act, and the bond, if forfeited, would not be sufficient to adequately restore the land.

(c) In addition to the injunctive provisions above, the board may maintain a civil action against any person who violates any provision of this act to collect civil damages in an amount sufficient to pay for all the damages to the state caused by such violation, including but not limited to, costs of restoration in accordance with section 47-1314, Idaho Code, where a person is conducting placer or dredge mining without an approved permit or bond.

(d) Notwithstanding any other provisions of this act, any person who violates any of the provisions of this act or regulations promulgated thereto, or who violates any determination or order promulgated pursuant to the provisions of this act, shall be liable for a civil penalty of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) for each day during which such violation continues. Such penalty shall be recoverable in an action brought in the name of the state of Idaho by the attorney general. All sums recovered shall be placed in the state treasury and credited to the dredge and placer mining account, to be administered by the board for the restoration of lands and watercourses damaged by placer or dredge mining operations.

(e) No administrative action or decision by the director or board shall be required prior to enforcement of any of the above remedies, provided that no permit shall be terminated and no bond shall be forfeited without administrative hearing as provided under sections 47-1318 and 47-1319, Idaho Code. No administrative action or decision by the Idaho board of health and welfare shall be required prior to enforcement of any of the above remedies by the state of Idaho against any person violating section 47-1315, Idaho Code.

(f) Any person who wilfully or knowingly falsifies any records, plans, specifications, or other information required by the board or wilfully fails, neglects, or refuses to comply with any provisions of

this act shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) or imprisonment not to exceed one (1) year, or both.

(g) All civil actions provided for in this section shall be filed in the district court of this state for the county wherein the violation, or some part thereof, occurs, or in the district court for the county wherein the defendant resides or has a principal place of business, or in the district court for the county of Ada if the defendant resides out-of-state, or in the appropriate court of the United States where the rules and statutes governing such courts permit.

SECTION 9. This act shall be in full force and effect on and after July 1, 1984, provided that any person conducting a placer or dredge mining operation under a valid state permit and bond as of July 1, 1984, shall not be required to obtain an amended permit or bond conforming to this act prior to July 1, 1985.

Approved March 30, 1984.

CHAPTER 103
(S.B. No. 1318)

AN ACT

RELATING TO DEDUCTIONS FROM INCOME FOR TAX PURPOSES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3025B, IDAHO CODE, TO ALLOW AN ADDITIONAL DEDUCTION FROM INCOME FOR INDIVIDUALS OR CORPORATIONS WHICH DONATE TECHNOLOGICAL EQUIPMENT TO PUBLIC ELEMENTARY OR PUBLIC SECONDARY SCHOOLS, TO DEFINE TERMS AND TO PROVIDE FOR RULES AND REGULATIONS; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3025B, Idaho Code, and to read as follows:

63-3025B. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT. (1) For taxable years commencing on and after January 1, 1984, any individual or corporation may deduct from taxable income as defined in section 63 of the Internal Revenue Code, an amount equal to the fair market value of technological equipment donated to public elementary or public secondary schools within the state of Idaho, except that the amount of the deduction shall not reduce 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 writ-

ten 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 school directly or indirectly in the education program of the school and which is donated to the school 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) The state tax commission shall promulgate rules and regulations to administer the provisions of this act. The rules and regulations shall be promulgated in compliance with chapter 52, title 67, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1984.

Approved March 30, 1984.

CHAPTER 104
(H.B. No. 389)

AN ACT

RELATING TO THE TAXATION OF BEER; AMENDING SECTION 23-1006, IDAHO CODE, TO PROVIDE A FOUR YEAR RECORD KEEPING REQUIREMENT FOR IMPORTERS AND SELLERS OF BEER AND DELETING THE DUTY OF THE DIRECTOR TO EXAMINE THE BOOKS NOT LESS THAN ONCE IN EACH CALENDAR YEAR; AMENDING SECTION 23-1050, IDAHO CODE, TO DELETE INTEREST ASSESSMENTS ON PENALTY; AMENDING SECTION 23-1050A, IDAHO CODE, TO PROVIDE FOR A STATUTE OF LIMITATIONS AS SET FORTH IN THE INCOME TAX ACT; AND AMENDING SECTION 23-1054, IDAHO CODE, TO PROVIDE THAT TAX WILL NOT BE IMPOSED ON INVENTORY WHICH IS DESTROYED PRIOR TO PAYMENT OF TAX.

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

SECTION 1. That Section 23-1006, Idaho Code, be, and the same is hereby amended to read as follows:

23-1006. RECORDS AND RETURNS OF LICENSEES -- INVESTIGATIONS AND EXAMINATIONS. Every licensed dealer, brewer and wholesaler shall have, and notify the director of, a place of business within the state of Idaho where such licensee will and shall keep a record of his or its imports into, and sales of beer within, the state, including the date, quantity, from whom purchased for import, the carrier or other person or means by whom or which transported for import, and the name and

address of the vendee, and shall so keep such record of each such sale or import for a period of ~~eighteen-(18)-months~~ four (4) years thereafter. Such licensee shall on or before the 15th day of each month make a return, under oath, to the director of the amount of beer sold in, and imported by him into, the state of Idaho for the preceding calendar month, which shall be upon forms furnished by the director. The director may require such additional information to be included in such returns as shall assist him in determining whether or not such licensee is complying with, or violating, this act and whether or not all taxes and license fees provided for by this act are being fully paid. The director shall have the right at any time~~,-and-it-shall-be his-duty-not-less-than-once-in-each-calendar-year,~~ to make an examination of each dealer's, brewer's and wholesaler's books, records and premises, make an inventory and otherwise check the accuracy of such returns, and investigate for any violation of this act, and file, and retain in his office for not less than two (2) years, a report thereof. An application for, and acceptance of a license by, a dealer, brewer, wholesaler or retailer shall constitute consent to, and be authority for, entry by the director, or his authorized agents, upon any premises related to the licensee's business, or wherein are, or should be, kept, any of the licensee's books, records, supplies or other property related to said business, and to make the inventory, check and investigations aforesaid with relation to said licensee or any other licensee.

SECTION 2. That Section 23-1050, Idaho Code, be, and the same is hereby amended to read as follows:

23-1050. PENALTY ON FAILURE TO PAY TAX WHEN DUE. If any taxes on beer shall not be paid by the person liable therefor when due, a penalty of ten percent (10%) of the taxes payable shall be assessed against and paid by such person, together with interest, at the rate ~~of-1%-per-month-or--major--fraction--thereof,~~ prescribed in section 63-3045, Idaho Code, computed on ~~both~~ said tax ~~and-penalty~~. For purposes of this section, if the 15th day of any month shall fall upon Saturday, Sunday or holiday, the due date for the report and the payment of taxes shall be the first business day thereafter. Waiver of penalty and interest may be allowed by the state tax commission when delay in receipt of any monthly report or in receipt of any payment of taxes due therewith shall be found by the state tax commission to be justifiable and without fault on the part of the person liable therefor.

SECTION 3. That Section 23-1050A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1050A. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho income tax act, sections 63-3042 ~~{63-3042}~~ through 63-3065A, inclusive, and sections 63-3068 and 63-3070, Idaho Code, shall apply and be available to the state tax commission for enforcement and collection of the tax imposed by this

chapter, and said sections shall, for this purpose, be considered part of this act. Any reference to taxable year in the income tax act shall be, for the purposes of this act, considered a taxable period.

SECTION 4. That Section 23-1054, Idaho Code, be, and the same is hereby amended to read as follows:

23-1054. REFUNDS OF TAXES. When beer has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes thereon, the wholesaler, upon satisfactory proof of destruction or spoilage, shall be entitled to deduct from existing inventories subject to tax the amount of beer so destroyed or spoiled. When beer ~~shall--be~~ has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes after payment of taxes thereon, ~~such~~ the wholesaler, upon satisfactory proof of destruction or spoilage, shall be entitled to refund of taxes paid thereon. Claims for refund shall not be required to be processed unless and until the total claim for refund is in excess of the sum of two hundred dollars ($200).

Approved March 30, 1984.

CHAPTER 105
(H.B. No. 390)

AN ACT

RELATING TO WINE TAXES; AMENDING SECTION 23-1319, IDAHO CODE, TO PROVIDE THAT TAX WILL NOT BE IMPOSED ON INVENTORY WHICH IS DESTROYED PRIOR TO PAYMENT OF TAX; AMENDING SECTION 23-1314, IDAHO CODE, TO PROVIDE A FOUR YEAR RECORD KEEPING REQUIREMENT FOR DISTRIBUTORS AND IMPORTERS OF WINE AND DELETING THE DUTY OF THE DIRECTOR TO EXAMINE THE BOOKS NOT LESS THAN ONCE IN EACH CALENDAR YEAR; AMENDING SECTION 23-1321, IDAHO CODE, TO DELETE INTEREST ASSESSMENTS ON PENALTY; AND AMENDING SECTION 23-1322A, IDAHO CODE, TO PROVIDE FOR A STATUTE OF LIMITATIONS AS SET FORTH IN THE INCOME TAX ACT.

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

SECTION 1. That Section 23-1319, Idaho Code, be, and the same is hereby amended to read as follows:

23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- REFUND FOR BREAKAGE OR SPOILAGE. There is hereby imposed an excise tax of forty-five cents (45¢) per gallon, of which tax five cents (5¢) per gallon shall be deposited directly to the credit of the alcoholism treatment account created by section 23-217(e), Idaho Code, upon all wines sold by a distributor to a retailer or consumer for use within the state of Idaho pursuant to this act. Sales of wine by a distributor for the purpose of and resulting in export of wine from this state

for resale outside this state shall be exempt from the taxes on wine imposed by this act.

(a) Every sale of wine by a distributor to a retailer shall constitute a sale of wine for resale or consumption in this state, whether said sale is made within or without this state, and such distributor shall be liable for the payment of taxes thereon.

(b) When wine ~~shall--be~~ has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes after payment of taxes thereon, such distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to a refund of taxes paid thereon. Claims for refund shall not be required to be processed unless and until the total claim for refund is in excess of the sum of two hundred dollars ($200). When wine has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes thereon, the distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to deduct from existing inventories subject to tax the amount of wine so destroyed or spoiled.

SECTION 2. That Section 23-1314, Idaho Code, be, and the same is hereby amended to read as follows:

23-1314. RECORDS OF IMPORTERS AND DISTRIBUTORS -- CONTENTS -- REPORTS -- CONTENTS -- INSPECTION OF RECORDS, INVENTORY, AND PROPERTY. Every distributor and importer shall have, and notify the director, of a place of business within the state of Idaho where such licensee will and shall keep a record of his or its imports into, and sales of wine within, the state, including the date, quantity, from whom purchased for import, the carrier or other person or means by whom or which transported for import, and the name and address of the purchaser, and shall so keep such record of each such sale or import for a period of ~~eighteen-(18)-months~~ four (4) years thereafter. Such licensee shall, on or before the fifteenth ~~(15th)~~ day of each month, make a return, under oath, to the director of the amount of wine sold in, and imported by him into, the state of Idaho for the preceding calendar month, which shall be upon forms furnished by the director. The director may require such additional information to be included in such returns as shall assist him in determining whether or not such licensee is complying with this act and whether or not all taxes and fees provided for by this act are being fully paid. The director shall have the right at any time ~~and-it-shall-be-his-duty-not-less-than-once-in each-calendar-year,~~ to make an examination of each distributor's and importer's books, records and premises, and such other matters as may assist him in verifying the accuracy of such returns, and retain in his office for not less than two (2) years, a report thereof. An application for, and acceptance of a license by a distributor, importer or retailer shall constitute consent to, and be authority for, entry by the director or his authorized agents, upon any premises related to the licensee's business, or wherein are, or should be, kept, any of the licensee's books, records, supplies or other property related to said business, and to make the inventory, check and investigations aforesaid with relation to said licensee or any other

licensee.

SECTION 3. That Section 23-1321, Idaho Code, be, and the same is hereby amended to read as follows:

23-1321. PENALTY AND INTEREST ON EXCISE TAX -- WAIVER FOR JUSTIFIABLE DELAY IN PAYMENT. If any taxes on wine shall not be paid by the person liable therefor when due, a penalty of ten per cent (10%) of the taxes payable shall be assessed against and paid by such person, together with interest at the rate ~~of one per cent (1%) per month or major fraction thereof;~~ prescribed in section 63-3045, Idaho Code, computed on ~~both~~ said tax ~~and penalty~~. For purposes of this section, if the fifteenth day of any month shall fall upon Saturday, Sunday, or a holiday, the due date for the report and the payment of taxes required by this act shall be the first business day thereafter. Waiver of penalty and interest may be allowed by the state tax commission when delay in receipt of any monthly report or in receipt of any payment of taxes due therewith shall be found by the state tax commission to be justifiable and without fault on the part of the person liable therefor.

SECTION 4. That Section 23-1322A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1322A. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho income tax act, sections 63-3042 through 63-3065A, inclusive, and sections 63-3068 and 63-3070, Idaho Code, shall apply and be available to the state tax commission for enforcement and collection of the tax imposed by this chapter, and said sections shall, for this purpose, be considered part of this act. Any reference to taxable year in the income tax act shall, for the purposes of this act, be considered as taxable period.

Approved March 30, 1984.

CHAPTER 106
(H.B. No. 412)

AN ACT

RELATING TO OBSOLETE REFERENCES TO TELEGRAPH SERVICE IN THE IDAHO PUBLIC UTILITIES LAW; AMENDING SECTION 61-313, IDAHO CODE, TO DELETE OBSOLETE REFERENCES TO RATES FOR TELEGRAPH SERVICE; AMENDING SECTION 61-314, IDAHO CODE, TO DELETE OBSOLETE REFERENCES TO SCHEDULES FOR TELEGRAPH SERVICE; AMENDING SECTION 61-317, IDAHO CODE, TO DELETE OBSOLETE REFERENCES TO SLIDING SCALES OF CHARGES FOR TELEGRAPH SERVICE; AMENDING SECTION 61-319, IDAHO CODE, TO DELETE OBSOLETE REFERENCES TO INTERCHANGE OF TELEGRAPH MESSAGES; AMENDING SECTION 61-323, IDAHO CODE, TO DELETE OBSOLETE REFERENCES TO LONG AND SHORT HAUL TELEGRAPH SERVICE; AMENDING SECTION 61-513,

IDAHO CODE, TO DELETE OBSOLETE REFERENCES TO PHYSICAL CONNECTIONS BETWEEN TELEGRAPH COMPANIES; AND AMENDING SECTION 61-519, IDAHO CODE, TO DELETE OBSOLETE REFERENCES TO EXPRESS COMPANIES DELIVERY OF TELEGRAPH MESSAGES.

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

SECTION 1. That Section 61-313, Idaho Code, be, and the same is hereby amended to read as follows:

61-313. SCHEDULE CHARGES ONLY PERMITTED. Except as in this act otherwise provided, no public utility shall charge, demand, collect or receive a greater or less or different compensation from any product or commodity furnished or to be furnished or for any service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to such product or commodity or service as specified in its schedules on file and in effect at the time, nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified nor extended to any corporation or person any form of contract or agreement or any rule or regulation of any facility or privilege except such as are specified in such schedules and as are regularly and uniformly extended to all corporations and persons: provided, that messages by ~~telegraph,~~ telephone or cable, subject to the provisions of this act, may be classified by the utility into day, night, repeated, unrepeated, letter, commercial, press, government and such other classes of messages: provided further, that nothing in this chapter shall be construed to prevent ~~telegraph,~~ telephone and cable companies from entering into contract with common carriers for the exchange of service at rates common to all common carriers of like class.

SECTION 2. That Section 61-314, Idaho Code, be, and the same is hereby amended to read as follows:

61-314. SCHEDULE OF RATES WITHIN AND WITHOUT STATE. Every common carrier and every ~~telegraph and~~ telephone corporation shall print and file or cause to be filed with the commission, schedules showing all rates, fares, tolls, rentals, charges and classifications for the transportation of persons or property or the transmission of messages or conversations between all points within this state and all points without the state upon its route, and between all points within this state and all points without the state upon every route leased, operated or controlled by it, and between all points on its route or upon any route, leased, operated or controlled by it within this state and all points without the state upon the route of any other common carrier or ~~telegraph or~~ telephone corporation whenever a through route and joint rate shall have been established between any two (2) such points.

SECTION 3. That Section 61-317, Idaho Code, be, and the same is

hereby amended to read as follows:

61-317. SLIDING SCALE OF CHARGES -- AUTOMATIC ADJUSTMENT. Nothing in this act shall be taken to prohibit a corporation or person engaged in the production, generation, transmission or furnishing of heat, light, water or power, or ~~telegraph or~~ telephone service, from establishing a sliding scale of charges: provided, that a schedule showing such scale of charges shall first have been filed with the commission and such schedule and each rate set out therein approved by it. Nothing in this act shall be taken to prohibit any such corporation or person from entering into an arrangement for a fixed period for the automatic adjustment of charges for heat, light, water or power or ~~telegraph--or~~ telephone service, in relation to the dividends to be paid to stockholders of such corporation, or the profit to be realized by such person: provided, that a schedule showing the scale of charges under such arrangements shall first have been filed with the commission and such schedule and each rate set out therein approved by it. Nothing in this section shall prevent the commission from revoking its approval at any time and fixing other rates and charges for the product or commodity or service, as authorized by this act.

SECTION 4. That Section 61-319, Idaho Code, be, and the same is hereby amended to read as follows:

61-319. INTERCHANGE OF TELEPHONE ~~AND--TELEGRAPH~~ MESSAGES. Every telephone corporation ~~and--telegraph--corporation~~ operating in this state shall receive, transmit, and deliver, without discrimination or delay, the conversations and messages of every other telephone ~~or telegraph~~ corporation with whose line a physical connection may have been made, or ordered by the commission.

SECTION 5. That Section 61-323, Idaho Code, be, and the same is hereby amended to read as follows:

61-323. TELEPHONE ~~AND-TELEGRAPH~~ COMPANIES -- LONG AND SHORT DISTANCE SERVICE. No telephone ~~or-telegraph~~ corporation subject to the provisions of this act shall charge or receive any greater compensation in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction, within this state, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls subject to the provisions of this act; but this shall not be construed as authorizing any such telephone ~~or telegraph~~ corporation to charge and receive as great a compensation for a shorter as for a longer distance. Upon the application to the commission a telephone ~~or-telegraph~~ corporation may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance service for the transmission of messages or conversations, and the commission may from time to time prescribe the extent to which such telephone ~~or-telegraph~~ corporation

may be relieved from the operation and requirements of this section.

SECTION 6. That Section 61-513, Idaho Code, be, and the same is hereby amended to read as follows:

61-513. TELEPHONE ~~AND-TELEGRAPH~~ COMPANIES -- PHYSICAL CONNECTIONS. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two (2) or more telephone corporations ~~or--two--or--more-telegraph-corporations~~ whose lines can be made to form a continuous line of communication, by the construction and maintenance of suitable connections for the transfer of messages or conversations, and that public convenience or necessity will be subserved thereby, or shall find that two (2) or more ~~telegraph-or~~ telephone corporations have failed to establish joint rates, tolls or charges for service by or over their said lines and that joint rates, tolls or charges ought to be established, the commission may, by its order, require that such connections be made, and that conversations be transmitted and messages transferred over such connection under such rules and regulations as the commission may establish, and prescribe through lines and joint rates, tolls and charges to be made, and to be used, observed and in force in the future. If such telephone ~~or--telegraph~~ corporations do not agree upon the division between them of the cost of said physical connections or connections of the division of the joint rates, tolls or charges established by the commission over such through lines, the commission shall have authority after further hearing, to establish such division by supplemental order.

SECTION 7. That Section 61-519, Idaho Code, be, and the same is hereby amended to read as follows:

61-519. EXPRESS SERVICE -- DELIVERY OF TELEPHONE ~~AND-TELEGRAPH~~ MESSAGES. The commission shall also have power to provide the time within which express packages shall be received, gathered, transported and delivered at destination and the limits within which express packages shall be gathered and distributed ~~and-telegraph~~ and telephone messages delivered without extra charge.

Approved March 30, 1984.

CHAPTER 107
(H.B. No. 434)

AN ACT

RELATING TO DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS; AMENDING SECTION 34-440, IDAHO CODE, TO CORRECT THE REFERENCE OF CERTIFICATION RESPONSIBILITY FROM THE COUNTY TREASURER TO THE COUNTY RECORDER.

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

SECTION 1. That Section 34-440, Idaho Code, be, and the same is hereby amended to read as follows:

34-440. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS. Notwithstanding any other provision of law, any taxing district ~~including;--but--not--limited--to;-any-city;-county;-highway-district;-special-improvement-district;-school-district--or--hospital--district;~~ which proposes to submit any question to the electors of the district that would authorize any bonded indebtedness shall provide a brief statement setting forth in simple, understandable language, information on the proposal substantially as follows:

(1) The total existing indebtedness, including interest accrued, of the taxing district;

(2) The interest rate which is anticipated on the proposed bond issue, the range of anticipated rates, and the maximum rate if a maximum is specified in the submission of the question; and

(3) The total amount to be repaid over the life of the bond issue based on the anticipated interest rate, if the bond election is approved.

The information prepared by the taxing district shall be submitted to the ~~treasurer-of-the~~ county recorder for review against information submitted pursuant to section 57-301, Idaho Code, and independently verified by the ~~treasurer~~ county recorder. The verified, official statement shall be returned to the taxing district and be made a part of the official ballot and be included in the official notice of the election.

Approved March 30, 1984.

CHAPTER 108
(H.B. No. 445, As Amended)

AN ACT

RELATING TO CITY ELECTIONS; AMENDING CHAPTER 7, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-707, IDAHO CODE, TO PROVIDE FOR THE ELECTION OF CITY COUNCILMEN BY ASSIGNED SEATS; AMENDING CHAPTER 7, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-707A, IDAHO CODE, TO PROVIDE FOR THE ELECTION OF CITY COUNCILMEN BY DISTRICTS, AND TO PROVIDE A METHOD FOR DETERMINING THE POPULATION NUMBER AND TERRITORY OF SUCH DISTRICTS; AMENDING CHAPTER 7, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-707B, IDAHO CODE, TO PROVIDE FOR ELECTION REQUIREMENTS AND TO PROVIDE FOR RUNOFF ELECTIONS.

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

SECTION 1. That Chapter 7, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-707, Idaho Code, and to read as follows:

50-707. ASSIGNMENT OF COUNCIL SEATS. Any city, by ordinance, may assign a number to each council seat. Upon the adoption of such an ordinance, and at least one hundred twenty (120) days prior to the next general election, the city clerk shall assign a number for each council seat. Any candidate seeking election to the council shall file for one (1) of the assigned council seats.

SECTION 2. That Chapter 7, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-707A, Idaho Code, and to read as follows:

50-707A. ELECTION OF COUNCILMEN BY DISTRICTS. (1) Any city may, by ordinance, provide for districts and the election of councilmen by districts. Upon the adoption of such an ordinance and at least one hundred twenty (120) days prior to each general election, the governing body of the city shall establish the territory of council districts in accordance with this section.

(2) Each district shall consist of one or more contiguous election precincts and each district shall, to the nearest extent possible, contain the same number of people based upon the most recent federal census.

(3) Each city providing for the election of councilmen by districts shall establish the number of districts corresponding to the number of council seats determined by the city pursuant to section 50-701, Idaho Code, or for any city having a governing body governed by the provisions of sections 50-801 through 50-812, Idaho Code, the number of council seats determined by the city pursuant to section 50-805, Idaho Code.

(4) Upon adoption of such an ordinance, a council shall determine, not less than ninety (90) days before the next general city election, if council members are to be elected by electors from the entire city, or by the electors of the said geographic district. The council shall also determine, not less than ninety (90) days before the next general election, the method of the implementation of this ordinance.

SECTION 3. That Chapter 7, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-707B, Idaho Code, and to read as follows:

50-707B. MAJORITY MAY BE REQUIRED FOR ELECTION -- RUNOFF ELECTION. A majority of the votes for any candidate running for a council seat adopted by a city in accordance with section 50-707 or 50-707A, Idaho Code, may be required for election to that office. In the event

no candidate receives a majority of the votes cast, there may be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted as in the general election in a manner and at such time as prescribed by the city.

Approved March 30, 1984.

CHAPTER 109
(H.B. No. 450)

AN ACT

RELATING TO FEES CHARGED BY THE PUBLIC UTILITIES COMMISSION; AMENDING SECTION 61-609, IDAHO CODE, TO ALLOW THE COMMISSION TO SET COPYING FEES BY RULE, AND TO PROVIDE THAT SUCH COPYING FEES BE PAID TO THE PUBLIC UTILITIES COMMISSION ACCOUNT; AND AMENDING SECTION 61-812, IDAHO CODE, TO GIVE THE COMMISSION AUTHORITY TO SET REASONABLE COPYING FEES.

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

SECTION 1. That Section 61-609, Idaho Code, be, and the same is hereby amended to read as follows:

61-609. FEES. The commission shall charge and collect ~~the following~~ reasonable fees~~:~~ F~~f~~or copies of papers and records~~;--forty cents--(40¢)--per--hundred--words-or-portion-thereof~~ as established by rule or general order of the commission.

No fees shall be charged or collected for copies of papers, records or official documents, furnished to the public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution, but the commission may fix reasonable charges for publications issued under its authority.

All fees charged or collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the state of Idaho to the ~~general-fund~~ public utilities commission account.

SECTION 2. That Section 61-812, Idaho Code, be, and the same is hereby amended to read as follows:

61-812. FEES CONNECTED WITH ADMINISTRATION OF LAW. The commission shall charge and collect the following fees and none other, in the administration of this chapter:

Application for a permit shall be accompanied by an application fee of $150.00
Application for transfer of a permit 150.00
Application for the assignment of a permit 150.00

Application for the issuance of a duplicate permit 10.00
Application for permit reinstatement 100.00
Application for permit suspension 25.00
~~For copies of any records of the public utilities commission pertaining to motor carriers, per 100 words or portion thereof ..... .40~~
Annual registration of interstate carrier authority or exemption 25.00
Application for temporary permit 50.00
Annual regulatory fee per power unit of each common or contract motor carrier 21.00
Annual regulatory fee per power unit of each private motor carrier 7.00
The commission shall charge and collect reasonable fees for copies of papers and records as established by rule or general order of the commission.

Approved March 30, 1984.

CHAPTER 110
(H.B. No. 457)

AN ACT

RELATING TO THE AUTHORITY OF THE IDAHO PUBLIC UTILITIES COMMISSION TO CONSIDER PETITIONS FOR RECONSIDERATION OF ITS ORDERS; AMENDING SECTION 61-626, IDAHO CODE, BY CHANGING THE PERIOD DURING WHICH A PERSON MAY PETITION FOR RECONSIDERATION OF AN ORDER, BY PROVIDING FOR CROSS-PETITIONS FOR RECONSIDERATION, AND BY CHANGING THE PERIOD DURING WHICH THE COMMISSION MUST ISSUE AN ORDER UPON PETITION FOR RECONSIDERATION; AND AMENDING SECTION 61-627, IDAHO CODE, BY MAKING TECHNICAL CHANGES TO AGREE WITH THE AMENDMENTS TO SECTION 61-627, IDAHO CODE, AND PROVIDING THAT RULE OF THE SUPREME COURT OF IDAHO SHALL GOVERN PREPARATION OF THE APPELLATE RECORD ON APPEAL FROM THE IDAHO PUBLIC UTILITIES COMMISSION TO THE SUPREME COURT OF IDAHO.

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

SECTION 1. That Section 61-626, Idaho Code, be, and the same is hereby amended to read as follows:

61-626. ~~REHEARING~~--- RECONSIDERATION -- PROCEDURE -- ORDER NOT STAYED -- CHANGE OF ORIGINAL ORDER. (1) After an order has been made by the commission, any corporation, public utility or person interested therein shall have the right, within twenty-one (20~~1~~) days after the date of said order, to ~~apply~~ petition for ~~a--rehearing~~ reconsideration in respect to any matter determined therein~~,--and within--thirty--(30)~~. Within seven (7) days after any corporation, public utility or person has petitioned for reconsideration, any other corporation, public utility, or person may cross-petition for reconsideration in response to any issues raised in any petition for reconsideration. Cross-petitions for reconsideration may be granted if any

petition for reconsideration to which they respond is granted on the issues to which the cross-petition is directed, but cross-petitions for reconsideration will be denied when the petitions for reconsideration to which they are directed are denied.

(2) Within twenty-eight (28) days after the filing of a petition for ~~rehearing~~ reconsideration the commission shall determine whether or not it will grant ~~and hold~~ such ~~rehearing~~ reconsideration, and make and enter its order accordingly~~,---and---if--a--rehearing~~. If reconsideration be granted, said order shall specify ~~the--place--and time-of-holding-such-rehearing,-which-shall-be-within-ninety-(90)-days after--the--date--of-filing-the-petition-for-rehearing.--If-a-rehearing shall-be-granted,-the-same--shall--be--determined--by--the--commission within-thirty-(30)-days-after-the-same-shall-be-finally-submitted.~~ how the matter will be reconsidered and whether any cross-petitions for reconsideration will be granted. The matter must be reheard, or written briefs, comments or interrogatories must be filed, within thirteen (13) weeks after the date for filing petitions for reconsideration. If reconsideration is ordered, the commission must issue its order upon reconsideration within twenty-eight (28) days after the matter is finally submitted for reconsideration.

(3) ~~An--application~~ petition for such ~~a-rehearing~~ reconsideration shall not excuse any corporation, public utility or person from complying with or obeying any order or any requirement of any order of the commission or operate in any manner, to stay or postpone the enforcement thereof, except as the commission may by order direct. If after ~~such-rehearing-and-a-consideration-of-the-facts~~ reconsideration, including ~~those~~ consideration of matters arising since the making of the order, the commission shall be of the opinion that the original order or any part thereof is in any respect unjust or unwarranted or should be changed, the commission may abrogate or change the same. An order made after any such ~~rehearing~~ reconsideration, abrogating or changing the original order, shall have the same force and effect as an original order, and shall not affect any right or the enforcement of any right arising from or by virtue of the original order.

SECTION 2. That Section 61-627, Idaho Code, be, and the same is hereby amended to read as follows:

61-627. APPEAL TO SUPREME COURT -- NOTICE OF APPEAL -- MATTERS REVIEWABLE ON APPEAL -- EXTENT OF REVIEW -- RECORD ON APPEAL. After an ~~application~~ petition for ~~rehearing~~ reconsideration is denied, or, if the ~~application~~ petition is granted, then after the rendition of the decision on ~~rehearing~~ reconsideration, the state of Idaho or any party aggrieved may appeal to the supreme court from any order of the public utilities commission by filing a notice of appeal and serving the same in the manner provided by the rules of the supreme court. Upon the payment of the fee therefor, the secretary of the public utilities commission shall prepare, certify, and deliver to the clerk of the supreme court ~~one-(1)~~ copyies of the transcript of the testimony~~,-the pleadings-(moving-papers,-records,-complaints,-petitions,-answers,-and proceedings)-in-the-cause,-the-pertinent--preliminary--orders--of--the~~

~~commission,--the--order--appealed-from,-the-notice-of-appeal,-and-such other~~ and the relevant documents from the commission files as ~~may--be appropriate~~ required under rules adopted by the supreme court for its appeals and shall also certify and deposit with the clerk of the supreme court the original exhibits from that proceeding.

Approved March 30, 1984.

CHAPTER 111
(H.B. No. 466)

AN ACT

RELATING TO REGISTERED WARRANTS; AMENDING SECTIONS 31-2109 AND 31-2305, IDAHO CODE, BY STRIKING REFERENCE TO THE DOLLAR AMOUNT OF COUNTY WARRANTS.

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

SECTION 1. That Section 31-2109, Idaho Code, be, and the same is hereby amended to read as follows:

31-2109. PUBLICATION OF NOTICE. On the first Monday of each month, if there is a sufficient amount to the credit of any county fund or funds to pay the warrant or warrants, next entitled to be paid therefrom, and whenever it shall appear from the books of the county treasurer that there is to the credit of any county fund or funds against which there are outstanding warrants unpaid, ~~the~~ a sum ~~of $1000~~ sufficient, available for the payment of said warrants, the said treasurer shall cause to be published in the manner and form required by law, notice that the warrant or warrants next entitled to be paid therefrom will be paid upon presentation. All warrants which have theretofore been called by posting, as provided in section 31-2107, Idaho Code, and which remain unpaid at the time of publishing such notice, shall be included in such published notice; and five (5) days after the publication the interest thereon shall cease.

SECTION 2. That Section 31-2305, Idaho Code, be, and the same is hereby amended to read as follows:

31-2305. WARRANT BLANKS -- ~~FRACTIONAL-WARRANTS---~~ REGISTRATION. The auditor shall have prepared, in separate series, warrant blanks for each year. They must be numbered consecutively, and must show the year against the revenue of which they are to be issued. He shall begin the use of a new series of warrants on the first day in October of each year. All warrants issued by the auditor shall be upon the warrant blanks of the series for the year chargeable with the amount for which such warrant is issued, and the number, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn must be stated thereon. ~~When--the--amount--for--which--a~~

~~warrant--is-to-be-drawn-is-greater-than-the-sum-of-two-hundred-dollars ($200)-the-auditor-shall-issue-therefor-warrants-in-sums-of--two--hundred--dollars-($200)-or-fractions-thereof,-unless-there-is-cash-in-the county-treasury-in-the-fund-against-which-such-warrant--is--drawn--for the--payment--of--the--same-on-presentation.~~ All warrants must, at the time they are issued, be registered by the auditor.

Approved March 30, 1984.

CHAPTER 112
(H.B. No. 493)

AN ACT

RELATING TO THE REVOCATION OF FISH AND GAME LICENSES; AMENDING SECTION 36-1402, IDAHO CODE, TO PROVIDE FOR THE REVOCATION OF HUNTING, FISHING OR TRAPPING LICENSES FOR A VIOLATION OF TRESPASSING IN VIOLATION OF THE PROVISIONS OF SECTION 36-1603, IDAHO CODE.

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

SECTION 1. That Section 36-1402, Idaho Code, be, and the same is hereby amended to read as follows:

36-1402. PENALTY -- MISDEMEANOR -- FELONY -- REVOCATION OF LICENSE -- DISPOSITION OF MONEYS. (a) Misdemeanor Penalty. Any person convicted of a misdemeanor under the provisions of this title or regulations promulgated pursuant thereto shall, except in cases where a higher penalty is prescribed, be fined in a sum of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300) and/or by commitment to jail for not more than six (6) months.

(b) Felony Penalty. Any person convicted of a felony under the provisions of this title shall be punished in accordance with section 18-112, Idaho Code.

(c) License Revocation. Any person convicted of violating any of the provisions of this title may, in addition to any other penalty assessed by the court, have his hunting, fishing, or trapping privileges revoked for such period of time as may be determined by the court not to exceed three (3) years, said period beginning on the date of conviction. Provided further, that the magistrate hearing the case shall forthwith revoke the hunting, fishing, or trapping privileges for a period of not less than one (1) year from the date of such conviction, of any person who is convicted of any of the following offenses:

1. Taking upland game birds, migratory waterfowl, salmon steelhead, or any big game animal during closed season.
2. Exceeding the daily bag or possession limit of upland game birds, migratory waterfowl or big game animals.
3. Taking any fish by unlawful methods as set forth in section 36-902(a) or (c), Idaho Code.

4. Unlawfully purchasing, possessing or using any license, tag or permit as set forth in section 36-405(c), Idaho Code.

5. Trespassing in violation of warning signs as set forth in section 36-1603, Idaho Code.

The revocation shall consist of cancellation of an existing license for the required length of time and/or denial of the privilege of purchasing an applicable license for the length of time required to meet the revocation period decreed.

It shall be a misdemeanor for any person to hunt, fish, or trap or purchase a license to do so during the period of time for which such privilege is revoked by order of any court of this state. Any person convicted thereof shall be fined in an amount of not less than one hundred dollars ($100) nor more than three hundred dollars ($300) or by commitment to jail for not more than six (6) months or by both such fine and commitment. Provided further, that the period of revocation of such privileges shall be extended an additional amount of time equal to the original revocation.

For the purpose of this section, the term "conviction" shall mean a final conviction.

(d) Disposition of Fines and Forfeitures. Distribution of fines and forfeitures remitted shall be in accordance with section 19-4705, Idaho Code.

Approved March 30, 1984.

CHAPTER 113
(H.B. No. 503)

AN ACT

RELATING TO HOSPITAL RECORDS CONFIDENTIALITY; AMENDING SECTION 39-1392a, IDAHO CODE, TO PROVIDE THAT HOSPITALS SUBJECT TO THE ACT SHALL BE THOSE FACILITIES LICENSED AS HOSPITALS UNDER CHAPTER 13, TITLE 39, IDAHO CODE.

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

SECTION 1. That Section 39-1392a, Idaho Code, be, and the same is hereby amended to read as follows:

39-1392a. DEFINITIONS. The following terms shall have the following meanings when used in this section:

(a) "Hospital" shall mean a facility in Idaho ~~providing community service--for--in-patient medical and surgical care of acute illness or injury and for obstetrics~~ licensed under sections 39-1301 through 39-1314, Idaho Code, and defined in section 39-1301(a)(1), Idaho Code.

(b) "In-hospital medical staff committees" shall mean any individual doctor who is a hospital staff member, or any hospital employee, or any group of such doctors and/or hospital employees, who are duly designated a committee by hospital staff bylaws, by action of

an organized hospital staff, or by action of the board of directors of a hospital, and which committee is authorized by said bylaws, staff or board of directors, to conduct research or study of hospital patient cases, or of medical questions or problems using data and information from hospital patient cases.

(c) "Medical society" shall mean any duly constituted, authorized and recognized professional society or entity made up of physicians licensed to practice medicine in Idaho, having as its purpose the maintenance of high quality in the standards of health care provided in Idaho or any region or segment of the state, operating with the approval of the Idaho state board of medicine, or any official committee appointed by the Idaho state board of medicine.

Approved March 30, 1984.

CHAPTER 114
(H.B. No. 510)

AN ACT

RELATING TO THE VOTERS' PAMPHLET; AMENDING SECTION 34-1812C, IDAHO CODE, TO PROVIDE THAT VOTERS' PAMPHLETS MAY BE MAILED OR DISTRIBUTED BY THE SECRETARY OF STATE, TO PROVIDE STANDARDS FOR THE PRINT SIZE AND TO DECLARE THAT A PAMPHLET PUBLISHED AS PROVIDED BY THIS SECTION SHALL CONSTITUTE A LEGAL NOTICE.

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

SECTION 1. That Section 34-1812C, Idaho Code, be, and the same is hereby amended to read as follows:

34-1812C. VOTERS' PAMPHLET. (1) Not later than September 25 before any regular general election at which an initiative or referendum measure is to be submitted to the people, the secretary of state shall cause to be printed a voters' pamphlet which shall contain the following:

(~~1~~a) A complete copy of the title and text of each measure with the number and form in which the ballot title thereof will be printed on the official ballot;

(~~2~~b) A copy of the arguments and rebuttals for and against each state measure~~;~~.

(2) The secretary of state shall mail or distribute a copy of the voters' pamphlet to every household in the state. Sufficient copies of the voters' pamphlet shall also be sent to each county clerk. The county clerk and the secretary of state shall make copies of the voters' pamphlet available upon request.

(3) The voters' pamphlet shall be printed according to the following specifications:

(a) The pages of the pamphlet shall be not smaller than 6 x 9 inches in size;

(b) It shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in 8 no less than 7-point type;
(c) It shall be printed on a quality and weight of paper which in the judgment of the secretary of state best serves the voters;
(d) If the material described in subsections (a) and (b) of this section is combined in a single publication with constitutional amendments, the entire publication shall be treated as a legal notice.

Approved March 30, 1984.

CHAPTER 115
(H.B. No. 518)

AN ACT
RELATING TO TRANSFER AND INHERITANCE TAXES; AMENDING SECTION 14-408, IDAHO CODE, TO ALLOW FOR EXEMPTION OF ALL PROPERTY TRANSFERRED TO A SURVIVING SPOUSE AND AN ADDITIONAL EXEMPTION IN THE AMOUNT OF THE MAXIMUM FEDERAL ESTATE TAX UNIFIED CREDIT EQUIVALENT; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 14-408, Idaho Code, be, and the same is hereby amended to read as follows:

14-408. EXEMPTIONS. The following exemptions from the tax are hereby allowed:
1. All property transferred to societies, corporations, trusts and institutions now or hereafter exempted by law from taxation, or to any public corporation, or to any society, corporation, institution, trust or association, or persons engaged in or devoted to any charitable, benevolent, educational, public, or other like work (pecuniary profit not being its object or purpose), or to any person, society, corporation, trust, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, educational, or public purpose, by reason whereof any such person, corporation or trust shall become beneficially entitled, in possession or expectancy, to any such property or to the income thereof, shall be exempt; provided, however, that such society, corporation, trust, institution or association be organized or existing under the laws of this state or that the property transferred be limited for use within this state, or that such society, corporation, trust, institution or association be organized or existing under the laws of a state which grants similar reciprocal tax exemption to such societies, corporations, trusts, institutions and associations in this state, except that all transfers to any privately owned hospital for crippled children within the United States, to which crippled or afflicted children from the state

of Idaho are, without discrimination gratuitously admitted and treated, shall be exempt.

2. a. Property of the clear value of fifty thousand dollars ($50,000) transferred to the surviving spouse or to a minor child of the decedent, of thirty thousand dollars ($30,000) transferred to each of the other persons described in the first subdivision of section 14-406, Idaho Code, and all property transferred to the surviving spouse shall be exempt, and provided further that qualified terminable interest property, as defined by the internal revenue code of 1954, as amended, and in effect on January 1, 1982, and for which a valid election thereunder has been made for federal estate tax purposes, shall be exempt when transferred to a surviving spouse.

b. All property transferred, or property which can be identified as having been received in exchange for property transferred, by a decedent to any person described in the first subdivision of section 14-406, Idaho Code, providing the same was transferred to such decedent not more than four (4) years prior to his death by another decedent of the class described in the first subdivision of section 14-406, Idaho Code, and inheritance tax paid thereon to the state of Idaho, shall be exempt. The payment of the additional tax levied for the purpose of absorbing the credit allowed by the federal estate tax law imposed by section 14-407a and section 14-407b, Idaho Code, shall not be considered as a payment of inheritance tax for the purpose of entitlement to the exemption herein allowed.

3. Property of the clear value of ten thousand dollars ($10,000), transferred to each of the persons described in the second subdivision of section 14-406, Idaho Code, shall be exempt.

4. Property of the clear value of ten thousand dollars ($10,000), transferred to each of the persons described in the third subdivision of section 14-406, Idaho Code, shall be exempt.

5. Property of the clear value of ten thousand dollars ($10,000), transferred to each of the persons described in the fourth subdivision of section 14-406, Idaho Code, shall be exempt.

6. a. If, with respect to transfers from any decedent, the total exemptions provided by subsections 2 through 5 of this section, excluding transfers to a surviving spouse, are less than the maximum amount of federal estate tax exemption equivalent provided by the unified credit, property in the amount of the maximum exemption equivalent shall be exempt from inheritance taxation. The additional exemption provided by this subsection in excess of the exemptions allowed by subsections 2 through 5 of this section, excluding transfers to a surviving spouse, shall be allocated among distributees in the same proportion as the exemption provided each distributee under subsections 2 through 5 of this section, excluding transfers to a surviving spouse, bears to the total amount of exemptions allowed under subsections 2 through 5 of this section, excluding transfers to a surviving spouse. Provided, however, that should a distributee's exemptions exceed the value of property transferred to him, the excess exemption allowed

by this subsection shall be allocated among the remaining distributees in the manner set forth in the preceding sentence.

b. The exemption amount allowed by paragraph a. of this subsection shall not include the amount of transfers to a surviving spouse which are exempt under subsection 2.a. of this section, and such transfers to a surviving spouse shall constitute exempt transfers in addition to those transfers exempt by paragraph a. of this subsection.

7. In computing the tax upon transfers subject to tax under the provisions of this act, no tax shall be imposed or computed upon the amounts of exemptions provided for herein. The exemptions in this section allowed shall be deducted from the aggregate value of the property passed or transferred, and the tax shall in all cases be imposed and computed upon the remainder only.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1984.

Approved March 30, 1984.

CHAPTER 116
(H.B. No. 524, As Amended in the Senate)

AN ACT
RELATING TO LEASES OF LIVESTOCK; AMENDING SECTION 25-2001, IDAHO CODE, TO PROVIDE FOR RECORDING CERTAIN LEASES OF LIVESTOCK.

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

SECTION 1. That Section 25-2001, Idaho Code, be, and the same is hereby amended to read as follows:

25-2001. LEASES TO BE IN WRITING AND RECORDED. All leases of more than ten (10) head of livestock must be in writing and must be acknowledged in like manner as grants of real property, and ~~filed--of~~ recorded in the ~~same~~ county recorder's office or offices, ~~and-within the-same-time-and-manner;--and~~ for the same fee~~;~~ as ~~are--chattel mortgages~~ required by section 31-3205, Idaho Code; and the failure to comply with the provisions of this section renders the interest of the lessor in the property subject and subsequent to the claims of creditors of the lessee, and of subsequent purchasers and encumbrancers of the property in good faith and for value.

Approved March 30, 1984.

CHAPTER 117
(H.B. No. 538)

AN ACT

RELATING TO ORGANIZATION OF FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1412, IDAHO CODE, TO PROVIDE THAT A FIRE PROTECTION DISTRICT SHALL BE RESUBDISTRICTED FOLLOWING ANNEXATION OF PROPERTY FROM ANOTHER COUNTY AND TO PROVIDE APPOINTMENT OF COMMISSIONERS IF NECESSARY.

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

SECTION 1. That Section 31-1412, Idaho Code, be, and the same is hereby amended to read as follows:

31-1412. ANNEXATION OF TERRITORY IN ADJOINING COUNTY. After the organization of a fire protection district, additional territory adjoining such district and contiguous thereto, and located wholly within an adjoining county, may be added to such district and become a part thereof as hereinafter provided. The proceedings for such annexation shall be the same as the proceedings for the creation and organization of a fire protection district with the following exceptions and modifications:

a. Such proceeding may be initiated by two (2) or more of the holders of title or evidence of title to contiguous lands aggregating not less than one hundred (100) acres, or of less area but having market value for assessment purposes of at least one hundred twenty-five thousand dollars ($125,000).

b. A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of such territory, and also name and describe the fire protection district to which annexation is sought, and shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. Such petition must be accompanied by a certified copy of a resolution of the board of fire protection commissioners of the original district consenting to such annexation.

c. The notice of hearing on such petition shall state that certain territory therein described is proposed to be annexed to a fire protection district therein named and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections thereto at the time and place therein specified. The order entered by the local board of county commissioners on such petition shall, if such petition be granted, fix the boundaries of such annexed territory and direct that a map thereof be prepared under the direction of the clerk of the board, and certified copies of such order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original fire protection district is situated.

d. An election shall be held in the territory proposed to be annexed for the purpose of voting upon such annexation and the notice thereof shall accurately describe the boundaries of the territory proposed to be annexed, and shall state the name of the district to which annexation is sought, and that a map showing the boundaries of such district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. Such notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to .... Fire Protection District" and "Against annexation to .... Fire Protection District," and shall direct that the voter indicate his choice thereon by a cross (X).

e. The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to .... Fire Protection District." The returns of such election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from such canvass that more than one-half (1/2) of said voters are in favor of such annexation, such board shall, by order entered on its minutes, declare such territory a part of the fire protection district to which annexation is sought, and a certified copy of such order shall be transmitted to the fire protection board of the original district, and also to the board of the county commissioners of the county in which such original district is situated. A certified copy of such order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. ~~Not more than two (2) members of the fire protection board shall be residents of the same county; and provided, further, that the commissioner whose term of office first expires after such annexation shall be elected by the voters of the entire district from among the qualified electors of such annexed territory.~~ At the first meeting of the board of county commissioners following the annexation of property from another county, the board of county commissioners shall resubdivide the expanded fire protection district into three (3) subdivisions, as nearly equal in population and area as practicable. Not more than one (1) fire protection district commissioner shall reside in each subdistrict. If, because of resubdistricting, two (2) or more commissioners reside in the same subdistrict, they shall draw lots to determine who shall remain in office. The county commissioners shall appoint, as necessary, persons to fill vacancies created as a result of annexation. An appointee shall serve the remainder of the term of office he or she is appointed to fill. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to such levy.

Approved March 30, 1984.

CHAPTER 118
(H.B. No. 589)

AN ACT

RELATING TO MEDICAID PAYMENTS FOR SKILLED AND INTERMEDIATE SERVICES; AMENDING SECTION 56-101, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 56-110, IDAHO CODE, TO PROVIDE FOR A LIMITATION ON REIMBURSEMENT OF PROPERTY COSTS; AMENDING SECTION 56-111, IDAHO CODE, TO PROVIDE FOR A LIMITATION ON REIMBURSEMENT OF PROPERTY COSTS; AMENDING SECTION 56-112, IDAHO CODE, TO PROVIDE FOR A LIMITATION ON REIMBURSEMENT OF PROPERTY COSTS; AMENDING SECTION 56-113, IDAHO CODE, TO PROVIDE FOR A LIMITATION ON REIMBURSEMENT OF PROPERTY COSTS; AMENDING SECTION 56-120, IDAHO CODE, TO PROVIDE FOR A LIMITATION ON REIMBURSEMENT OF PROPERTY COSTS; AND AMENDING SECTION 56-121, IDAHO CODE, TO PROVIDE FOR A LIMITATION ON REIMBURSEMENT OF PROPERTY COSTS.

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

SECTION 1. That Section 56-101, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) "Appraisal" means the method of determining the value of the property as determined by a M.A.I. appraisal. The appraisal must specifically identify the values of land, building, equipment, and goodwill.

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

(~~2~~3) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(~~3~~4) "Director" means the director of the department of health and welfare or his designee.

(~~4~~5) "Equity" means the new book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(~~5~~6) "Facility" means an entity which contracts with the director to provide services to recipients in a structure owned, controlled, or otherwise operated by such entity, and which entity is responsible for operational decisions. In conjunction with the use of the term "facility":

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

Idaho Code;

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

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

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

(~~6~~8) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(9) "Interest rate limitation" means that the interest rate allowed for (a) purchase of facilities shall not exceed the amount derived by taking the interest yield of the new United States twenty (20) year treasury bond issue auction from the closest prior auction to the closure of the sale plus 1.75 percent; (b) purchase or lease of equipment, operating loans, etc., shall be the prime rate as established by the Bank of America Corporation, San Francisco, California, plus one percent (1%) at the date the loan or lease is made. All interest expense greater than the amount derived by using the limitation above shall be nonreimbursable; provided, however, that this interest rate limitations shall not be imposed against loans or leases which were made prior to the effective date of this act. Said loans or leases being subject to the tests of reasonableness, relationship to patient care and necessity.

(~~7~~10) "Intermediate care facility for the mentally retarded" means an habilitative facility designed and operated to meet the educational, training, habilitative and intermittent medical needs of the developmentally disabled.

(11) "Investment limitation" shall mean the lesser of the value established by the conceptual budget analysis service of McGraw-Hill cost information systems or actual construction costs; provided, however, that this investment limitation shall not be imposed against construction commenced prior to the effective date of this act. Said construction being subject to the tests of reasonableness, relationship to patient care and necessity.

(~~8~~12) "Medicaid" means the 1965 amendments to the social security

act (P.L. 89-~~09~~7), as amended.

(9~~12~~3) "Net book value" means the historical cost of an asset, less accumulated depreciation.

(10~~3~~4) "Patient-day" means a calendar day of care which will include the day of admission and exclude the day of discharge unless discharge occurs after 3:00 p.m. or it is the date of death, except that, when admission and discharge occur on the same day, one (1) day of care shall be deemed to exist.

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

(1~~4~~6) "Recipient" means an individual determined eligible by the director for the services provided in the state plan for medicaid.

(17) "Utilities" shall mean all expenses for heat, electricity, water and sewer. Utilities shall be exempt from the percentile cap.

SECTION 2. That Section 56-110, Idaho Code, be, and the same is hereby amended to read as follows:

56-110. EXISTING FREE-STANDING SKILLED CARE FACILITIES. (a) Not later than January 1, 1982, and prior to the beginning of each fiscal year thereafter, the director shall determine the maximum base rate for all free-standing skilled care facilities that were under medicaid contract with the director on or before January 1, 1982, as a class, using the following method:

(1) First, from the most recent cost report, or the most recent audited cost report, if available, submitted by each free-standing skilled care facility, the director shall add together all nonproperty costs (administration, food, nursing services, and operations) incurred by each facility; provided, that, where such facility provides care to the mentally-retarded, costs peculiar to such care shall first be exempted from consideration herein and shall be paid in accordance with the provider reimbursement manual, as defined in this subsection;

(2) Next, the director shall divide the sum obtained from paragraph (1) of this section by the total number of patient-days of care, taken from each cost report;

(3) Next, the director shall multiply the cost of care per patient-day obtained from paragraph (2) of this section by the percentage representing the annual combined inflator index, for the period in which the base rate is to be effective, as determined and agreed upon pursuant to section 56-130, Idaho Code;

(4) Next, the director shall combine the results from each such facility obtained from paragraph (3) to establish the range of costs of care per patient-day for all such facilities; and

(5) Next, the director shall calculate the mean cost of care per patient-day and the standard deviation from such mean, which shall be used to determine the base rate as specified in section

56-103(a), Idaho Code.

The result obtained from paragraph (5) of this subsection shall constitute the basic payment for the cost of care per patient-day in each free-standing skilled facility in the class, and the director shall notify each such facility of such payment not later than sixty (60) days prior to the fiscal year in which it is to become effective. A rebuttable presumption exists with respect to costs above the basic payment that a facility incurring such costs is not economically and efficiently operated, taking into account economic conditions and trends during the period covered by such costs, and that such costs are not reasonable. Such rebuttable presumption shall not be employed to justify costs below the basic payment. For purposes of this subsection, "audited cost report" means a cost report prepared and submitted to the director by a free-standing skilled care facility and audited by the director in accordance with the provider reimbursement manual, as promulgated by the director for the Idaho medicaid program, and the health insurance manual 15, as promulgated by the United States department of health and human services or its predecessor agency; provided, that the provider reimbursement manual shall take precedence over the health insurance manual 15 in case of conflict, ambiguity or disagreement.

(b) In addition to the basic payment per patient-day of care, as calculated in subsection (a) of this section, each free-standing skilled nursing facility shall be paid as a part of the monthly prospective payment:

(1) Its actual property and utility cost per patient-day, to be determined by dividing its total projected property and utility costs, subject to the interest rate limitation, for its upcoming fiscal year, as submitted by such facility to the director not later than ninety (90) days prior to the beginning date of such fiscal year, by the total number of patient-days estimated by such facility; and

(2) A monthly incentive payment equal to the computed difference between the facility's actual payment per patient-day and the base rate established for the class pursuant to section 56-103(a), Idaho Code, and this part. This computed difference shall be:

1. One-half (1/2) of the difference, where the one hundredth percentile applies to such facility's class;

2. One-third (1/3) of the difference, where the ninetieth percentile applies to such facility's class;

3. One-fourth (1/4) of the difference, where the eightieth percentile applies to such facility's class; or

4. One-sixth (1/6) of the difference, where the seventy-fifth percentile applies to such facility's class;

provided, that in no event shall the computed difference exceed one dollar and fifty cents ($1.50) per patient-day.

(c) Actual payments made by the director to each free-standing skilled care facility pursuant to sections 56-103 and 56-105, Idaho Code, and this section, shall be subject to audit and settlement under section 56-107, Idaho Code. In no event shall reimbursement to any facility exceed the usual and customary charges made to private pay

patients.

SECTION 3. That Section 56-111, Idaho Code, be, and the same is hereby amended to read as follows:

56-111. NEW FREE-STANDING SKILLED CARE FACILITIES. For the first fiscal year of a free-standing skilled care facility established on or after January 1, 1982, which seeks to contract for the first time to provide medicaid services to recipients, the director shall determine payment in the same manner as specified in section 56-110, Idaho Code, except that, in lieu of the most recent audited cost report, the free-standing skilled care facility shall submit to the director, not later than ninety (90) days prior to the beginning date of the fiscal year in which the prospective rate is to be effective, a prospective budget containing the information necessary to complete the formula set forth in section 56-110, Idaho Code; however, allowable property costs shall be subject to the investment limitation. Thereafter, such determination for such facility shall be done in accordance with section 56-110, Idaho Code.

SECTION 4. That Section 56-112, Idaho Code, be, and the same is hereby amended to read as follows:

56-112. FREE-STANDING INTERMEDIATE CARE FACILITIES. (a) Not later than January 1, 1982, and prior to the beginning of each fiscal year thereafter, the director shall determine the total prospective payment rate for all free-standing intermediate care facilities under medicaid contract with the director on or before the effective date of this chapter in the same manner as set forth in section 56-110, Idaho Code.

(b) For the first fiscal year of a free-standing intermediate care facility established on or after January 1, 1982, which seeks to contract for the first time to provide medicaid services to recipients, the director shall determine payment for such facility in the same manner as specified in section 56-111, Idaho Code; however, allowable property costs shall be subject to the investment limitation. Thereafter, such determination for such facility shall be done in accordance with subsection (a) of this section.

SECTION 5. That Section 56-113, Idaho Code, be, and the same is hereby amended to read as follows:

56-113. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED. (a) Not later than January 1, 1982, and prior to the beginning of each fiscal year thereafter, the director shall determine the total prospective payment rate for all intermediate care facilities for the mentally retarded under medicaid contract with the director on or before the effective date of this chapter in the same manner as set forth in section 56-110, Idaho Code.

(b) For the first fiscal year of an intermediate care facility for the mentally retarded established on or after January 1, 1982,

which seeks to contract for the first time to provide medicaid services to recipients, the director shall determine payment for such facility in the same manner as specified in section 56-111, Idaho Code; however, allowable property costs shall be subject to the investment limitation. Thereafter, such determination for such facility shall be done in accordance with subsection (a) of this section.

SECTION 6. That Section 56-120, Idaho Code, be, and the same is hereby amended to read as follows:

56-120. EXISTING HOSPITAL-BASED FACILITIES. (a) Not later than January 1, 1982, and prior to the beginning of each fiscal year thereafter, the director shall determine the maximum base payment rate for all hospital-based facilities that were under medicaid contract on or before such effective date as a class, using the following method:

(1) First, using worksheet B of the most recent cost report, or the most recent audited medicare cost report, if available, submitted to the director by each hospital-based facility, the director shall subtract such facility's total direct costs (excluding property costs) from the sum of total general, ancillary and routine service costs (excluding property costs) of both the facility and the hospital;

(2) Next, again using worksheet B of the same medicare cost report submitted by such facility, the director shall determine a percentage by dividing the sum of the total indirect costs of the hospital and the facility into the total indirect costs of the facility;

(3) Next, the director shall multiply the total direct general service costs (excluding property costs), as used in paragraph (1) of this subsection, by the percentage derived from paragraph (2) of this subsection;

(4) Next, the director shall add to the total direct costs of the facility, as used in paragraph (1) of this subsection, the sum derived from paragraph (3) of this subsection and total costs attributable to central service, oxygen, and physical therapy services, taken from worksheet C of the facility's medicare cost report;

(5) Next, the director shall divide the sum derived from paragraph (4) of this subsection by the facility's total number of patient-days in the fiscal year covered by that facility's medicare cost report;

(6) Next, the director shall multiply the cost of care per patient-day obtained from paragraph (5) of this subsection by the percentage representing the annual combined inflator index for the period in which the base rate is to be effective, as determined and agreed upon pursuant to section 56-130, Idaho Code;

(7) Next, the director shall combine the results from each hospital-based facility, as obtained from paragraph (6) of this subsection, to establish the range of costs of care per patient-day for all such facilities in the class; and

(8) Next, the director shall calculate the mean cost of care per

patient-day for the class and the standard deviation from such mean, which shall be used to determine the base rate for the class, as specified in section 56-103(a), Idaho Code.

The cost per patient-day resulting from paragraph (8) of this subsection shall constitute the basic payment for the cost of care per patient-day in each hospital-based facility in the class, and the director shall notify each such facility of such rate not later than sixty (60) days prior to the beginning date of the fiscal year in which it is to be effective. For purposes of this subsection, "medicare cost report" means form 2551, form 2552, or any similar successor form promulgated by the United States department of health and human services or its successor agency for the purpose of determining allowable, reimbursable costs for delivery of care or services under titles V, XVIII, or XIX of the social security amendments of 1965, as amended.

(b) In addition to the basic payment per patient-day of care, each hospital-based facility shall be paid on a prospective basis:

(1) Its actual property and utility costs per patient-day, to be determined by dividing its total projected property and utility costs, subject to the interest rate limitation, for its upcoming fiscal year, as submitted by each such facility to the director not later than ninety (90) days prior to the beginning date of such fiscal year, by the total number of patient-days estimated by such facility; and

(2) A monthly incentive payment equal to the computed difference between the facility's actual payment per patient-day and the base rate established for the class pursuant to section 56-103(a), Idaho Code, and this part. This computed difference shall be:

1. One-half (1/2) of the difference, where the one hundredth percentile applies to such facility's class;
2. One-third (1/3) of the difference, where the ninetieth percentile applies to such facility's class;
3. One-fourth (1/4) of the difference, where the eightieth percentile applies to such facility's class; or
4. One-sixth (1/6) of the difference, where the seventy-fifth percentile applies to such facility's class;

provided, that in no event shall the computed difference exceed one dollar and fifty cents ($1.50) per patient-day.

(c) Actual payments made by the director to each hospital-based facility pursuant to sections 56-103 and 56-105, Idaho Code, and this section, shall be subject to audit and settlement under section 56-107, Idaho Code. In no event shall reimbursement to any facility exceed the usual and customary charges made to private pay patients.

SECTION 7. That Section 56-121, Idaho Code, be, and the same is hereby amended to read as follows:

56-121. NEW HOSPITAL-BASED FACILITIES. For the first fiscal year of a hospital-based facility established on or after January 1, 1982, which seeks to contract for the first time to provide medicaid services to recipients, the director shall determine payment in the same

manner as specified in section 56-120, Idaho Code, except that, in lieu of the medicare cost report, the hospital-based facility shall submit to the director, not later than ninety (90) days prior to the beginning date of the fiscal year in which the prospective rate is to be effective, a prospective budget containing the information necessary to complete the formula set forth in section 56-120, Idaho Code; however, allowable property costs shall be subject to the investment limitation. Thereafter, such determination for such facility shall be done in accordance with section 56-120, Idaho ~~c~~Code.

Approved March 30, 1984.

CHAPTER 119
(H.B. No. 664)

AN ACT

RELATING TO THE SALES TAX; AMENDING SECTION 63-3622, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES, AND TO PROVIDE AN EXEMPTION TO THE IDAHO SALES TAX ACT FOR SALES OF TANGIBLE PERSONAL PROPERTY OCCURRING WITHIN THE BOUNDARIES OF AN INDIAN RESERVATION LOCATED IN IDAHO WHEN THE BUSINESS OR ENTERPRISE SELLING THE TANGIBLE PERSONAL PROPERTY IS OWNED AND OPERATED BY A FEDERALLY RECOGNIZED INDIAN TRIBE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3622, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622. EXEMPTIONS. There are exempted from the taxes imposed by this act the following:

(a) The sale at retail, storage, use, or other consumption of tangible personal property which this state is prohibited from taxing under the Constitution of the United States.

(b) The sale of tangible personal property to resident contractors for subsequent incorporation into real property outside this state in the performance of a contract to improve the out-of-state realty unless this provision would result in subjection of said contractor to a use or similar excise tax in another state.

(c) Purchases which are subject to the motor fuels tax imposed by chapter ~~12,--title--49,--Idaho-Code,-motor-fuels-subject-to-tax-under section-49-127(d),-Idaho-Code,-and-the--motor--fuels--tax--imposed--by chapter~~ 24, title 63, Idaho Code.

(d) Receipts from the sale, storage, use or other consumption in this state of tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for ultimate sale at retail within or without this state, and tangible personal property primarily and directly used or consumed in or during such

manufacturing, processing, mining, farming, or fabricating operations by a business or segment of a business which is primarily devoted to such operation or operations, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change or for removing impurities or otherwise placing a product in a more marketable condition are included within this exemption, as are other articles of tangible personal property used in the actual manufacturing, processing, mining, farming or fabricating operations. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies, and hand tools with a unit purchase price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles licensed or required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put; nor shall this exemption include tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from this act by subsections (h), (k), (l) and (p) of this section.

(e) The sale, use or purchase of tangible personal property, which property is pollution control equipment required in order to meet air and water quality standards of a state or federal agency having authority to regulate and set air and water quality emission standards. This exemption does not include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put.

(f) All sales of irrigation equipment and supplies, except hand tools as defined in subsection (d) of this section, to be used for agricultural production purposes, whether or not such equipment and supplies are to become a part of real estate and whether or not installed by the farmer, a contractor or subcontractor.

(g) The sale or purchase of containers in the following categories:

1. Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

2. Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this act.

3. Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for filling.

(h) The sale or purchase of gas, electricity, and water when delivered to consumers.

(i) The sale or purchase of any matter used to produce heat by burning, including wood, coal, petroleum and gas.

(j) The sale or purchase of tangible personal property at home yard sales; provided, however, that no more than two (2) such home yard sales per individual per calendar year shall be exempt.

(k) The sale or purchase of tangible personal property used for the performance of a written contract entered into prior to the passage and approval of this act, but such exemption shall extend only until July 1, 1967.

(l) The sale or purchase, or the storage, use or other consumption of religious literature, pamphlets, periodicals, tracts and books published and sold by a bona fide church or religious denomination, no part of the net earnings of which inures to the benefit of any private individual or shareholder.

(m) The sale of meals by public or private schools under the federal school lunch program or under programs that provide nutritional meals for the aging (Title VII of the Older Americans Act, PL93-29), and the sale of meals by a church to its members at a church function.

(n) Occasional sales of tangible personal property, including sales of animals by any 4-H Club or FFA Club held in conjunction with a fair or the western Idaho spring lamb sale; providing, however, that this exemption shall not apply to the sale, purchase, or use of self-propelled motor vehicles unless they are transferred in a transaction falling within the scope of section 63-3612A(b), Idaho Code, a change in the form of doing business, or section 63-3612A(c), Idaho Code, the sale of a going business, or section 63-3612A(f), Idaho Code, the sale of motor vehicles between family members.

(o) The sale of articles through a coin-operated vending machine for a total consideration of fifteen cents ($.15) or less and individual transactions involving a total sales price of less than fifteen cents ($.15).

(p) Sales of liquor by the state liquor dispensary to a person licensed under the provisions of chapter 9, title 23, Idaho Code.

(q) Sales of prescription drugs and the sale of oxygen, all upon the prescription of a practitioner licensed to prescribe drugs to human beings in the course of his professional practice, the sale of artificial limbs, prescription braces, wheelchairs, hearing aids, crutches and other prosthetic devices except eyeglasses and dental bridgework.

(r) Sales to the Boy Scouts of America of supplies and materials for national and international encampments within the state of Idaho and sales by the Boy Scouts of America to participants in national and international encampments within the state of Idaho if such sales are made within the confines of Farragut State Park.

(s) Sales to and purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

1. Educational institution shall mean resident nonprofit colleges, universities, 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.

2. Hospital as used herein shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions or organizations.

3. Health-related entities as used herein shall mean the Idaho Cystic Fibrosis Foundation, March of Dimes, American Cancer Society, Mental Health Association, Idaho Association of Retarded Citizens, Idaho Heart Association, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, and Easter Seals, together with said entities' local or regional chapters or divisions.

4. Canal companies as used herein 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.

5. Forest protective associations as used herein 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.

(t) The sale or purchase of tangible personal property shipped by the seller via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state if the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(u) The sale or purchase of tangible personal property which is shipped to a point outside this state for use outside this state pursuant to a contract of sale by delivery by the vendor to such point by means of (1) facilities operated by the vendor, (2) delivery by the vendor to a carrier for shipment to a consignee at such point, or (3) delivery by the vendor to a customs broker or forwarding agent for shipment outside this state.

(v) Sales of motor vehicles and trailers for use outside of this state, even though delivery be made within this state, but only when (1) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state and (2) said motor vehicles and trailers will be titled and licensed immediately under the laws of another state, will not be used in this state more than twenty-five percent (25%) of the mileage in any calendar year, and will not be required to be titled under the laws of this state;

the sale of motor vehicles and motor equipment not required to be licensed and used as log jammers, log loaders, farm tractors and implements of husbandry; and the sale of used mobile homes, whether or not such used mobile homes are sold for use outside this state, and whether or not such used mobile homes are sold by a dealer. Every mobile home sale after its sale as a "new mobile home," as defined in section 63-3606, Idaho Code, is a sale as a used mobile home.

(w) Receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production and broadcasting of radio and television programs when the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production and broadcasting, provided, that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production and broadcasting operation, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than actual production and broadcasting operation such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put.

(x) Receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production of publications in a newspaper format which are distributed to the public at large and which rely on advertising revenue as their primary source of income; provided, that the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production of said publications; provided, further, that the use or consumption of such tangible personal property is necessary or essential to the performance of such publication business. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production of said publications, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual production of the publication and shall not include property such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state without regard to the use to which such motor vehicles are put.

Provided, further, that this exemption shall apply when the publication referred to herein is distributed to the public free of charge.

Provided, further, that in order for the exemption to be applicable, at least ten percent (10%) of the total publication, computed on an average annual column inch basis, must be devoted to the publi-

cation of nonincome producing informative material.

(y) The sale of tangible personal property relating to funeral services by a licensed funeral establishment.

(z) The sale of precious metal bullion or the sale of monetized bullion. For purposes of this section, "precious metal bullion" means any elementary precious metal which has been put through a process of smelting or refining including, but not limited to, gold, silver, platinum, rhodium, and chromium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but shall not include coins or money sold to be manufactured into jewelry or works of art.

(aa) The sale of tangible personal property occurring within the boundaries of an Indian reservation located in Idaho when the business or enterprise selling the tangible personal property is wholly owned and operated by a federally recognized Indian tribe.

(bb) To prevent evasion of the sales and use tax, it shall be presumed that all articles are subject to the taxes imposed by this act and the retailer shall have the burden of establishing the facts giving rise to such exemption by clear and convincing evidence unless the purchaser delivers to the retailer an exemption certificate in such form as the tax commission may prescribe, signed by the purchaser and setting forth the reason for the claimed exemption.

(bbcc) Any person who gives an exemption certificate with the intention of evading payment of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000) or imprisonment for not more than one (1) year or by both such fine and imprisonment.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 30, 1984.

CHAPTER 120
(H.B. No. 669)

AN ACT

RELATING TO THE DISTRIBUTION OF MONEYS IN THE LIQUOR ACCOUNT; AMENDING SECTION 23-404, IDAHO CODE, TO ELIMINATE THE TRANSFER OF FUNDS TO THE ALCOHOL SAFETY ACTION PROGRAM ACCOUNT AND THE LIQUOR LAW ENFORCEMENT ACCOUNT; AND REPEALING SECTION 23-806, IDAHO CODE, TO ELIMINATE THE LIQUOR LAW ENFORCEMENT ACCOUNT SOURCE AND APPROPRIATION.

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

SECTION 1. That Section 23-404, Idaho Code, be, and the same is hereby amended to read as follows:

23-404. DISTRIBUTION OF MONEYS IN LIQUOR ACCOUNT. (1) The moneys received into the liquor account shall be transferred or appropriated as follows:

(a) An amount of money equal to the actual cost of purchase of alcoholic liquor and payment of expenses of administration and operation of the dispensary, as determined by the superintendent and certified quarterly to the state auditor, shall be transferred back to the dispensary; provided, that the amount so transferred back for administration and operation of the dispensary shall not exceed the amount authorized to be expended by regular appropriation authorization.

(b) From the balance remaining after transferring the amounts authorized by subsection (a) above:

(i) One million two hundred thousand dollars ($1,200,000) shall be transferred annually to the alcoholism treatment account, which is hereby created in the trust and agency fund;

(ii) ~~Seven-hundred-fifty-thousand-dollars--($750,000)--shall be--transferred-annually-to-the-alcohol-safety-action-program account,-which-is-hereby-created-in-the-dedicated-fund;~~

~~(iii)--Three-hundred-seventy-five-thousand-dollars-($375,000) shall-be-transferred-annually-to-the-liquor--law--enforcement account,-created-by-section-23-806,-Idaho-Code;~~

~~(iv)~~ Three hundred thousand dollars ($300,000) shall be transferred annually to the junior college account, created by section 33-2139, Idaho Code;

(~~v~~iii) One million two hundred thousand dollars ($1,200,000) shall be transferred annually to the public school income fund, as defined in section 33-903, Idaho Code;

(~~v~~iv) ~~Three~~ Four million ~~eight~~ nine hundred ~~twenty~~ forty-five thousand dollars ($~~3,820,000~~ 4,945,000) shall be transferred annually to the general account in the state operating fund; and

(~~v~~v) Six hundred fifty thousand dollars ($650,000) shall be transferred annually to the cooperative welfare account in the dedicated fund.

(c) Forty percent (40%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) above have been made is hereby appropriated to and shall be paid to the several counties. Each county shall be entitled to an amount in the proportion that liquor sales through the dispensary in that county during the state's previous fiscal year bear to total liquor sales through the dispensary in the state during the state's previous fiscal year, except that no county shall be entitled to an amount less than that county received in distributions from the liquor account during the state's fiscal year 1981.

(d) Sixty percent (60%) of the balance remaining after the transfers authorized by paragraphs (a) and (b) above have been made is hereby appropriated to and shall be paid to the several cities as follows:

(i) Ninety percent (90%) of the amount appropriated to the cities shall be distributed to those cities which have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that liquor sales through the dispensary in that city during the state's previous fiscal year bear to total liquor sales through the dispensary in the state during the state's previous fiscal year, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981.

(ii) Ten percent (10%) of the amount appropriated to the cities shall be distributed to those cities which do not have a liquor store or distribution station located within the corporate limits of the city. Each such city shall be entitled to an amount in the proportion that that city's population bears to the population of all cities in the state which do not have a liquor store or distribution station located within the corporate limits of the city, except that no city shall be entitled to an amount less than that city received in distributions from the liquor account during the state's fiscal year 1981.

(2) All transfers and distributions shall be made periodically, but not less frequently than quarterly but, the apportionments made to any county or city, which may during the succeeding three (3) year period be found to have been in error either of computation or transmittal, shall be corrected during the fiscal year of discovery by a reduction of apportionments in the case of over-apportionment or by an increase of apportionments in the case of under-apportionment. The decision of the superintendent on entitlements of counties and cities shall be final, and shall not be subject to judicial review.

SECTION 2. That Section 23-806, Idaho Code, be, and the same is hereby repealed.

Approved March 30, 1984.

CHAPTER 121
(H.B. No. 674)

AN ACT

RELATING TO CANDIDATES FOR STATE LEGISLATIVE OFFICES; REPEALING SECTION 34-614A, IDAHO CODE; AMENDING CHAPTER 6, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-614A, IDAHO CODE, TO REQUIRE CANDIDATES IN MULTI-MEMBER LEGISLATIVE DISTRICTS TO

DECLARE, IN THEIR DECLARATION OF CANDIDACY, THE SPECIFIC SEAT OR POSITION THAT THEY SEEK, TO REQUIRE THE SECRETARY OF STATE TO DESIGNATE SEATS IN MULTI-MEMBER LEGISLATIVE DISTRICTS AND TO LIST SUCH DISTRICTS SEPARATELY ON THE BALLOT, TO PROVIDE THAT THE CANDIDATE WHO RECEIVES THE MAJORITY OF VOTES IN EACH POSITION IS NOMINATED OR IS THE WINNER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-614A, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 6, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-614A, Idaho Code, and to read as follows:

34-614A. CANDIDATES FOR STATE LEGISLATURE. (1) A candidate for the office of state senator in a multi-member legislative district, and all candidates for the office of representative shall declare, in their declarations of candidacy, the specific seat or position that they seek.

(2) The secretary of state shall designate positions by using the terms "Position A", "Position B", and continuing in such fashion until all seats or positions in each district are properly labeled. The positions in each district shall be separately and distinctly placed on the primary and general election ballots, and for each position to be filled the ballot shall state "Vote for one".

(3) The candidate receiving the greatest number of votes for the position he seeks shall be declared nominated, or elected, as the case may be.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 30, 1984.

CHAPTER 122
(H.B. No. 604)

AN ACT

RELATING TO DEDUCTIONS FROM STATE TAXABLE INCOME; MAKING FINDINGS AND DECLARING LEGISLATIVE INTENT; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3022F, IDAHO CODE, TO PROVIDE A DEDUCTION FOR BENEFITS RECEIVED BY INDIVIDUALS PARTICIPATING IN CONSERVATION OR WEATHERIZATION PROGRAMS ADMINISTERED BY PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFEC-

TIVE DATE.

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

SECTION 1. STATEMENT OF LEGISLATIVE FINDINGS -- STATEMENT OF LEGISLATIVE INTENT. The legislature hereby finds that:

(a) The National Energy Conservation Policy Act encourages and promotes residential energy conservation and the weatherization of residential housing for the purposes of residential energy conservation and requires implementation of residential energy and conservation programs.

(b) The state of Idaho's executive order no. 80-10, setting forth state energy policy, provides that the conservation of all forms of energy for efficient energy management practices shall be encouraged and practiced by state government agencies.

(c) The Idaho legislature has provided tax deductions for the insulation of residences and for the installation of alternative energy devices at residences.

(d) Public utilities regulated by the Idaho public utilities commission have established and carried out programs to aid in residential energy conservation and weatherization pursuant to orders of the Idaho public utilities commission.

(e) It is the policy of both the state and national governments to encourage the residential conservation and weatherization programs.

The legislature hereby declares that taxpayers' participation in residential weatherization and conservation programs administered by public utilities subject to regulation of the Idaho public utilities commission is in the public interest and furthers important state and national policies, that it is in the public interest to exempt from taxation the benefits taxpayers receive from their participation in such programs, and that this act should be construed to exempt from income taxation any and all benefits that such taxpayers receive from participation in such programs.

SECTION 2. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3022F, Idaho Code, and to read as follows:

63-3022F. DEDUCTION FROM TAXABLE INCOME FOR CERTAIN BENEFITS RELATING TO RESIDENTIAL CONSERVATION AND WEATHERIZATION PROGRAMS. Individual taxpayers may deduct from taxable income, as defined in section 63-3022, Idaho Code, any amounts which are:

(a) Included in the taxpayer's federal taxable income as defined in section 63 of the internal revenue code; and

(b) The result of the taxpayer's participation in residential conservation or weatherization programs administered by public utilities regulated by the Idaho public utilities commission pursuant to orders issued by the Idaho public utilities commission.

The deduction allowed herein includes, but is not limited to, reduction or forgiveness of principal amounts loaned for residential

conservation or weatherization improvements.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval and retroactively to January 1, 1983.

Approved March 30, 1984.

CHAPTER 123
(S.B. No. 1216)

AN ACT

RELATING TO THE ORGANIZATION OF THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES; AMENDING SECTIONS 39-2701, 39-2702, 39-2703 AND 39-2704, IDAHO CODE, TO REDESIGNATE THE SECTIONS, TO PROVIDE PROPER CODE CITATIONS, AND TO STRIKE OBSOLETE MATERIAL; AMENDING SECTION 39-2705, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE FOR THE PLUMBING DIVISION AS A PART OF THE DEPARTMENT, TO PROVIDE FOR PLUMBING BOARD MEMBERSHIP, TERMS, QUALIFICATIONS OF MEMBERS, ORGANIZATION AND COMPENSATION; REPEALING SECTIONS 39-2706, 39-2707, 39-2708, 39-2709 AND 39-2710, IDAHO CODE; AMENDING SECTION 39-2711, IDAHO CODE, TO REDESIGNATE THE SECTION, TO STRIKE REFERENCE TO CERTAIN DUTIES OF THE PLUMBING BOARD, AND TO PROVIDE THAT THE BOARD SHALL ESTABLISH FEES TO BE CHARGED FOR PERMITS AND INSPECTIONS OF PLUMBING SYSTEMS; AMENDING SECTION 39-2712, IDAHO CODE, TO REDESIGNATE THE SECTION, TO STRIKE REFERENCE TO THE DIRECTOR'S AUTHORITY TO ESTABLISH FEES, AND TO PROVIDE THAT THE DIRECTOR SHALL SERVE AS SECRETARY TO THE PLUMBING BOARD; AMENDING SECTIONS 39-2713, 39-2714 AND 39-2715, IDAHO CODE, TO REDESIGNATE THE SECTIONS, AND TO PROVIDE PROPER CODE CITATIONS; AMENDING SECTION 39-2716, IDAHO CODE, TO REDESIGNATE THE SECTION, AND TO PROVIDE THAT THE PLUMBING BOARD SHALL MAKE RULES AND REGULATIONS RATHER THAN THE DIRECTOR; AMENDING SECTIONS 39-2717, 39-2718, 39-2719, 39-2720, 39-2721, 39-2722, 39-2723, 39-2724, 39-2725, 39-2726 AND 39-2727, IDAHO CODE, TO REDESIGNATE THE SECTIONS, AND TO PROVIDE PROPER CODE CITATIONS; AMENDING SECTION 39-2728, IDAHO CODE, TO REDESIGNATE THE SECTION, AND TO PROVIDE THAT THE PLUMBING BOARD SHALL FIX PERMIT FEES RATHER THAN THE DIRECTOR; AMENDING SECTIONS 39-2729, 39-2730 AND 39-2731, IDAHO CODE, TO REDESIGNATE THE SECTIONS AND TO CORRECT A REFERENCE; AMENDING SECTION 39-2732, IDAHO CODE, TO REDESIGNATE THE SECTION, AND TO PROVIDE FOR THE APPOINTMENT BY THE DIRECTOR OF A CHIEF PLUMBING INSPECTOR WHO SHALL BE THE DIVISION ADMINISTRATOR; AMENDING SECTIONS 39-2733 AND 39-2734, IDAHO CODE, TO REDESIGNATE THE SECTIONS; AMENDING SECTION 39-2735, IDAHO CODE, TO REDESIGNATE THE SECTION, AND TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 54-1005, IDAHO CODE, TO STRIKE REFERENCE TO THE DIRECTOR'S AUTHORITY TO ESTABLISH FEES; AMENDING SECTION 54-1006, IDAHO CODE, TO PROVIDE FOR THE ELEC-

TRICAL DIVISION AS PART OF THE DEPARTMENT, TO PROVIDE FOR DUTIES OF THE DIRECTOR, TO STRIKE OBSOLETE MATERIAL, AND TO PROVIDE THAT THE BOARD SHALL ESTABLISH FEES TO BE CHARGED FOR PERMITS AND INSPECTIONS OF ELECTRICAL SYSTEMS RATHER THAN THE DIRECTOR; AMENDING SECTION 54-1009, IDAHO CODE, TO PROVIDE THAT THE ELECTRICAL BOARD SHALL MAKE RULES AND REGULATIONS RATHER THAN THE DIRECTOR; AMENDING SECTION 54-1015, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE, AND TO STRIKE OBSOLETE MATERIAL; AMENDING SECTION 54-1017, IDAHO CODE, TO PROVIDE THAT A VIOLATION OF AN ELECTRICAL BOARD RULE IS A MISDEMEANOR; AMENDING SECTION 44-101, IDAHO CODE, TO PROVIDE FOR THE ORGANIZATION OF THE DEPARTMENT INTO DIVISIONS AND OTHER ADMINISTRATIVE UNITS; AMENDING SECTION 44-103, IDAHO CODE, TO PROVIDE PROPER CODE CITATIONS, AND TO STRIKE OBSOLETE MATERIAL; TO PROVIDE FOR THE CONTINUATION OF CERTAIN RULES, REGULATIONS AND FEES ADOPTED BY THE DIRECTOR FOR A TIME CERTAIN; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-2701, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2701~~ 54-2601. DECLARATION OF POLICY AND PURPOSE OF ACT. The purpose of this act is to provide certain minimum standards and requirements for the use of and the design, construction, installation, improvement, extension and alteration of materials, piping, venting, fixtures, appliances and appurtenances in relation to plumbing and plumbing systems hereinafter defined~~;~~, and to provided that all plumbing and plumbing systems shall~~, after the effective date of this act,~~ be designed, constructed, installed, improved, extended and altered in substantial accord with the Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials, and as it shall be amended, revised, compiled and published from time to time and as such amendments or revisions shall be adopted by the ~~state~~ Idaho plumbing board; provided that the provisions of this act shall not apply, except as hereinafter provided, to cities if such cities have or enact ordinances or codes prescribing the equal minimum standards and requirements including the enforcement thereof as provided by this act.

SECTION 2. That Section 39-2702, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2702~~ 54-2602. EXCEPTIONS. Certificate of competency requirements of this act shall not be deemed to apply to:

(a) Any person who does plumbing work in a single or duplex family dwelling, including accessory buildings, quarters and grounds in connection with such dwelling; provided that such person owns or is a contract purchaser of the premises, and provided further that such person shall comply with the minimum standards, rules and regulations applicable to plumbing practices provided by this act.

(b) Farm buildings located outside the incorporated limits of any city ~~or town~~ unless such buildings are connected to a public water or sewer system; and a farm is hereby defined to be an agricultural unit on which the owner or occupant resides and from which the owner or occupant derives his principal income and livelihood.

(c) Logging, mining or construction camps when plumbing installations are made to conform with the recommendations of the department of health and welfare.

(d) Piping systems in industrial processing plants located outside the incorporated limits of any city ~~or town~~ unless such systems are connected to a public water or sewer system.

(e) Work on plumbing systems on premises owned or operated by an employer who regularly employs maintenance or construction plumbers, provided that alterations, extensions and new construction shall comply with the minimum standards, rules and regulations applicable to plumbing practices provided by this act.

(f) Nothing contained in this section or any other provision of this code shall be construed or applied to require a sewer contractor, sewage disposal contractor, or any excavating or utility contractor who generally engages in the business of installing, altering or repairing sewers, private and public sewage disposal systems, and water distribution and/or drainage lines outside the foundation walls of any building or structure, to obtain a valid contractor's certificate of competency or to employ only journeymen plumbers possessing a valid journeyman plumber's certificate of competency or registration, or to in any way require that his employees be registered, licensed or declared competent by the ~~state plumbing~~ board.

(g) Water treatment installations and repairs when installed in residential or business properties, provided the same when installed, repaired or completed, shall be inspected by a designated, qualified and properly identified agent ~~of the state plumbing board~~ of the department of labor and industrial services as to quality of workmanship and compliance with the applicable provisions of this act.

Any person, firm, co-partnership, association or corporation making water treatment installations and/or repairs in accordance with the provisions of this act shall maintain a surety bond in the amount of two thousand dollars ($2000).

SECTION 3. That Section 39-2703, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2703~~ 54-2603. PLUMBING. Plumbing means and includes the business, trade practice or work, materials and fixtures used in the design, construction, installation, improvement, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any plumbing system.

SECTION 4. That Section 39-2704, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2704~~ 54-2604. PLUMBING SYSTEMS. (1) A plumbing system, public

or private, means and includes:

(a) plumbing fixtures, interconnecting system pipes and traps;

(b) soil, waste and vent pipes;

(c) building drains and building sewers;

(d) sanitary and storm water drainage facilities;

(e) liquid waste and sewerage facilities;

(f) water supply systems and distribution and disposal pipes of any premises;

(g) water treating and water using equipment attached to a plumbing system except for water conditioning equipment; and

(h) all the respective connections, devices and appurtenances of any plumbing system, public or private, within or adjacent to any building, residence or structure to and including a connection with any point of a public or private supply, distribution or disposal system or other acceptable terminal.

(2) As used in this section, "water conditioning equipment" shall mean those devices necessary to remove impurities and sediment from water.

(3) It shall be unlawful for any person, firm, copartnership, association or corporation to do, or cause to be done, whether acting as a principal, agent, or employee, any construction, installation, improvement, extension or alteration of any plumbing system or water conditioning equipment in any residence, building, or structure, or service lines thereto, in the state of Idaho, without complying with the bonding provisions as provided by section ~~39-2702~~ 54-2602, Idaho Code.

SECTION 5. That Section 39-2705, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2705~~ 54-2605. ~~STATE~~ IDAHO PLUMBING BOARD ~~CREATED----- ADMINISTRATION~~. (1) The Idaho plumbing board, ~~hereinafter~~ referred to as the board, is hereby created and made a part of the plumbing division of the department of labor and industrial services. It shall be the responsibility and duty of the ~~board to assist the~~ director of the department of labor and industrial services to administer and enforce the provisions of this act~~,~~; and ~~it~~ the board shall make, promulgate and publish such rules and regulations as ~~the board~~ may ~~deem~~ be necessary for carrying out the provisions of this act in order to effectuate the purposes thereof and for the orderly and efficient administration thereof, and except as may be limited or prohibited by law and the provisions of this act, such rules and regulations so made and promulgated shall have the force of statute.

(2) The board shall consist of five (5) members. The members shall be appointed at large by the governor, with power of removal for cause. Members shall be appointed for a term of three (3) years. Whenever a vacancy occurs the governor shall forthwith appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be United States citizens, residents of this state for not less than two (2) years, and qualified by knowledge, integrity and experience to properly execute the func-

tions of the board. Two (2) members shall be qualified persons representing the public at large; one (1) member shall be an active plumbing contractor with not less than five (5) years experience in the plumbing contracting business; one (1) member shall be an active plumbing contractor with not less than five (5) years in the plumbing contracting business with an additional background of experience in gas piping installations in buildings; and one (1) member shall be a journeyman plumber. All members of the board shall take, subscribe and file with the secretary of state an oath of office in the form, manner and time prescribed by chapter 4, title 59, Idaho Code.

(4) The board shall meet within thirty (30) days after the appointment of all its members and thereafter at such other times as may be expedient and necessary for the proper performance of its duties. At the board's first meeting, the members shall elect one (1) of their number to be chairman. A majority of the board shall constitute a quorum for the transaction of business and not less than two (2) quorum meetings shall be held each year. The board may delegate to any member, or its chairman or other employees, the power to make investigations and hold hearings at any place it may deem proper, and to report findings to it; and may delegate to its chairman and employees the performance of ministerial functions.

(5) Each member of the board shall be compensated as provided by section 59-509(f), Idaho Code.

SECTION 6. That Sections 39-2706, 39-2707, 39-2708, 39-2709 and 39-2710, Idaho Code, be, and the same are hereby repealed.

SECTION 7. That Section 39-2711, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2711~~ 54-2606. POWERS AND DUTIES -- EXECUTIVE OFFICERS -- EMPLOYEES -- COMPENSATION -- TENURE. The board shall have the general administration and supervision of the design, construction, installation, improvement, extension and alteration of plumbing and plumbing systems, except that which has been heretofore and hereinafter exempted from the jurisdiction of this board, in connection with all buildings, residences and structures in this state including buildings, residences and structures owned by the state or any political subdivision thereof. The department of labor and industrial services shall enforce the minimum standards and requirements therefor as provided by this act. The board may exercise such powers and duties as are reasonably necessary to carry out the provisions of this act, and it may among other things:

(a) ~~Employ an executive officer who shall serve as secretary to the board, and who shall be a person well informed in matters of plumbing, and plumbing and piping systems; and may employ such other persons as may be necessary to the performance of its duties; and shall fix the compensation of the executive officer and other employees, which officer and employees shall serve during the pleasure of the board~~ Establish the fees to be charged for permits and inspections of plumbing systems.

(b) Hold public meetings and attend or be represented at such meetings, within or without the state, prepare and publish rules and regulations pertaining to this act, and such other information as may be necessary, and furnish copies thereof to those engaged in the business, trade, practice or work of plumbing and pipe fitting and to the public upon request.

(c) Furnish standards and procedures and prescribe reasonable rules and regulations for examinations, qualification and certification of plumbing contractors and journeymen and apprentice plumbers not herein prescribed, including the furnishing of a compliance bond in an amount not to exceed two thousand dollars ($2,000) for the contractor classification or evidence of such coverage by a corporate industry group bond acceptable to the board.

SECTION 8. That Section 39-2712, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2712~~ 54-2607. DIRECTOR OF DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES -- POWERS AND DUTIES. The director shall exercise such powers and duties as are reasonably necessary to enforce the minimum standards provided in this act, and he may among other things:

(a) Prescribe and establish procedures to effectuate the efficient enforcement of this act not herein prescribed.

(b) ~~Establish-and-charge-a-reasonable-fee-for-permits-and-inspections-of-plumbing-systems~~ Serve as secretary to the Idaho plumbing board.

(c) Appoint~~;--on--the-recommendation-of-the-Idaho-plumbing-board;~~ licensed staff inspectors who shall be authorized to enter and inspect by and through a properly identified person, at reasonable hours, plumbing and plumbing systems.

(d) Summon witnesses to appear and testify before him on any matter within the provisions of this act. No person shall be required to testify outside the county wherein he resides or where his principal place of business is located. Such summons to testify shall be issued and served in like manner as a subpoena to witness issued from the district court, or in other manner consistent with procedure of the department of labor and industrial services. In case any witness shall fail or refuse to appear and testify upon being summoned as herein provided, the clerk of the district court of the county shall upon demand by said director or his designated agent, issue a subpoena reciting the demand therefor and summoning the witness to appear and testify at a time and place fixed. Violation of such subpoena or disobedience thereto shall be deemed and punished as a violation of any other subpoena issued from the district court.

(e) Administer oaths and take affirmations of witnesses appearing before him; and have the power to appoint competent persons to issue subpoenas, administer oaths and take testimony. It shall be the duty of the director to give notice to cities which supply sewer service to areas outside their city limits and who have requested in writing such notice from the director of all permits issued relative to sewer installations. The notice shall be given within ten (10) days from the

date the permit was requested for such installation. The notice shall contain a map of the physical location of the installation and reference to the date of inspection if the city so requests.

SECTION 9. That Section 39-2713, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2713~~ 54-2608. REVOCATION OF CERTIFICATES OF COMPETENCY -- SUSPENSION -- REFUSAL TO RENEW. The director of the department of labor and industrial services shall have on the recommendation of the board the power to revoke, suspend or refuse to issue a renewal of any certificate of competency if the same was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent or has a second time violated any of the rules and regulations prescribed by the board, or as prescribed by this act. Before the director shall refuse to grant a renewal of said certificate to any applicant or shall revoke or suspend any certificate previously granted, he shall hold a hearing giving such applicant or holder of said certificate fifteen (15) days written notice of his intended action by registered mail directed to the applicant or holder at the address given on said certificate or in the application for said certificate, stating generally the basis for his intended action; and the applicant or holder of said certificate shall have the opportunity to produce testimony in his own behalf at a time and place specified in said notice. If the director, after the hearing, shall refuse to grant a renewal of said certificate or shall suspend or revoke any certificate previously granted, said applicant or holder of a certificate may, within fifteen (15) days after the director's final determination, have the proceedings of the director reviewed by the district court of the county wherein the applicant or holder resides or conducts his business. No new or additional matter may be introduced in the district court. The review before the district court shall be heard on the record of the director as certified by him, with the review on appeal extending no further than to determine whether the director has regularly pursued his authority including a determination of whether the director, in the exercise of his discretion, had reasonable cause to refuse to grant a renewal of said certificate, or to revoke or suspend any certificate previously granted. If the proceedings of the director shall be upheld by the court, his orders or decisions revoking said certificate shall remain and continue in full force and effect, unless upon an appeal to a higher court the decision of the district court is reversed. Any person whose certificate has been revoked may, after the expiration of one (1) year from the date of revocation, but not before, apply for a new certificate of competency.

SECTION 10. That Section 39-2714, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2714~~ 54-2609. CHARACTER OF EXAMINATION -- CERTIFICATION. The board shall determine the character and extent of the examination based upon the standards and requirements prescribed by this act, and

upon certifications of examination results by the board, the director shall issue certificates of competency to the successful applicants.

SECTION 11. That Section 39-2715, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2715~~ 54-2610. CERTIFICATE A PREREQUISITE. It shall be unlawful for any person or firm, copartnership, association or corporation, to engage in the business, trade, practice or work of plumbing in this state after the adoption of this act, unless such person, or responsible person representing such firm, copartnership, association or corporation, has successfully passed an examination as provided herein and has issued to him a state certificate of competency, which shall not be transferable, and said certificates of competency shall not be required for sewer contractors, sewage disposal contractors, or any excavating or utility contractors, or for their employees, as set forth and defined in section ~~39-2702~~ 54-2602(f), Idaho Code.

SECTION 12. That Section 39-2716, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2716~~ 54-2611. CLASSIFICATION OF COMPETENCY. There shall be three (3) classifications of competency in the business, trade, practice or work of plumbing, as follows:

(a) A plumbing contractor shall be any person, or a member, representative or agent of a firm, copartnership, association, or corporation skilled in the planning and supervision of the construction, installation, improvement, extension and alteration of plumbing systems, and who is familiar with the provisions of this act and the rules and regulations made by the ~~director-of-the-department-of-labor and-industrial-services~~ Idaho plumbing board, and who is competent to offer and to assume to work on a contract basis and to direct the work of qualified employees. A contractor who in person does plumbing work shall also be qualified as a journeyman plumber, or have in his employ on all work a qualified journeyman.

(b) A plumbing journeyman shall be any person, who as his principal occupation, is engaged in the installation, improvement, extension and alteration of plumbing systems, and who is familiar with the provisions of this act and who works in the employ and under the direction of a plumbing contractor.

(c) A plumbing apprentice shall be any person, who as his principal occupation is engaged in learning and assisting in installation, improvement, extension and alteration of plumbing systems. Apprentices shall not perform plumbing work except under the supervision of a journeyman.

SECTION 13. That Section 39-2717, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2717~~ 54-2612. EXAMINATIONS -- TIME AND PLACE -- NOTIFICATION. Times and places for examinations shall be determined by the board and

all applicants shall be notified thereof.

SECTION 14. That Section 39-2718, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2718~~ 54-2613. APPLICATION FOR EXAMINATION. All applications for examination shall be filed with the board on the form provided. When any person, or persons, is designated and authorized to be or act as an agent for the applicant, such authorization shall be in writing, signed by the applicant and the person designated, a certified copy of which shall be filed with the board. All applications shall expire and be cancelled after a period of one year if the applicant fails to appear for examination within such period.

SECTION 15. That Section 39-2719, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2719~~ 54-2614. EXAMINATION FEE. All applicants shall pay to the board at the time of application for examination, a fee in accordance with the following:

Examination for Plumbing Contractor.....$22.50
Examination for Plumbing Journeyman..... 22.50

Apprentices shall not be required to be examined for competency, but shall register with the board and maintain such registration yearly. The registration fee for apprentices shall be five dollars ($5.00) initial and five dollars ($5.00) per year renewal. Any person who fails to pass the examination may apply for reexamination at the next scheduled examination upon payment of the examination fee. Should any person fail to pass the examination the second time, the board may refuse a subsequent application until the expiration of one (1) year.

SECTION 16. That Section 39-2720, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2720~~ 54-2615. CERTIFICATE OF COMPETENCY. Upon the applicant's successful completion of an examination, as certified by the board, he shall be issued a certificate of competency in the form of a card, providing thereon the holder's name, classification for which the applicant was examined, year current, space for the holder's signature, the certificate number, and the signature of the director of the department of labor and industrial services.

SECTION 17. That Section 39-2721, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2721~~ 54-2616. FEES FOR CERTIFICATES. Before a certificate is issued, and for the renewal thereof, the successful applicant shall pay to the department of labor and industrial services a fee in accordance with the following schedule:

	Initial Fee	Renewal
Plumbing Contractor	$75.00	$37.50

Plumbing Journeyman	15.00	7.50

SECTION 18. That Section 39-2722, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2722~~ 54-2617. CERTIFICATE EXPIRATION -- RENEWAL. Certificates of competency shall expire on the 31st day of December each year, unless sooner revoked or suspended, and shall be renewed at any time during the month of December. Failure of any holder to renew said certificate before the last day of December shall cause lapse of the certificate, but it may be revived within one year without examination only upon payment of the full initial fee.

SECTION 19. That Section 39-2723, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2723~~ 54-2618. CERTIFICATE TO BE DISPLAYED AND CARRIED. All holders of valid certificates in the contractor classification shall display a sign or card, upon a form prescribed and furnished by the department of labor and industrial services, for public view in their place of business. All journeymen shall have on their persons during working hours their certificate of competency, and apprentices shall have on their persons evidence of registration.

SECTION 20. That Section 39-2724, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2724~~ 54-2619. MUNICIPAL FEES FOR PERMITS, INSPECTIONS -- EXCEPTIONS. No provision of this act shall deprive incorporated cities ~~or towns~~, including those specially chartered, from collections of fees from permits and inspections. Notwithstanding the provisions of sections 50-304, 50-306 and 50-606, Idaho Code, no cities, including those specially chartered, shall require occupational license fees from plumbing contractors and journeymen who possess a valid certificate of competency issued by the director of the department of labor and industrial services, except those cities that have qualified plumbing inspectors.

SECTION 21. That Section 39-2725, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2725~~ 54-2620. PERMITS REQUIRED -- EXCEPTIONS. It shall be unlawful for any person, firm, copartnership, association or corporation to do, or cause or permit to be done, after the adoption of this act, whether acting as principal, agent or employee, any construction, installation, improvement, extension or alteration of any plumbing system in any building, residence or structure, or service lines thereto, in the state of Idaho, without first procuring a permit from the department of labor and industrial services authorizing such work to be done, except:

(a) Within the boundaries of incorporated cities, including those

specially chartered, where such work is regulated and enforced by an ordinance or code equivalent to this act;

(b) Within such additional area within five (5) miles of the city limits over which such city has elected to exercise jurisdiction relative to building drains and building sewers pursuant to section 50-606, Idaho Code, on buildings, residences and structures being converted from an on-site sewage disposal system to a sewage disposal system supplied by the said city, where such work is regulated and enforced by an ordinance or code equivalent to this act. Cities shall provide the department of labor and industrial services written notice of the area over which such jurisdiction will be exercised. No city may exercise such jurisdiction within the limits of another city unless both cities have agreed by ordinance to allow such jurisdiction. For purposes of this act building drain and building sewer will be defined according to the definition found in the uniform plumbing code or as adopted by the ~~state-plumbing~~ board, pursuant to section ~~39-2701~~ 54-2601, Idaho Code.

Permits shall be issued only to a person, or to a firm, copartnership, association or corporation represented by a person holding a valid certificate of competency, or to a person who does his own work in a family dwelling as defined in section ~~39-2702~~ 54-2602(a), Idaho Code, except that permits shall not be required for plumbing work as defined in section ~~39-2702~~ 54-2602(b), (c), and (d), Idaho Code.

Provided, a licensed plumber is hereby authorized, after making application for permit and pending receipt of permit, to proceed and complete improvements or alterations to plumbing systems, when the cost of said improvement or alteration does not exceed the sum of five hundred dollars ($500). Inspection of such work shall be the responsibility of the permit holder pending an official inspection, which shall be made within sixty (60) days after notification of inspection.

SECTION 22. That Section 39-2726, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2726~~ 54-2621. WORK NOT REQUIRING PERMITS. A permit shall not be required for the clearing of stoppages or repairing of leaks in pipes, valves, fixtures, appliances or appurtenances of any plumbing system when such work does not involve or require any functional rearrangement of pipes, valves or fixtures comprising the plumbing system.

SECTION 23. That Section 39-2727, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2727~~ 54-2622. PERMITS -- APPLICATION -- REQUIREMENTS. Any person, firm, copartnership, association or corporation entitled to receive a permit, shall make application to the ~~state-plumbing~~ board on the form provided. A description of the work proposed to be done, location, ownership, occupancy and use of the premises shall be given. The board may require plans and specifications and such other information as may be deemed necessary and pertinent before granting a

permit. When it has been determined that the information furnished by the applicant is in compliance with this act, the permit shall be issued upon payment of the fees as hereinafter fixed.

SECTION 24. That Section 39-2728, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2728~~ 54-2623. FEE -- PERMIT -- INSPECTION. The applicant shall pay to the department at the time of application, a permit fee for each permit issued and an inspection fee in accordance with the schedule fixed by the ~~director-of-the-department-of-labor-and-industrial services~~ Idaho plumbing board, which schedule shall not require inspection fees in amounts to exceed the expense of providing inspection.

SECTION 25. That Section 39-2729, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2729~~ 54-2624. INSPECTION BY AGENT -- TESTS. All pipes, fittings, valves, vents, fixtures, appliances and appurtenances shall be inspected by a designated, qualified and properly identified agent of the department of labor and industrial services to insure compliance with provisions of this act. In order to make inspections uniform and complete, the board shall make, promulgate and publish such rules and regulations as are necessary to insure that any plumbing system has been designed, constructed, installed, improved, extended or altered in accordance with the provisions of this act and in accordance with the rules and regulations made, promulgated and published by the Idaho plumbing board.

SECTION 26. That Section 39-2730, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2730~~ 54-2625. APPROVAL AND CERTIFICATION OF INSPECTION. The inspector shall either approve that portion of the work completed at the time of inspection or shall notify the permit holder wherein the same fails to comply with this act and the rules and regulations of the ~~state~~ Idaho plumbing board, and when final inspection has been made and the work approved, the inspector shall certify to the owner or permit holder or agency serving the premises by attaching securely an inspector's tag at the approximate service entrance that inspection has been made and found satisfactory as required by this act and ready for service.

SECTION 27. That Section 39-2731, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2731~~ 54-2626. NOTIFICATION FOR INSPECTION -- FEE FOR REINSPECTION. It shall be the duty of the permit holder to notify the nearest representative of the department of labor and industrial services at least twelve (12) hours prior to the time of inspection, exclusive of

Sundays and holidays, that he will be ready for inspection at a stipulated time. When reinspection is required after the final inspection because of failure to meet requirements of this act, it shall be made at a flat charge not to exceed the cost of reinspection.

SECTION 28. That Section 39-2732, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2732~~ 54-2627. APPOINTMENT OF INSPECTORS -- QUALIFICATIONS -- UNLAWFUL PRACTICES. The director of the department of labor and industrial services~~,-upon-recommendation-of-the-board~~ shall appoint a chief inspector who shall be the division administrator, and such number of deputy inspectors as may be required for the effective enforcement of this act. All inspectors shall be skilled in plumbing installations with not less than five (5) years actual experience, shall possess certificates of competency prior to appointment, and shall be fully familiar with the provisions of this act and rules and regulations made by both the director and the Idaho plumbing board. No inspector employed by the department and assigned to the enforcement of this act shall be engaged or financially interested in a plumbing business, trade, practice or work, or the sale of any supplies connected therewith, nor shall he act as an agent, directly or indirectly, for any person, firm, copartnership, association or corporation so engaged. Inspectors employed by municipalities electing to claim exemption under this act must possess the qualifications set forth in this section.

SECTION 29. That Section 39-2733, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2733~~ 54-2628. VIOLATION -- MISDEMEANOR. Any person, or a firm, copartnership, association or corporation by and through a member, representative or agent, who shall engage in the business, trade, practice or work of plumbing without a certificate of competency or without registration, or perform work without a permit as provided by this act, or who shall violate any provision of this act or the rules and regulations made by both the director of the department of labor and industrial services and the Idaho plumbing board herein provided for, or who shall refuse to perform any duty lawfully enjoined upon him by said director within the prescribed time, or who shall fail, neglect, or refuse to obey any lawful order given or made by the said director shall be guilty of a misdemeanor and shall be subject to a fine of not less than ten dollars ($10.00) or more than three hundred dollars ($300), or to imprisonment in the county jail not to exceed thirty (30) days, or both. Each such violation shall constitute a separate offense.

SECTION 30. That Section 39-2734, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2734~~ 54-2629. ATTORNEY GENERAL -- PROSECUTING ATTORNEYS. It

shall be the right and duty of the attorney general or the prosecuting attorneys of the various counties to represent and appear for the people of the state of Idaho and the director of the department of labor and industrial services in all actions and proceedings involving any question under this act or under any order or act of said director and perform such other services as required.

SECTION 31. That Section 39-2735, Idaho Code, be, and the same is hereby amended to read as follows:

~~39-2735~~ 54-2630. PLUMBING BOARD ~~FUND~~ ACCOUNT CREATED. All money received by the board or the department, under the terms and provisions of this act, shall be paid into the state treasury monthly, and shall be, by the state treasurer, placed to the credit of ~~a-fund,-to be-known-as~~ the Idaho plumbing board ~~fund~~ account, which is hereby created in the state operating fund. All such moneys, hereafter placed in said ~~fund~~ account, are hereby set aside and perpetually appropriated to the department of labor and industrial services to carry into effect the provisions of this act.

SECTION 32. That Section 54-1005, Idaho Code, be, and the same is hereby amended to read as follows:

54-1005. RULES AND REGULATIONS -- INSPECTIONS -- INSPECTION TAGS AND FEES. (1) The director of the department of labor and industrial services is hereby authorized and directed to ~~prescribe,-amend-and~~ enforce rules and regulations consistent with this act for the administration of this act and to effectuate the purposes thereof, and for the licensing of electrical contractors and the examination and licensing of journeymen electricians, and to make inspections of electrical installations referred to in section 54-1001, Idaho Code, and to issue inspection tags covering such installations, and to ~~establish and-charge-a-reasonable-and--uniform--schedule--of~~ collect the fees established therefor~~,-which-shall-not-exceed-the-expenses-of-providing such-inspection-service~~.

(2) Individuals, firms, cooperatives, corporations, or municipalities selling electricity, hereinafter known as the power supplier, shall not connect with or energize any electrical installation, coming under the provisions of this act, unless the owner or a licensed electrical contractor has delivered to the power supplier an inspection tag, issued by the director, covering the installation to be energized. Immediately after an installation has been energized, the power supplier shall deliver to the director or his authorized agent, the inspection tag covering such installation.

(3) It shall be unlawful for any person, partnership, company, firm, association or corporation other than a power supplier, to energize any electrical installation coming under the provisions of this act unless an application for an electrical inspection tag, covering such installation, together with the inspection fee herein provided, has been forwarded to the director.

SECTION 33. That Section 54-1006, Idaho Code, be, and the same is hereby amended to read as follows:

54-1006. IDAHO ELECTRICAL BOARD. (1) The Idaho electrical board, hereinafter known as the board, is hereby created and made a part of the electrical division of the department of labor and industrial services. It shall be the responsibility and duty of ~~the board to assist~~ the director of the department of labor and industrial services ~~in the administration~~ to administer and enforce~~ment of~~ the provisions of this act, to serve as secretary to the Idaho electrical board, and to appoint the chief electrical inspector, who shall be the division administrator.

(2) The board shall consist of seven (7) members to be appointed by the governor with power of removal for cause. ~~The term of office of the first seven (7) appointees shall begin on July 1, 1961. One (1) shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, two (2) for a term of three (3) years and two (2) for a term of four (4) years. Thereafter b~~Board members shall be appointed for a term of four (4) years. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(3) All members of the board shall be citizens of the United States, residents of this state for not less than two (2) years and shall be qualified by experience, knowledge and integrity ~~to assist the director~~ in formulating rules and regulations for examinations, in passing on the fitness and qualifications of applicants for electrical contractor and journeyman electrician licenses and in establishing standards for electrical products to be used in electrical installations coming under the provisions of this act.

(4) The members of the board shall, at their first regular meeting following the effective date of this act and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. In the event the chairman is not present at any board meeting, the board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the board shall constitute a quorum.

(5) The board shall ~~maintain an office in the state capitol building or at such other place in the city of Boise as the board may designate and shall, with the approval of the director, employ such persons as may be necessary to the performance of its duties. The board shall, for the approval of the director, recommend the appointment of one (1) or more persons who are properly qualified by experience, training and knowledge, to serve as electrical inspectors, one (1) of whom shall be designated as chief electrical inspector. The chief electrical inspector shall serve as secretary manager for the board~~ establish the fees to be charged for permits and inspections of electrical systems.

(6) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by section 59-509(d), Idaho Code.

SECTION 34. That Section 54-1009, Idaho Code, be, and the same is hereby amended to read as follows:

54-1009. REVOCATION OR SUSPENSION OF LICENSES -- HEARINGS -- TAKING TESTIMONY. The director shall have power to revoke or suspend any license if the same was obtained through error or fraud, or if the holder thereof is shown to be grossly incompetent, or has wilfully violated any of the rules and regulations prescribed by ~~said--director~~ the board, or as prescribed in this act; or has, after due notice, failed or refused to correct, within the specified time, any electrical installation not in compliance with the provisions of this act, provided, before any license shall be revoked or suspended, the holder thereof shall have written notice enumerating the charges against him, and shall be given a hearing by said director, and have an opportunity to produce testimony in his behalf, at a time and place specified in said notice, which time shall not be less than five (5) days after the service thereof, provided that any person whose license has been or shall be revoked or suspended by the director shall have the right to have the proceedings of said director revoking or suspending his license and all the evidence therein reviewed on a writ of certiorari, by the district court of the county in which the director held the hearings when said license was revoked or suspended. Said writ shall be issued, upon the petition of the person whose license shall have been revoked or suspended, by said court or the clerk thereof, either in term-time or in vacation, provided request for said writ is made within thirty (30) days after the license has been revoked or suspended by the director. The writ shall command the director to certify to said court the record and proceedings and a complete transcript thereof, and all the evidence therein pertaining to the revocation or suspension of said license. The jurisdiction of said court shall be limited to a review of the question of law. The petition for the writ of certiorari shall set forth the rights of the petitioner and the injuries complained of by him and shall be verified by him. If the proceedings of the director shall be sustained or upheld by the court, its orders, decisions, or judgments revoking or suspending said license shall remain and continue in full force and effect, unless upon an appeal to a higher court the decision of the district court is reversed.

The director shall have power to appoint, by an order in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses, and the decision of the director shall be based on his examination of the testimony taken and the records produced. Any person whose license has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

SECTION 35. That Section 54-1015, Idaho Code, be, and the same is hereby amended to read as follows:

54-1015. "ELECTRICAL BOARD ACCOUNT" ESTABLISHED. All money received by the director, under the terms and provisions of this act,

shall be paid into the state treasury monthly, and shall be, by the state treasurer, placed to the credit of ~~the--general--fund--in~~ an account in the state operating fund to be known as the "Electrical Board Account," and all such moneys, hereafter placed in said account, are hereby set aside and appropriated to the department of labor and industrial services to carry into effect the provisions of this act. ~~All-moneys-in-the-electrical-contractor's-account,-upon-the--effective date--of--this--act,--shall--be-placed-to-the-credit-of-the-electrical board-account-as-herein-created.~~

SECTION 36. That Section 54-1017, Idaho Code, be, and the same is hereby amended to read as follows:

54-1017. VIOLATIONS OF ACT A MISDEMEANOR. Any person, partnership, company, firm, association or corporation who shall engage in the trade, business or calling of an electrical contractor or journeyman electrician, without a license as provided for by this act, or who shall violate any of the provisions of this act, or the rules and regulations of the Idaho electrical board or of the director of the department of labor and industrial services herein provided for, or who shall refuse to perform any duty lawfully enjoined upon him by the director within the prescribed time; or who shall fail, neglect, or refuse to obey any lawful order given or made by the director shall be guilty of a misdemeanor. Each day of such violation shall constitute a separate offense.

SECTION 37. That Section 44-101, Idaho Code, be, and the same is hereby amended to read as follows:

44-101. DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES. (1) There is hereby established the department of labor and industrial services. Suitable rooms and facilities for the use of the department shall be provided at the capitol in Boise. The department shall, for the purposes of section 20, article IV, of the constitution of the state of Idaho, be an executive department of state government. The department shall be headed by a director who shall be the successor in law to the office enumerated in section 1, article XIII, of the constitution of the state of Idaho. The department shall consist of a plumbing division, an electrical division, and such other divisions or administrative units as the director may establish.

(2) As used in this chapter:

(a) "Department" means the department of labor and industrial services;

(b) "Director" means the director of the department of labor and industrial services;

(c) "Commission" means the industrial commission~~;~~.

SECTION 38. That Section 44-103, Idaho Code, be, and the same is hereby amended to read as follows:

44-103. DUTIES OF THE DIRECTOR. The director shall have and exer-

cise the following powers:

(a) To acquire and disseminate among the people of the state information on subjects connected with labor, relations between employees, employers and the public, hours of labor, wages and working conditions, including safety and sanitary standards and practices, the best means of minimizing the economic effect of disputes between workers and employers, and of promoting the welfare of all working people.

(b) To represent the state of Idaho in dealings with the Federal Mediation and Conciliation Service of the United States.

(c) To represent the state of Idaho in dealings with the department of labor of the United States with respect to apprentice training programs.

(d) To represent the state of Idaho in dealings with the Veterans Administration of the United States with respect to job training programs.

(e) To file at the close of each fiscal year a report in writing to the governor, and the legislature, concerning the condition of the affairs of his office, together with recommendations for such legislation as may appear to him to be needful.

(f) To cooperate with the industrial commission and aid and assist the commission in its administration of sections 72-720, 72-721, and 72-723, Idaho Code, and at the request of the commission shall make inspection of appliances, tools, equipment, machinery, practices or conditions, and make a written report thereof to the commission. The director shall make such recommendations to the commission as will aid the commission in its administration of sections 72-720, 72-721, and 72-723, Idaho Code, provided, however, that nothing herein contained shall be construed as transferring to the director any of the authority or powers now vested in the industrial commission.

(g) To administer the inspection and certification procedures in chapter 22, title 39, Idaho Code, relating to liquefied petroleum gases; in chapter 23, title 39, Idaho Code, relating to safety appliances on steam vessels carrying passengers for hire; in chapter 2~~7~~6, title 39~~5~~4, Idaho Code, relating to plumbing and plumbers; ~~in chapter 35, title 39, Idaho Code, relating to the fire prevention code;~~ in chapter 40, title 39, Idaho Code, relating to mobile homes and recreational vehicles; in chapter 41, title 39, Idaho Code, relating to factory-built housing; and in chapter 10, title 54, relating to electrical contractors and journeymen.

(h) To represent the state of Idaho in dealings with the mine enforcement and safety administration of the Department of Interior of the United States.

SECTION 39. All rules, regulations and fee schedules, which were in place on the effective date of this act by the authority of the director of the department of labor and industrial services, and which authority has been transferred to either the Idaho plumbing board or the Idaho electrical board by the provisions of this act, are hereby continued in full force and effect for not to exceed one hundred and eighty days, or for such shorter period of time as the Idaho plumbing

board or the Idaho electrical board need to promulgate and adopt rules, regulations and fee schedules.

SECTION 40. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 31, 1984.

CHAPTER 124
(S.B. No. 1236)

AN ACT

RELATING TO IN-STREAM WATER RIGHTS; AMENDING CHAPTER 1, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-113, IDAHO CODE, TO PROVIDE THAT A PERMIT MAY BE ISSUED BUT SHALL NOT BE REQUIRED FOR APPROPRIATION OF WATER FOR IN-STREAM WATERING OF LIVESTOCK, TO PROVIDE DUTIES AND STANDARDS FOR THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES AND THE DISTRICT COURT AND TO DEFINE TERMS; PROVIDING SEVERABILILTY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 1, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-113, Idaho Code, and to read as follows:

42-113. IN-STREAM LIVESTOCK USE. A permit may be issued, but shall not be required for appropriation of water for the in-stream watering of livestock. In the consideration of applications for permits to appropriate water for other purposes, the director of the department of water resources shall impose such reasonable conditions as are necessary to protect prior downstream water rights for in-stream livestock use, and in the administration of the water rights on any stream, the director, and the district court where applicable, shall recognize and protect water rights for in-stream livestock use, according to priority, as they do water rights for other purposes. As used in this section, the phrase "in-stream watering of livestock" means the drinking of water by livestock directly from a natural stream, without the use of any constructed physical diversion works.

SECTION 2. 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.

SECTION 3. An emergency existing therefor, which emergency is

hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 31, 1984.

CHAPTER 125
(S.B. No. 1247, As Amended)

AN ACT

RELATING TO DEPOSITS MADE BY INSURERS AUTHORIZED TO TRANSACT INSURANCE IN IDAHO; AMENDING SECTION 41-316, IDAHO CODE, TO PROVIDE ADDITIONAL DEPOSITS WITHIN IDAHO BY INSURERS NOT IN GOOD STANDING OF A GUARANTY ASSOCIATION PROVIDING PROTECTION TO IDAHO POLICYHOLDERS AND CREDITORS.

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

SECTION 1. That Section 41-316, Idaho Code, be, and the same is hereby amended to read as follows:

41-316. DEPOSIT -- GENERAL REQUIREMENT. (1) This section shall apply as to all insurers other than title insurers.

(2) The director shall not authorize any insurer to transact insurance in this state unless it makes and thereafter maintains in trust in this state through the director for the protection of all its policyholders or of all its policyholders and creditors, a deposit of cash or securities eligible for deposit under section 41-803 ~~of--this code~~ <u>, Idaho Code,</u> in the amount of two hundred thousand dollars ($200,000), except that:

(a) Insurers authorized to transact insurance and transacting insurance immediately prior to the effective date of this code, shall have a period of ~~one-(1)~~ <u>two (2)</u> <u>years</u> from and after such effective date within which to comply with any ~~increase-in~~ deposit required under this section.

(b) As to foreign insurers, in lieu of such <u>Idaho</u> deposit ~~or part-thereof-in-this-state~~, the director shall accept the certificate in proper form of the public official having supervision over insurers in any other state ~~to-the-effect~~ that:

<u>(i) A</u>~~a~~ like deposit ~~or-part-thereof~~ by such insurer is being maintained in public custody or control ~~pursuant-to-law in--such--state--in-trust~~ for the protection generally of the insurer's policyholders or its policyholders and creditors;

<u>(ii) The insurer is a member in good standing of such state's insurance guaranty association or other legal entity created for the same purpose;</u>

<u>(iii) If a life or health insurer, such guaranty association does and shall provide protection for Idaho policyholders and creditors.</u>

(c) As to alien insurers, in lieu of such deposit or part

thereof in this state, the director shall accept evidence satisfactory to him that the insurer maintains within the United States by way of trust deposits with public depositaries, or in trust institutions acceptable to the director, assets available for discharge of its United States insurance obligations, which assets shall be in amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States together with a surplus equal to the larger of the following sums:

(i) The largest deposit required by this code to be made by a foreign insurer transacting like kinds of insurance, or

(ii) Three hundred thousand dollars ($300,000). Such surplus shall for all purposes under this code be deemed to be the "capital" or "surplus" of the insurer.

(3) Deposits of foreign or alien insurers in another state shall be in cash and/or securities of substantially as high quality as those eligible for deposit in this state under section 41-803, Idaho Code.

(4) All such deposits in this state are subject to the applicable provisions of chapter 8 (administration of deposits), title 41, Idaho Code.

Approved March 31, 1984.

CHAPTER 126
(S.B. No. 1314, As Amended)

AN ACT

RELATING TO THE TRAVEL AND CONVENTION TAX; AMENDING SECTION 67-4718, IDAHO CODE, TO PROVIDE THAT THE RECEIPTS FROM THE TRAVEL AND CONVENTION TAX SHALL BE PAID TO THE STATE TAX COMMISSION IN A LIKE MANNER AND UNDER THE DEFINITIONS, RULES AND REGULATIONS OF THE STATE TAX COMMISSION FOR THE COLLECTION AND ADMINISTRATION OF THE STATE SALES TAX ACT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 67-4718, Idaho Code, be, and the same is hereby amended to read as follows:

67-4718. ASSESSMENT -- COMMITTEE ACCOUNT. (1) From and after ~~July~~ January 1, 198~~4~~5, there is hereby levied and imposed an assessment at the rate of two percent (2%) of the ~~receipts of a sale and such amount shall be paid monthly on all such receipts within the preceding month.~~ amount of a sale as defined in section 67-4711, Idaho Code. The receipts from the assessment levied by this section shall be paid to the state tax commission in like manner, and under the definitions, rules and regulations of said commission for the collection and administration of the state sales tax under chapter 36, title 63, Idaho

Code. No assessment shall be collected where there is an original written agreement that the space is to be occupied by the same person pursuant to a lease or similar agreement for a period in excess of twenty-nine (29) days.

(2) All moneys received pursuant to this act shall be paid into the state treasury, and shall be, by the state treasurer, placed to the credit of the dedicated fund in an account to be known as the "Idaho travel and convention account," and all such moneys are hereby set aside and appropriated to the division to administer pursuant to the provisions of this act.

(3) The committee may, by duly adopted resolution, determine that a lesser amount of assessment shall be imposed and the division shall certify such lesser assessment rate to the state tax commission; the rate of assessment shall be that amount so certified. In the absence of such certification the rate of assessment shall be that rate set forth in subsection (1) of this section.

(4) The assessment set forth herein shall be collected by the state tax commission in the same manner as provided in chapter 36, title 63, Idaho Code, for the collection of sales and use tax, and shall be remitted by the state tax commission to the state treasurer for credit to the Idaho travel and convention account. Provided, however, that prior to the transfer of said funds by the state tax commission the commission shall retain sufficient funds for the commission's direct actual cost of the collection and administration of the tax imposed by the provisions of this section.

SECTION 2. This act shall be in full force and effect on and after January 1, 1985.

Approved March 31, 1984.

CHAPTER 127
(S.B. No. 1347)

AN ACT

RELATING TO THE SALE OF IMPORTED FOOD PRODUCTS; AMENDING SECTION 37-1604, IDAHO CODE, TO PROVIDE THAT CERTAIN FOOD PRODUCTS IMPORTED FROM OUTSIDE THE UNITED STATES AND SOLD OR OFFERED FOR SALE IN IDAHO SHALL BEAR THE DATE THE FOOD PRODUCT WAS ORIGINALLY PACKAGED, WHETHER IT WAS FROZEN, AND THE DATE OR DATES IT WAS SUBSEQUENTLY REFROZEN, IF ANY.

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

SECTION 1. That Section 37-1604, Idaho Code, be, and the same is hereby amended to read as follows:

37-1604. SALE OF IMPORTED FOOD PRODUCTS -- LABEL REQUIREMENTS -- DEFINITIONS. Every wholesaler or retailer who sells or offers for sale

in the state of Idaho through a meat market, store or otherwise, any meats, either frozen, canned, cured, processed, or any mixture thereof, or any poultry, eggs or butter which are the products of any country foreign to the United States, shall clearly label such meat, poultry, eggs or butter as "imported," naming the country of its origin, the date it was originally packaged, whether it was frozen, and the date or dates it was subsequently refrozen, if any, which labeling shall be in lettering not less than one-half inch (1/2") in height. As used in this act: (a) the word "wholesaler" shall mean a person regularly engaged in the business of selling meat, canned, frozen, cured or processed, or poultry, eggs or butter for resale; (b) the word "retailer" shall mean a person regularly engaged in the business of selling meat, canned, frozen, cured or processed, or poultry, eggs or butter at retail to the trade and public as such, and selling only to the user or consumer and not for resale; (c) the word "meat" means the dressed flesh of cattle, swine, horses, sheep or goats but shall not include fish or products of fish.

Approved March 31, 1984.

CHAPTER 128
(S.B. No. 1355)

AN ACT

RELATING TO THE LEWISTON PORT COMMISSION; AMENDING SECTION 70-1404, IDAHO CODE, TO INCREASE THE COMMISSIONER'S PER DIEM AND TO REMOVE THE MAXIMUM AMOUNT OF MONEY WHICH MAY BE RECEIVED BY THE COMMISSIONERS.

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

SECTION 1. That Section 70-1404, Idaho Code, be, and the same is hereby amended to read as follows:

70-1404. PER DIEM -- REIMBURSEMENT FOR EXPENSES. There shall be paid to each of the port commissioners from the funds of the district, not more than ~~twenty-five~~ fifty dollars ($~~25~~50.00) per day for each day spent attending meetings, or while engaged in port business authorized by the port commission~~;-provided;-that-no-commissioner--shall--receive per-diem-payments-totaling-in-excess-of-twelve-hundred-dollars-($1200) during--any-fiscal-year-of-the-district~~. In addition, such commissioners and the agents and employees of the district shall be entitled to be reimbursed upon order of the commission, from funds of the district, for all reasonable sums expended by them in furthering the business of the port.

Approved March 31, 1984.

CHAPTER 129
(S.B. No. 1360)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING SECTION 59-1307, IDAHO CODE, TO PROVIDE FOR INTEREST ACCRUAL ON REPAYMENT OF ACCUMULATED CONTRIBUTIONS TO REINSTATE PREVIOUS CREDITED SERVICE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 59-1307, Idaho Code, be, and the same is hereby amended to read as follows:

59-1307. CESSATION OF MEMBERSHIP -- REINSTATEMENT. A person shall cease to be a member when his accumulated contributions become payable to him. If no more than ten (10) years separates his periods of employee status, or if his accumulated contributions become payable during military service, he may reinstate his previous credited service by repaying to the retirement fund the full amount of his accumulated contributions ~~within--two--(2)--years~~ after again becoming an employee~~.--The-period-for-repayment-shall--be--extended~~ provided such repayment includes ~~regular~~ payment of interest as determined by the board on any amount remaining unpaid ~~two-(2)-years-after-again--becoming-an-employee~~.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 31, 1984.

CHAPTER 130
(S.B. No. 1361)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1303, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF REGULAR INTEREST ON REFUNDED ERRONEOUS EMPLOYEE CONTRIBUTIONS.

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

SECTION 1. That Section 59-1303, Idaho Code, be, and the same is hereby amended to read as follows:

59-1303. CONTRIBUTIONS. (1) Beginning on or after the later of the date of establishment or employment, each active member shall contribute toward the cost of the benefits provided under this act. This

contribution shall be made in the form of a deduction from salary to be transmitted to the board in accordance with section 59-1332, Idaho Code.

(2) Any person who was prevented from being an active member during his first twelve (12) months of employment due to the restriction contained in subsection (2) of section 59-1302, Idaho Code, may, prior to December 31, 1975, pay the board the contributions he would have made absent said restriction and be credited with membership service for such period of time. The time for payment shall be extended provided such payment includes regular interest from December 31, 1975.

(3) Employee contributions received by the board in error may be refunded with regular interest.

Approved March 31, 1984.

CHAPTER 131
(S.B. No. 1362)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-410, IDAHO CODE, TO PROVIDE THAT A COMPLETED FEDERAL POST CARD APPLICATION NEED NOT BE NOTARIZED; AMENDING SECTION 34-603, IDAHO CODE, TO REQUIRE THE SECRETARY OF STATE TO CERTIFY, BY SEPTEMBER 1 OF AN ELECTION YEAR, CERTAIN QUESTIONS TO BE PUT BEFORE THE VOTERS; AMENDING SECTION 34-711, IDAHO CODE, TO PROVIDE A DATE FOR CERTIFICATION OF CANDIDATES; AMENDING SECTION 34-711A, IDAHO CODE, TO PROVIDE A DATE FOR CERTIFICATION OF INDEPENDENT CANDIDATES; AMENDING SECTION 34-909, IDAHO CODE, TO PROVIDE A DATE BY WHICH SAMPLE BALLOTS SHALL BE SENT TO COUNTIES; AND AMENDING SECTION 34-1003, IDAHO CODE, TO REQUIRE BALLOTS BE PRINTED NO LATER THAN FIFTY DAYS PRIOR TO THE GENERAL ELECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-410, Idaho Code, be, and the same is hereby amended to read as follows:

34-410. REGISTRATION BY AN ELECTOR WHILE ABSENT FROM HOME PRECINCT. An elector absent from his home precinct may register by mailing a request for registration to the county clerk of the county in which the elector resides. Upon receipt of such request the county clerk shall send to the elector an official registration card. The elector shall complete the card before a notary public or an official with elector registration functions similar to those of a county clerk or official registrar and shall return it to the county clerk prior to the close of registration; provided that a properly completed federal post card application (FPCA) is not required to be notarized.

SECTION 2. That Section 34-603, Idaho Code, be, and the same is hereby amended to read as follows:

34-603. CERTIFICATION OF A PROPOSED CONSTITUTION, CONSTITUTIONAL AMENDMENT OR OTHER QUESTION TO BE SUBMITTED TO THE PEOPLE FOR VOTE. Whenever a proposed constitution, constitutional amendment or other question is to be submitted to the people of the state for popular vote, it shall be certified by the secretary of state to the county clerks not later than September ~~25~~1 in the year in which it will be voted upon. It shall be published in the form prescribed by the secretary of state.

SECTION 3. That Section 34-711, Idaho Code, be, and the same is hereby amended to read as follows:

34-711. CERTIFICATION OF CANDIDATES FOR PRESIDENT, VICE-PRESIDENT AND PRESIDENTIAL ELECTORS. The state chairman of each political party shall certify the names of the presidential and vice-presidential candidates and presidential electors to the secretary of state on or before ~~September 1~~ August 25, in order for them to appear on the general election ballot. The secretary of state shall certify such candidates to the county clerks at the same time as certification of political party candidates nominated for state and federal offices by the voters in the primary election.

SECTION 4. That Section 34-711A, Idaho Code, be, and the same is hereby amended to read as follows:

34-711A. CERTIFICATION OF INDEPENDENT PRESIDENTIAL ELECTORS. Independent candidates who have qualified for ballot status pursuant to section 34-708A, Idaho Code, shall certify the names of presidential electors to the secretary of state on or before ~~September 1~~ August 25, in order for them to appear on the general election ballot. The secretary of state shall certify the independent presidential electors, and the independent candidates for president and vice-president, to the county clerks on or before September ~~25~~1.

SECTION 5. That Section 34-909, Idaho Code, be, and the same is hereby amended to read as follows:

34-909. GENERAL ELECTION SAMPLE BALLOTS FORWARDED TO COUNTIES BY SECRETARY OF STATE. The secretary of state, not later than September ~~25~~1, shall prepare the necessary general election sample ballots for the various counties and forward them to the several county clerks. The secretary of state shall place the names of the candidates for all federal, state and district offices on the sample ballots, and by not later than the tenth day prior to the general election shall certify the names of candidates who have been appointed by central committees to fill vacancies as provided by section 34-715, Idaho Code.

SECTION 6. That Section 34-1003, Idaho Code, be, and the same is

hereby amended to read as follows:

34-1003. ISSUANCE OF ABSENTEE BALLOT. Upon receipt of an application for an absent elector's ballot within the proper time, the county clerk receiving it shall examine the records of his office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested and, if found to be so, he shall arrange for the applicant to vote by absent elector's ballot in the following manner:

(1) If the applicant is classed under section 34-1002A(1), Idaho Code, the clerk shall deliver to the applicant by mail to the mailing address given in the application, an official absent elector's ballot, a return envelope with the affidavit thereon properly filled in as to precinct and residence address as shown by the records in his office, and an instruction card.

(2) If the applicant is classed under section 34-1002A(2), Idaho Code, and if the applicant in the United States service submits a properly executed federal post card application and the county clerk receiving it shall determine that such applicant is not properly registered, the county clerk shall cause the applicant to be registered and shall then deliver to the applicant the official elector's ballot and other materials as above set forth.

(3) If the applicant is classed under section 34-1002A(3), Idaho Code, the county clerk shall forthwith notify the applicant that he shall appear personally and vote at the "absent elector's voting place" in the county courthouse during the time prescribed.

(4) In the case of applicants classified under subsections (1) and (2) of this section, the absent elector's ballot and other materials shall be delivered or mailed to the absent elector within forty-eight (48) hours after the receipt of the application, if the official ballots are then printed, or, if not then printed, within forty-eight (48) hours after such printed ballots shall be delivered to the county clerk. <u>All absentee ballots for the general election shall be printed no later than fifty (50) days prior to the election.</u>

(5) If the applicant is classed under section 34-1002A(4), Idaho Code, the county clerk shall forthwith notify the applicant by setting forth the time and place at which the county clerk or deputy clerk and witnesses shall personally deliver the absentee ballot. Each political party which desires to have a witness accompany the clerk or deputy clerk shall supply the county clerk with the name of its county chairman or an alternate who may be delegated to act on behalf of said political party no later than sixty (60) days prior to the election.

The clerk, upon receiving an application under section 34-1002A(5), Idaho Code, shall notify the county chairman of each political party or the person authorized to act for the party, of the date and approximate hour the clerk or deputy clerk intends to deliver the ballot.

If the political party desires to supply a witness, it shall be the party's duty to supply the names of witnesses and it shall have the duty to see that said witness is present at the appointed time. If the clerk so requests, a witness may be required to be available throughout the business day on which the ballot is to be delivered.

Should the witness so designated fail to appear or if the political party does not desire to have a witness present, the clerk may proceed as prescribed by law, without further compliance with subsection (5) of this section.

A candidate for public office or a spouse of a candidate for public office shall not sign as a witness or as a deputy clerk in the personal delivery of absentee ballots under section 34-1002A(5), Idaho Code.

(6) An elector physically unable to mark his own ballot may receive assistance in marking such ballot from the officer delivering same or an available person of his own choosing. In the event the election officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. When such ballot is marked by an election officer, the witnesses on hand shall be allowed to observe such marking. No county clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

SECTION 7. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 31, 1984.

CHAPTER 132
(S.B. No. 1363)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING SECTION 59-1302, IDAHO CODE, TO DELETE THE EMPLOYEE DEFINITION IN REFERENCE TO IDAHO NATIONAL GUARD EMPLOYEES, TO CLARIFY LANGUAGE RELATING TO DISABILITY SERVICE ACCRUAL, AND TO EXPAND THE DEFINITION OF "SALARY" TO PREVENT INEQUITIES BY CHANGING CIRCUMSTANCES; AMENDING SECTION 59-1309A, IDAHO CODE, TO CLARIFY THAT PARTIAL WITHDRAWAL CONTRIBUTIONS ARE BASED UPON AVERAGE MEMBERSHIPS OVER CERTAIN COMPLETE CALENDAR YEARS; AMENDING SECTION 59-1319A, IDAHO CODE, TO CLARIFY EXISTING STATUTES RELATING TO MINIMUM BENEFIT WHEN THE LAST CONTRIBUTION WAS MADE PRIOR TO JULY 1, 1974; AMENDING SECTION 59-1322, IDAHO CODE, TO CLARIFY LANGUAGE PROVIDING FOR CALCULATION OF VESTED RETIREMENT ALLOWANCE; AMENDING SECTION 59-1324, IDAHO CODE, TO PROVIDE THE OPTIONAL DEATH BENEFIT MONTHLY INCOME FOR SURVIVING SPOUSE SHALL BE COMPUTED USING THE SAME REDUCTION FACTORS APPROPRIATE FOR EARLY RETIREMENT; AMENDING SECTION 59-1329, IDAHO CODE, TO REMOVE A POSSIBLE CONFLICT WITH CHAPTER 52, TITLE 67, IDAHO CODE, AND TO PROVIDE FOR A BOARD MEMBER OR HEARING OFFICER APPOINTED BY THE RETIREMENT BOARD TO CONDUCT HEARING OF APPEALS TO BOARD DECISIONS; AMENDING SECTION 59-1330, IDAHO CODE, TO CHANGE ACTUARIAL TERMS TO REFLECT PRESENT

ACCEPTED USAGE; AND AMENDING SECTION 59-1351, IDAHO CODE, TO REDEFINE "PAID FIREMAN" IN TERMS COMPATIBLE WITH THE DEFINITION CONTAINED IN SECTION 72-1402, IDAHO CODE.

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

SECTION 1. That Section 59-1302, Idaho Code, be, and the same is hereby amended to read as follows:

59-1302. DEFINITIONS. (1) As used in this act, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) "Active member" means any employee who is not establishing the right to receive benefits under any other retirement system operated wholly or in part by an agency of the state or political subdivision, but an employee shall be an active member if otherwise eligible:

(a) in any case where the public employee retirement system has in existence an agreement with another retirement system pursuant to which such an employee is allowed membership rights;

(b) although a contingent annuitant under the optional retirement allowances as provided in this act or by any similar provision of any other retirement act;

(c) where an employee's remuneration is paid by two (2) or more governmental units, provided that with respect of some portion of such remuneration the employee is not establishing the right to receive benefits from any other retirement system operated wholly or in part by an agency of the state or a political subdivision. The salaries from all such sources shall be combined and treated as though the salaries were paid from one (1) source in accordance with the rules of the board;

(d) in any case where an employee is receiving benefits under another retirement system operated wholly or in part by an agency of the state or political subdivision, provided, however, that in no event shall such employee receive any benefit provided under this act for service performed for which benefits are otherwise payable.

(3) "Accumulated contributions" means the sum of amounts contributed by a member of the system, together with regular interest credit thereon.

(4) "Actuarial equivalent" means a benefit equal in value to another benefit, when computed upon the basis of the actuarial tables in use by the system.

(5) "Actuarial tables" means such tables as shall have been adopted by the board in accordance with recommendations of the actuary.

(5A) "Average monthly salary" means one-sixtieth (1/60~~th~~) of a member's salary during any base period in which his salary is greater than or equal to his salary in any other base period. "Base period" means any period of sixty (60) consecutive months during which such member makes a like number of contributions pursuant to sections 59-1303--59-1305, Idaho Code. If no base period exists for a member,

his average monthly salary shall be determined by the board, using standards not inconsistent with those established in this subsection. To assure equitable treatment for all members, salary increments inconsistent with usual compensation patterns may be disallowed by the board in determining average monthly salary.

(6) "Beneficiary" means the person who is nominated by the written designation of a member, duly executed and filed with the board, to receive the death benefit.

(7) "Calendar year" means twelve (12) calendar months commencing on the first day of January.

(8) "Credited service" means the aggregate of membership service, prior service and disabled service.

(9) "Date of establishment" means July 1, 1965 or a later date established by the board or statute.

(10) "Death benefit" means the amount, if any, payable upon the death of a member.

(11) "Disability retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for disability retirement.

(12) "Disabled" shall have the meaning given in this subsection. A member shall be considered to be disabled if the board shall find, on the basis of medical evidence:

(a) that he is prevented from engaging in any occupation or employment for remuneration or profit as a result of bodily injury or disease, either occupational or nonoccupational in cause, but excluding disabilities resulting from service in the armed forces of any country, or from an intentionally self-inflicted injury; and

(b) that he will remain so disabled permanently and continuously during the remainder of his life.

Refusal to submit to a medical examination ordered by the board before the commencement of a disability retirement allowance or at any reasonable time thereafter shall constitute proof that the member is not disabled. The board shall be empowered to select for such medical examination one (1) or more physicians or surgeons who are licensed to practice medicine and perform surgery. The fees and expenses of such examination shall be paid from the administration account of the fund. No member shall be required to undergo such examination more often than once each year after he has received a disability retirement allowance continuously for two (2) years.

(12A) "Disabled service" means the total number of months elapsing from the first day of the month next succeeding the final contribution of a member prior to receiving a disability retirement allowance to the first day of the month following the date of termination of such disability retirement allowance. <u>During such period, the member shall remain classified in the membership category held during the month of final contribution.</u> The total number of months of disabled service credited for a person first becoming disabled after the effective date of this act shall not exceed the excess, if any, of three hundred sixty (360) over the total number of months of prior service and membership service.

(13) "Early retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for early retirement.

(14) (A) "Employee" means:

(a) any person who normally works in excess of twenty (20) hours per week for an employer and who receives salary for services rendered for such employer~~,~~; or

(b) elected officials or appointed officials of an employer~~,~~ ~~or~~

~~(c) civilian employees of the Idaho National Guard employed through direct appointment or designation by the governor or the adjutant general and whose salaries are paid by the United States, provided that the United States furnished the employer contributions required to be paid by sections 59-1330 and 59-1332, Idaho Code. The date of establishment for said employees shall be set by the board but shall not be earlier than July 1, 1965 nor later than the date of commencement of contributions by the United States.~~

(B) "Employee" does not include:

(a) persons rendering service to an employer in the capacity of an independent business, trade or profession; or

(b) seasonal, emergency or casual workers whose employment with any employer does not total five (5) consecutive months; or

(c) persons provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons; or

(d) inmates of a state institution or persons enrolled full time in a state institution principally for purposes of training, whether or not receiving compensation for services performed for the institution; or

(e) persons making contributions to the United States civil service commission under the United States Civil Service System Retirement Act except that those persons who receive separate remuneration for work currently performed for an employer and the United States ~~G~~government may elect to be members of the retirement system in accordance with rules of the board.

(15) "Employer" means the state of Idaho, or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. All governmental entities are deemed to be political subdivisions for the purpose of this act.

(15A) "Final contribution" means the final contribution made by a member pursuant to sections 59-1303--59-1305, Idaho Code.

(16) "Fireman" means an employee whose primary occupation is that of preventing and extinguishing fires as determined by the rules of the board.

(17) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(18) "Fund" means the public employee retirement fund established by this act.

(19) "Funding agent" means any bank or banks, trust company or trust companies, legal reserve life insurance company or legal reserve life insurance companies, or combinations thereof, selected by the board to hold and invest the employers' and members' contributions and pay certain benefits granted under this act.

(20) "Inactive member" means a former active member who is not an employee and is not receiving any form of retirement allowance, but for whom a separation benefit has not become payable.

(21) "Member" means an active member, inactive member or a retired member.

(22) "Membership service" means service with respect to which contributions are payable under sections 59-1303--59-1305, Idaho Code, and military service which occurs after the commencement of such contributions.

(23) "Military service" means active duty service in the armed forces of the United States. For the purposes of this act, military service shall not include any period ended by dishonorable discharge or during which termination of such service is available but not accepted, nor shall it include any period which commences more than ninety (90) days after the person ceases to be an employee or ends more than ninety (90) days before the person again becomes an employee unless such ninety (90) day requirements are waived by the board due to circumstances beyond the employee's control.

(24) "Police officer" means an employee engaged in hazardous law enforcement duties as determined by the board, or employees of the adjutant general and military department of the state.

(25) "Prior service" means any period prior to July 1, 1965 of military service or of employment for the state of Idaho or any political subdivision or other employer of each employee who is an active member or in military service or on leave of absence on the date of establishment, provided, however, an employee who was not an active member or in military service or on leave of absence on the date of establishment shall receive credit for his service prior to July 1, 1965 on the basis of recognizing two (2) months of such service for each month of membership service. For the purpose of computing such service, no deduction shall be made for any continuous period of absence from service or military service of six (6) months or less.

(26) "Regular interest" means interest at the rate set from time to time by the board.

(27) "Retired member" means a former active member receiving a retirement allowance.

(28) "Retirement" means the acceptance of a retirement allowance under this act upon termination of employment.

(29) "Retirement board" or "board" means the board provided for in sections 59-1326--59-1329, Idaho Code, to administer the retirement system.

(30) "Retirement system" or "system" means the public employee retirement system of Idaho.

(31) "Salary" means the total salary or wages payable by all

employers to an active member for personal services currently performed, including the cash value of all remuneration in any medium other than cash in ~~all~~ the amount reported by all employers for income tax purposes and also including the amount of any voluntary reduction in salary agreed to by the member and employer where the reduction is used as an alternative form of remuneration to the member.

(32) "Separation benefit" means the amount, if any, payable upon or subsequent to separation from service.

(33) "Service" means personal service rendered to an employer for a salary. Service of fifteen (15) days or more during any calendar month shall be credited as one (1) month of service. Service of fourteen (14) days or less during any calendar month shall not be credited. No more than one (1) month of service shall be credited for all service in any month.

(34) "Service retirement allowance" means the periodic payment becoming payable upon an active member's ceasing to be an employee while eligible for service retirement.

(35) "State" means the state of Idaho.

(36) "Vested retirement allowance" means the periodic payment becoming payable upon an inactive member's becoming eligible for vested retirement.

(37) The masculine pronoun, wherever used, shall include the feminine pronoun.

SECTION 2. That Section 59-1309A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1309A. PROCEDURE FOR COMPLETE OR PARTIAL WITHDRAWAL OF POLITICAL SUBDIVISIONS -- WITHDRAWAL CONTRIBUTIONS. (1) An employer incurring complete withdrawal or partial withdrawal after December 31, 1980, shall be required to make withdrawal contributions, all as provided in this section.

(2) Complete withdrawal occurs for a political subdivision on the date it permanently ceases to employ active members.

(3) Partial withdrawal occurs for a political subdivision when its average membership declines from one calendar year to the next by more than twenty-five (25) members and twenty-five per cent (25%) of the average membership in the earlier year. The date of partial withdrawal is the first day after the end of the later year.

(4) "Average membership" for a calendar year shall equal one-twelfth (1/12) of the sum of the number of active members employed during each month of that year.

(5) Withdrawal contributions shall commence on the first day of the fourth month after the date of complete withdrawal or partial withdrawal. The monthly amount of withdrawal contribution of an employer incurring complete withdrawal shall be one-twelfth (1/12) of the employer's contribution during the last complete calendar year prior to such date. The monthly amount of withdrawal contribution of an employer incurring partial withdrawal shall be one-twelfth (1/12) of (c) reduced proportionately by the ratio of (a) to (b) as follows:

(a) The average membership of the employer estimated by the board

for the year commencing on such date;

(b) The average membership of the employer during the second complete calendar year prior to such date;

(c) The employer's contribution payable during the second complete calendar year prior to such date.

(6) Withdrawal contributions shall continue until the withdrawal liability becomes nil.

(7) On the date of complete withdrawal, the withdrawal liability of an employer is (a) multiplied by the fraction (b)/(c) as follows:

(a) The excess of the actuarial present value of the vested benefits of the system's members over the fair value of its assets, both as of the date of the actuarial valuation for the fiscal year preceding such date;

(b) The total employer contributions of the employer during the five (5) complete calendar years immediately prior to such date;

(c) The total employer contributions of all employers during the five (5) complete calendar years immediately prior to such date.

(8) On the date of partial withdrawal, the withdrawal liability of an employer is the same as if complete withdrawal had occurred, reduced proportionately by the ratio of (a) to (b) as follows:

(a) The average membership of the employer estimated by the board for the year commencing on such date;

(b) The average membership of the employer during the second complete calendar year prior to such date.

(9) After the date of an employer's complete withdrawal or partial withdrawal, the withdrawal liability is the initial withdrawal liability decreased by the accumulation of withdrawal contributions, all adjusted for interest. Interest charges shall be on the basis used in determining the original withdrawal liability. Interest credits shall be based upon quarter-year investment earnings of the system. If partial withdrawal occurs, the amounts of withdrawal liability and withdrawal contribution shall be adjusted by appropriate recalculations after the average membership of the employer is known for the year commencing on the date of partial withdrawal. If the average membership of an employer which has incurred a partial withdrawal exceeds for each of three (3) consecutive years the average membership during the second calendar year prior to the date of partial withdrawal, the withdrawal liability shall become nil upon the final day of the last of such three (3) years, regardless of the accumulation of the previously computed withdrawal liability.

SECTION 3. That Section 59-1319A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1319A. POST RETIREMENT ALLOWANCE ADJUSTMENTS. (1) Each retirement allowance payment shall equal the inflation factor for the calendar year of payment multiplied by the amount of the retirement allowance payment for January of the previous year. During any calendar year for which the ratio of the consumer price index for October of the previous year to the consumer price index for October of the second previous year is not more than one hundred one **percent** per cent

(101%), the inflation factor shall be such ratio or ninety-four per cent (94%), whichever is greater. Otherwise the inflation factor during such year shall be one hundred one per cent (101%), except that the board, at its sole discretion, may put into effect a greater factor which is no more than such ratio or one hundred six per cent (106%), whichever is smaller, if it finds the value of the actuarial assets of the system to be no less than its actuarial liabilities, including those created by the increased factor.

(2) During a calendar year following one in which there was at least one (1) retirement allowance payment but none in January, each retirement allowance payment shall equal the partial factor multiplied by the amount of the monthly retirement allowance payment in the earlier year. The partial factor shall equal 1.000 plus one-twelfth (1/12) of the product of the number of months in the earlier year in which member contributions were not made and the excess, if any, of the inflation factor for the later year over 1.000.

(3) During a calendar year following one in which there was no retirement allowance payment, each retirement allowance payment shall equal the initial retirement allowance multiplied by the bridging factor between the first day of the month following the member's final contribution and the date of the first retirement allowance payment. ~~The~~

(a) Except as provided in paragraph (b) of this subsection, the bridging factor between any two (2) dates shall be the ratio of the amounts of retirement allowance payable on the two (2) dates for any member who retired on the earlier date immediately following his final contribution.

(b) For any member not making a final contribution subsequent to 1974 whose initial retirement allowance is a minimum allowance provided in section 59-1319(1)(b) or 59-1319(2)(b), Idaho Code, the bridging factor shall be computed as if the member had made his final contribution in 1974.

(4) The consumer price index shall be that for all urban consumers published by the bureau of labor statistics, United States department of labor.

(5) The adjustments provided under this section shall in no event reduce a benefit payment below its initial amount.

SECTION 4. That Section 59-1322, Idaho Code, be, and the same is hereby amended to read as follows:

59-1322. COMPUTATION OF VESTED RETIREMENT ALLOWANCES. The annual amount of initial vested retirement allowance payable to any member shall equal the ~~actuarial-equivalent~~ amount of ~~his--accrued~~ initial retirement allowance~~;--as--determined~~ payable pursuant to sections 59-1319 or 59-1321, Idaho Code, whichever is applicable, based upon the member's age at vested retirement and the amount of credited service earned to the date of final contribution.

SECTION 5. That Section 59-1324, Idaho Code, be, and the same is hereby amended to read as follows:

59-1324. COMPUTATION OF DEATH BENEFITS -- METHOD OF PAYMENT -- OPTIONAL DEATH BENEFIT. (1) The death benefit of an active or inactive member shall equal the excess, if any, of the member's accumulated contributions at the time the benefit becomes payable over the aggregate of all retirement allowance payments ever made to the deceased member. The death benefit of a retired member, except as provided by section 59-1317, Idaho Code, shall equal the excess, if any, of the member's accumulated contributions at the time the member retired over the aggregate of all retirement allowance payments ever made to the deceased member.

(2) The death benefit, if any, will be paid to the beneficiary surviving the member; otherwise, it will be paid in accordance with the laws of descent and distribution of the state of Idaho as they may then be in effect.

(3) Upon the death of a member who has at least five (5) years of credited service and is: (a) active; or (b) inactive and eligible to receive a retirement allowance; or (c) receiving a disability retirement allowance; his beneficiary may elect, in lieu of any death benefit otherwise payable, an allowance to be paid to the member's surviving spouse as provided in option 1 under section 59-1317, Idaho Code. The initial retirement allowance upon which such optional retirement allowance is based shall be calculated as if the member had retired immediately before his death. If the member ~~were~~ is not then eligible to receive a service or early retirement allowance, such initial retirement allowance shall equal the actuarial equivalent of ~~his accrued~~ the retirement allowance payable when the member would first be eligible for vested retirement, calculated as if he had separated from service immediately before his death.

SECTION 6. That Section 59-1329, Idaho Code, be, and the same is hereby amended to read as follows:

59-1329. RULES AND REGULATIONS -- PROCEDURES FOR HEARINGS PRIOR TO APPEALS -- APPEALS. (1) Subject to other provisions of this act and pursuant to the policy and standards set out in section 59-1301, Idaho Code, the board shall have the power and authority to adopt, amend or rescind such rules and regulations and administrative policies as may be necessary for the proper administration of this act. ~~Such-rules-and regulations-as-promulgated-by-the-board-shall-be-filed-with-the-secretary-of-state-and-shall-become-effective--ten--(10)--days--after--such filing.~~

(2) Any person aggrieved by any otherwise final decision or inaction of the board must, before he appeals to the courts, file with the executive director of the board by mail or personally a notice for a hearing before the board. The notice of hearing shall set forth the grounds of appeal to the board.

(3) A hearing shall be held before the board in Ada County, Idaho, at a time and place designated by the board~~.--Such-hearing-shall be-de-novo-and-summary-and-no-witness's-testimony--shall--be--received unless--he-shall-first-have-been-sworn-under-oath~~ or may be undertaken

or held by or before any member(s) thereof or any hearing officer appointed by the board for that purpose. The retirement board shall cause all oral testimony to be recorded and thereafter transcribed ~~and when-transcribed,~~ if an appeal is taken or if ordered by the board~~, the--same--with-all-depositions-shall-be-filed-in-and-remain-a-part-of the-record-of-the-hearing~~. Members of the board or the hearing officer shall have power to administer oaths, to preserve and enforce order during such hearings, to issue subpoenas for and to compel the attendance and testimony of witnesses or the production of books, papers, documents and other evidence and to examine witnesses.

(4) At the time and place fixed for hearing, unless continued for cause, each party shall present his evidence with respect to the issues raised in the notice of hearing.

(5) Every finding, order, decision or award made by any member or hearing officer pursuant to such hearing, as confirmed or modified by the board, and ordered filed in its office, shall be deemed to be the finding, order, decision or award of the board. The record of the hearing shall be considered by the board and the decision and order of the majority of the members shall be the decision and order of the board. Every such final decision and order rendered by the board shall be in writing and a copy thereof shall be mailed to each party to the appeal and to his attorney of record.

(6) If any person in proceedings ~~before-the-board~~ herein disobeys or resists any lawful order or process or misbehaves during a hearing, or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered so to do, any pertinent book, paper, document or other evidence, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the board shall certify the facts to the district court having jurisdiction, and the court shall thereupon, in a summary manner, hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for contempt committed before the court, or commit such person upon the same conditions as if doing of the forbidden act had occurred with reference to the proceedings, or in the presence of the court.

(7) Within thirty (30) days after any final decision and order by the board has been mailed to the parties any such party aggrieved thereby may appeal to the District Court of the Fourth Judicial District of the state of Idaho, in and for the County of Ada, and such appeal shall be heard as a case in equity, but any party shall be entitled to a trial de novo upon such appeal. Such appeal shall be perfected by serving a notice of appeal and claim for relief on the executive director of the board and each adverse party, or his attorney, by personal service or by mail and by filing the notice of appeal and claim for relief, together with proof of service thereof, with the clerk of the court. The board and any other party to the appeal shall, within thirty (30) days after receipt of such notice of appeal and claim for relief, serve and file a notice of appearance and answer upon the appellant or his attorney of record and such appeal shall

thereupon be deemed at issue. The executive director shall serve upon all parties to the appeal or their attorneys and file with the clerk of the court, a certified copy of the complete record of the hearing before the board. The decision or judgment of the district court shall be subject to appeal to the Supreme Court in the same manner and by the same procedure as appeals are taken and perfected to the court in civil actions at law.

SECTION 7. That Section 59-1330, Idaho Code, be, and the same is hereby amended to read as follows:

59-1330. EMPLOYER CONTRIBUTIONS -- AMOUNTS -- RATES. (1) Each employer shall contribute to the cost of the system. The amount of the employer contributions shall consist of the sum of a percentage of the salaries of members to be known as the "normal ~~contribution~~ cost" and a percentage of such salaries to be known as the "~~unfunded--supplemental--actuarial--value-contribution~~ amortization payment." The rates of such contributions shall be determined by the board on the basis of assets and liabilities as shown by actuarial valuation, and such rates shall remain effective until next determined by the board.

(2) The normal ~~contribution~~ cost rate shall be computed to be sufficient, when applied to the actuarial present value of the future salary of the average new member entering the system, to provide for the payment of all prospective benefits in respect to such member which are not provided by the member's own contribution.

(3) The ~~unfunded-supplemental-actuarial-value-contribution~~ amortization payment rate shall not be less than that percentage, calculated as of the date of the most recent actuarial valuation, of the then actuarial present value of the annual salaries of all members in the system for the next forty (40) years which is equivalent to the excess of the then actuarial present value of all future benefits payable in respect of all members and contingent annuitants over the sum of (a), (b) and (c) as follows:

(a) the ~~amount-of-all-funds~~ actuarial value of the assets then held by the funding agent for the payment of benefits under this act; and

(b) the actuarial present value of the future normal ~~contributions~~ costs payable in respect of all then active members; and

(c) the actuarial present value of the future contributions payable under sections 59-1303--59-1305, Idaho Code, by all then active members.

(4) Any contribution rate determined by the board in accordance with subsection (3) of this section shall reflect an increase of seven one-hundredths percent (0.07%) of the salaries of members on October 1 of each of the four (4) years 1982, 1983, 1984 and 1985.

SECTION 8. That Section 59-1351, Idaho Code, be, and the same is hereby amended to read as follows:

59-1351. DEFINITIONS. As used in sections 59-1351 through and

including 59-1359, Idaho Code, each of the terms defined shall have the meaning given in this section or in section 59-1302, Idaho Code, unless a different meaning is clearly required by the context.

(a) "Board" means the retirement board of the employee system.

(b) "Fireman member" means a person or beneficiary who, prior to October 1, 1980, was receiving benefits or establishing the right to receive benefits from the firemen's retirement fund.

(c) "Firemen's retirement fund" means the retirement system created by and existing through chapter 14, title 72, Idaho Code.

(d) "Employee system" means the retirement system created and existing through chapter 13, title 59, Idaho Code.

(e) "Employer" means a city or fire district ~~who~~ that employs paid firemen ~~and~~ who are participating in the firemen's retirement fund on October 1, 1980.

(f) "Paid fireman" means ~~an-employee-who-engages-in--fire--fighting,--emergency-or-hazardous-duties-or-other-duties-required-of-and-by his-employer~~ any individual, male or female, excluding office secretaries on the payroll of any city or fire district in the state of Idaho who devotes his or her principal time of employment to the care, operation, maintenance or the requirements of a regularly constituted fire department of such city or fire district in the state of Idaho.

Approved March 31, 1984.

CHAPTER 133
(H.B. No. 394, As Amended in the Senate)

AN ACT
RELATING TO FEES FOR BEER LICENSES; AMENDING SECTION 23-1014, IDAHO CODE, TO INCREASE LICENSE FEES.

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

SECTION 1. That Section 23-1014, Idaho Code, be, and the same is hereby amended to read as follows:

23-1014. LICENSE FEES. Every person licensed under the provisions of this act shall pay to the state of Idaho an annual license fee according to the following schedule: Brewers, five hundred dollars ($500), and a like amount for each separate brewery operated by such person: Wholesalers, ~~two~~ three hundred dollars ($~~2~~300), and a like amount for each separate warehouse used for the purpose of wholesaling or dispensing beer: Retailers, ~~twenty-five~~ fifty dollars ($~~25~~0.00), and a like amount for each separate store from which beer is retailed: Retailers selling keg beer for consumption off premises, an additional five dollars ($5.00), and a like amount for each separate store from which keg beer for consumption off premises is retailed. Provided, however, that nothing in this act shall be so construed as to prohibit or prevent municipalities or counties from licensing and regulating

places of business where beer is sold to the consumer.

Approved March 31, 1984.

CHAPTER 134
(H.B. No. 404)

AN ACT

RELATING TO REPORTS PREPARED BY THE STATE AUDITOR; AMENDING SECTION 67-1104, IDAHO CODE, TO PROVIDE THAT THE STATE AUDITOR SHALL PREPARE CERTAIN REPORTS ON AN ANNUAL BASIS, RATHER THAN A SEMIANNUAL BASIS.

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

SECTION 1. That Section 67-1104, Idaho Code, be, and the same is hereby amended to read as follows:

67-1104. ~~SEMIANNUAL~~ ANNUAL REPORTS. The auditor shall prepare, ~~semiannually--and~~ annually on a fiscal year basis, exhibits showing the proper detailed classification of all receipts and warrant disbursements, respectively, of each office, department, bureau and institution of the state of Idaho, followed by a recapitulation of receipts from general sources and a recapitulation of disbursements by general class as follows.

REVENUE RECEIPTS

A. Taxes.
B. Licenses and Permits.
C. Charges for Services and Fees.
D. Interest and Penalties.
E. Rentals.
F. Fines, Forfeitures, Escheats, including surety bond adjustments.
G. Miscellaneous Sales.
H. Matched Funds and Contributions.

NONREVENUE RECEIPTS

A. Sale of Capital Assets.
B. Sale of State Obligations.
C. Insurance Adjustment to Capital Assets.
D. Trust Accounts.
E. Revolving Fund Reimbursements.
F. Refunds of Erroneous Payments.

DISBURSEMENTS

A. Maintenance and Operation.
B. Capital Outlay.
C. Relief and Pensions.
D. Refunds of Erroneous Receipts.
E. Payments as Agent.

One (1) of such exhibits shall be delivered to the ~~bureau of~~ division of financial management and one (1) to the legislative budget office, two (2) to the office, department or governing board referred

to in the exhibit (one (1) of which shall be for the use of the executive head of the particular bureau, institution or other unit covered by such exhibit), and the fourth shall be permanently filed in the auditor's office.

Approved March 31, 1984.

CHAPTER 135
(H.B. No. 482)

AN ACT

RELATING TO MUNICIPAL BOND DENOMINATIONS; AMENDING SECTION 57-207, IDAHO CODE, TO CHANGE THE DENOMINATIONS OF MUNICIPAL BONDS AND THE MINIMUM AND MAXIMUM DENOMINATION MUNICIPAL BONDS.

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

SECTION 1. That Section 57-207, Idaho Code, be, and the same is hereby amended to read as follows:

57-207. BONDS -- DENOMINATION. The denominations of each such bonds shall be one thousand dollars ($1,000)~~,~~ or any even multiple thereof not exceeding one hundred thousand dollars ($5100,000)-, as fixed by ordinance or resolution prior to the issuance thereof~~:~~; provided, that bond number one (1) of each series or issue may be issued in any denomination not exceeding one hundred thousand dollars ($5100,000).

Approved March 31, 1984.

CHAPTER 136
(H.B. No. 483)

AN ACT

AMENDING SECTIONS 50-341, 31-4002, 40-1002, AND 43-901, IDAHO CODE, TO PROVIDE THAT LOCAL GOVERNMENTS MAY PARTICIPATE IN PREVIOUSLY BID STATE CONTRACTS WITHOUT THE NECESSITY OF COMPETITIVE BIDDING.

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

SECTION 1. That Section 50-341, Idaho Code, be, and the same is hereby amended to read as follows:

50-341. COMPETITIVE BIDDING -- APPLICATION OF LAW. A. The following provisions relative to competitive bidding apply to all cities of the state of Idaho, but shall be subject to the provisions of any specific statute pertaining to the letting of any contract, purchase or acquisition of any commodity or thing by soliciting and receiving competitive bids therefor, and shall not be construed as modifying or

amending the provisions of any statute, nor preventing the city from doing any work by its own employees.

B. The word "expenditure" shall mean the granting of a contract, franchise or authority to another by the city, and every manner and means whereby the city disburses funds or obligates itself to disburse funds; provided, however, that "expenditure" does not include disbursement of funds to any city employee, official, ~~or~~ agent, or for the performance of personal services to the city, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions or an agency of the federal government.

C. When the expenditure contemplated exceeds five thousand dollars ($5,000), or ten thousand dollars ($10,000) if for equipment, the expenditure shall be contracted for and let to the lowest responsible bidder.

D. The notice inviting bids shall set a date and place for the opening of bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids. Notice shall be published at least twice, not less than one (1) week apart, in the official newspaper of the city. The notice shall succinctly set forth the project to be done. Any of the following documents shall be made available, upon reasonable deposit, to any interested bidder: bid form, bidder's instructions, contract documents, general and special instructions, drawings and specifications.

E. All bids shall be presented or otherwise delivered under sealed cover to the city clerk, or other bonded agent of the city designated by the city council to receive specific bids, with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains. All bids shall contain one (1) of the following forms of bidder's security:

a. Cash;

b. Cashier's check made payable to the city;

c. A certified check made payable to the city;

d. A bidder's bond executed by a qualified surety company, made payable to the city.

F. The security shall be an amount equal to at least five per cent (5%) of the amount bid. A bid shall not be considered unless one (1) of the forms of bidder's security is inclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the city.

G. Any bid received by the city may not be withdrawn after the time set in the notice for opening of bids. All bids received must be opened at the time and place set in the notice inviting bids, and no person shall be denied the right to be present at the opening of bids.

H. If the successful bidder fails to execute the contract, the amount of his bidder's security shall be forfeited to the city and the proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of costs and publication of notice are paid.

I. The city may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bid-

der. If the city council awards the contract to the next lowest responsible bidder, the amount of the lowest responsible bidder's security shall be applied by the city to the difference between the lowest responsible bid and the next lowest responsible 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.

J. In its discretion, the city council may reject any bids presented and readvertise. If two (2) or more bids are the same and the lowest responsible bids, the city council may accept the one it chooses. If no bids are received, the council may make the expenditure without further compliance with this section.

K. After rejecting bids, the city council may, after finding it to be a fact, pass a resolution declaring that the thing sought to be accomplished by the expenditure can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the thing sought to be accomplished done in the manner stated without further compliance with this section.

L. If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health or property, the mayor or city manager may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon making the declaration, any sum required in the emergency may be expended without compliance with this section.

SECTION 2. That Section 31-4002, Idaho Code, be, and the same is hereby amended to read as follows:

31-4002. EXPENDITURE DEFINED. As used in this act, "expenditure" means the granting of a contract, franchise or authority to another by the county, and every manner and means whereby the county disburses county funds or obligates itself to disburse county funds; provided, however, that "expenditure" does not include disbursement of county funds to any county employee, official, or agent, or to any person performing personal services for the county, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions or an agency of the federal government.

SECTION 3. That Section 40-1002, Idaho Code, be, and the same is hereby amended to read as follows:

40-1002. EXPENDITURE -- DEFINITION. As used in this act, "expenditure" means the granting of a contract, franchise or authority to another by the district, and every manner and means whereby the highway district or good road district disburses district funds or obligates itself to disburse district funds; provided, however, that

"expenditure" does not include disbursement of district funds to any highway district or good roads district employee, official, ~~or~~ agent, or to any person performing personal services for the district, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions or an agency of the federal government.

SECTION 4. That Section 43-901, Idaho Code, be, and the same is hereby amended to read as follows:

43-901. CONTRACTS FOR CONSTRUCTION WORK. A. The following provisions relative to competitive bidding apply to all irrigation districts of the state of Idaho, but shall be subject to the provisions of any specific statute pertaining to the letting of any contract, purchase or acquisition of any commodity or thing by soliciting and receiving competitive bids therefor, and shall not be construed as modifying or amending the provisions of any such statute, nor preventing the irrigation district from doing any work by its own employees.

B. The word "expenditure" shall mean the granting of a contract to another by the irrigation district, the construction of any works, or any portion thereof, and every manner and means whereby the irrigation district disburses funds or obligates itself to disburse funds; provided, however, that "expenditure" does not include disbursement of funds to any irrigation district employee, official, ~~or~~ agent, or for the performance of personal services to the irrigation district, or for the acquisition of personal property through a contract that has been competitively bid by the state of Idaho, one of its subdivisions or an agency of the federal government, and does not include the purchase of used personal property.

C. When the expenditure contemplated exceeds fifteen thousand dollars ($15,000), the expenditure shall be contracted for and let to the lowest responsible bidder.

D. The notice inviting bids shall set a date and place for the opening of bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids. Notice shall be published at least twice, not less than one (1) week apart, in the official newspaper of such irrigation district. The notice shall succinctly set forth the project or construction to be done. Any of the following documents shall be made available, upon reasonable deposit, to any interested bidder: bid form, bidder's instructions, contract documents, general and special instructions, drawings and specifications.

E. All bids shall be presented or otherwise delivered under sealed cover to the secretary with a concise statement marked on the outside thereof generally identifying the expenditure to which said bid pertains. All bids shall contain one (1) of the following forms of bidder's security:

a. Cash;

b. Cashier's check made payable to the irrigation district;

c. A certified check made payable to the irrigation district;

d. A bidder's bond executed by a qualified surety company, made

payable to the irrigation district.

F. The security shall be an amount equal to at least ten per cent (10%) of the amount bid. 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 irrigation district.

G. Any bid received by the irrigation district may not be withdrawn after the time set in the notice for opening of bids. All bids received must be opened at the time and place set in the notice inviting bids, and no person shall be denied the right to be present at the opening of bids.

H. If the successful bidder fails to execute the contract, the amount of his bidder's security shall be forfeited to the irrigation district and the proceeds shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of costs and publication of notice are paid.

I. The irrigation district may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the board awards the contract to the next lowest responsible bidder, the amount of the said lowest responsible bidder's security shall be applied by the irrigation district to the difference between the said lowest responsible bid and the said next lowest responsible bid, and the surplus, if any, shall be returned to the said lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used.

J. In its discretion, the board may reject any bids presented and readvertise. If two (2) or more bids are the same and the lowest responsible bids, the board may accept the one it chooses. If no bids are received, the board may make the expenditure without further compliance with this section.

K. After rejecting bids, the board may, after finding it to be a fact, pass a resolution declaring that the thing sought to be accomplished by the expenditure can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, it may have the thing sought to be accomplished done in the manner stated without further compliance with this section.

L. If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or if the irrigation system of the district has been seriously damaged or impaired, the board may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property or to replace or repair any damaged portion of the irrigation system or to remove any impediment therefrom. Upon adoption of the resolution, it may expend any sum required in the emergency without compliance with this section.

Approved March 31, 1984.

CHAPTER 137
(H.B. No. 488)

AN ACT

RELATING TO THE STATE BUDGET LAW; AMENDING SECTION 67-3517, IDAHO CODE, TO STRIKE REFERENCE TO THE REQUIREMENT FOR ALLOTMENT OF APPROPRIATIONS ON A SIX MONTH BASIS, TO REQUIRE REQUESTS FOR ALLOTMENT BE MADE FOR THE FISCAL YEAR, AND TO REQUIRE THE STATE AUDITOR TO PROVIDE MONTHLY ALLOTMENT, APPROPRIATION AND EXPENDITURE REPORTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-3517, Idaho Code, be, and the same is hereby amended to read as follows:

67-3517. REQUESTS FOR ALLOTMENT BY OFFICIALS, DEPARTMENTS, BUREAUS AND INSTITUTIONS. In order to guard against excessive expenditure of appropriations, and as an act of economy, efficiency and control relating to said appropriations, it is hereby made the duty of each officer, department, bureau and institution, except the legislative and judicial departments, to file with the administrator of the division of financial management, who shall forward a copy to the state auditor, a request for allotment of funds to be made available ~~on a six (6) month basis~~ during the fiscal year, from the appropriation to said officer, department, bureau or institution. ~~Said r~~Requests for allotment shall be submitted to the administrator of the division at a time ~~and in such form~~ as prescribed by the administrator of the division, and as a general rule, in the same detail as appropriated, unless greater detail is deemed necessary by the administrator of the division. The legislative and judicial departments shall file a request for allotment of funds with the state auditor not later than fifteen (15) days prior to the expiration of the current allotment, in such detail as the submitting agency desires. It shall be the duty of the state auditor to provide a monthly report in the same or greater detail as the request for allotment, plus any adjustments made during the course of the fiscal year, expenditures for the month and expenditures to date for the year, and the percent of unexpended balance in the adjusted allotment, and the percent of unexpended balance in the adjusted appropriation, if any.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 31, 1984.

CHAPTER 138
(H.B. No. 506)

AN ACT

RELATING TO COMPENSATION OF HIGHWAY DISTRICT COMMISSIONERS; AMENDING SECTION 40-1618, IDAHO CODE, TO PROVIDE FOR AN INCREASE IN THE COMPENSATION PER DIEM AUTHORIZED TO BE PAID IN ONE YEAR.

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

SECTION 1. That Section 40-1618, Idaho Code, be, and the same is hereby amended to read as follows:

40-1618. EXPENSES OF HIGHWAY COMMISSIONERS -- COMPENSATION OF OFFICERS, AGENTS, AND EMPLOYEES. The highway commissioners shall receive as compensation for their services as commissioners not to exceed twenty-five dollars ($25.00) per day plus actual expenses for the time actually employed in the performance of their duties, including mileage and other out-of-pocket expenses necessary in the performance of their duties, either as commissioners, or in the administration of their office as commissioners, and that the total amount to be received as compensation per diem as commissioner shall not exceed the sum of one thousand five hundred dollars ($1,~~0~~500) per year~~;-said~~. The sum ~~so~~ specifically limited herein shall not include the amount of necessary and actual expenses incurred by the commissioners in the performance of their duties herein required to be done. ~~Said~~ The amount shall be paid from the funds of the district upon the presentation of itemized vouchers, signed by the commissioners and under oath made to the secretary of the district. ~~Provided;-however;-w~~When the secretary is a commissioner, the two (2) remaining commissioners may fix the compensation to be paid him for his services as ~~such~~ secretary. The secretary shall be entitled to his necessary and actual expenses but shall not be entitled to draw a per diem as a commissioner when placed upon a salary. The board shall fix the compensation to be paid to the other officers named in this chapter, and of the agents and employees of the board, to be paid out of the treasury of the district.

Approved March 31, 1984.

CHAPTER 139
(H.B. No. 515)

AN ACT

RELATING TO THE MILITIA AND MILITARY AFFAIRS; AMENDING CHAPTER 4, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-407, IDAHO CODE, TO PROVIDE FOR REINSTATEMENT TO PREVIOUS EMPLOYMENT OF MEMBERS OF THE IDAHO NATIONAL GUARD WHO ARE ORDERED TO DUTY BY THE

GOVERNOR.

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

SECTION 1. That Chapter 4, Title 46, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 46-407, Idaho Code, and to read as follows:

46-407. REEMPLOYMENT RIGHTS. (a) Any member of the Idaho national guard who is ordered to duty by the governor and who at the time of such order to duty is employed by any employer other than the United States government, shall be entitled to reemployment upon release from duty, provided that:

(1) The position in which he was employed was not a temporary position;

(2) His release from duty was under honorable conditions;

(3) He remains physically qualified for employment;

(4) The period of duty did not exceed one (1) year; and

(5) Application for reemployment is made within thirty (30) days subsequent to release from duty.

(b) If the member is still qualified to perform the duties of the position he held at the time of the order to duty, he shall be restored by the employer or the employer's successor in interest to that position or one of like seniority, status and pay. If the member is not qualified to perform the duties of such position by reason of disability sustained during the period of duty, but is qualified to perform the duties of any other positions in the employ of the employer, then the employer must offer the member that position which he is qualified to perform which is most similar to his former position in seniority, status and pay.

(c) Any person who is reemployed under this section shall not be discharged without cause within one (1) year after such reemployment.

(d) If any employer fails or refuses to comply with this section, the district court in the county in which the member was employed shall have the power, upon petition by the member, to compel the employer to comply with this section and to compensate the member for lost wages and benefits, for costs of the action, and for reasonable attorney's fees. The court shall order a speedy hearing in any such case and advance it on the calendar.

Approved March 31, 1984.

CHAPTER 140
(H.B. No. 529)

AN ACT

RELATING TO LIABILITY OF GOVERNMENTAL ENTITIES; AMENDING SECTION 6-903, IDAHO CODE, BY PROVIDING THAT A GOVERNMENTAL ENTITY'S DUTY

TO INDEMNIFY AND/OR DEFEND AN EMPLOYEE AGAINST CLAIMS OR CIVIL LAWSUITS ARISING OUT OF THE OPERATION OR USE OF HIS OR HER PERSONAL AUTOMOBILE, AIRCRAFT OR VEHICLE IN THE COURSE AND SCOPE OF HIS OR HER EMPLOYMENT OR DUTIES SHALL BE SECONDARY TO THE OBLIGATION OF ANY INSURER OR INDEMNITOR OF SUCH AUTOMOBILE, AIRCRAFT OR VEHICLE.

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

SECTION 1. That Section 6-903, Idaho Code, be, and the same is hereby amended to read as follows:

6-903. LIABILITY OF GOVERNMENTAL ENTITIES -- DEFENSE OF EMPLOYEES. (a) 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.

(b) (i) A governmental entity shall provide a defense to its employee 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 ~~such~~ 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 ~~on behalf of such employee~~ or lawsuit arising out of the operation or use of such personal automobile, aircraft or vehicle, shall be secondary to the obligation of ~~such~~ the insurer or indemnitor of such automobile, aircraft or vehicle, whose obligation shall be primary; and (iii) provided ~~finally~~ further, this paragraph 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

Approved March 31, 1984.

CHAPTER 141
(H.B. No. 531, As Amended)

AN ACT

RELATING TO THE BOARD OF PSYCHOLOGIST EXAMINERS; AMENDING SECTION 54-2303, IDAHO CODE, TO CLARIFY EXEMPTIONS AND TO ALLOW THE BOARD TO PROMULGATE ADMINISTRATIVE RULES GOVERNING SUPERVISED WORK BY UNLICENSED PERSONS; AMENDING SECTION 54-2305, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE AND TO AUTHORIZE THE BOARD TO ADMINISTER OATHS AND OBTAIN SUBPOENAS FROM DISTRICT COURTS; AMENDING SECTION 54-2309, IDAHO CODE, TO PROVIDE CLARIFYING LANGUAGE REGARDING THE DISCIPLINARY POWERS OF THE BOARD; AND AMENDING SECTION 54-2310, IDAHO CODE, TO ESTABLISH THE PENALTY FOR A MISDEMEANOR.

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

SECTION 1. That Section 54-2303, Idaho Code, be, and the same is hereby amended to read as follows:

54-2303. LICENSE REQUIRED -- EXEMPTIONS. It shall be unlawful for

any person to practice or to offer to practice psychology, or to represent himself to be a psychologist, unless he shall first obtain a license pursuant to this act, except as hereinafter provided.

(a) Nothing in this ~~act~~ chapter shall be construed to limit the activities, and use of an official title on the part of a person in the employ of a federal, state, county, or municipal agency, or other political subdivision~~,-or-a-duly--chartered--educational--institution~~, insofar that such activities or services are a part of the duties in his salaried position, and insofar that such activities or services are performed solely on behalf of his employer.

(b) Nothing in this ~~act~~ chapter shall be construed to limit the activities and services of a student, interne, or resident in psychology, pursuing a course of study approved by the board as qualifying training and experience for psychologists, provided that such activities and services constitute a part of his supervised course of study, and he is designated by such titles as "psychology interne," "psychology trainee," or other title clearly indicating such training status. Nothing in this chapter shall be construed to limit the activities of a person employed by a duly chartered educational institution solely as an administrator, teacher, or researcher or combination thereof in the discharge of those duties.

(c) Nothing in this chapter shall be construed to prevent unlicensed persons from providing certain services under the direct supervision and control of licensed psychologists, under such rules as may be established by the board.

(d) Nothing in this ~~act~~ chapter shall be construed to prevent qualified members of other professions such as physicians, licensed counselors, social workers, or pastoral counselors from doing work of a psychological nature consistent with their training and consistent with the code of ethics of their respective professions.

SECTION 2. That Section 54-2305, Idaho Code, be, and the same is hereby amended to read as follows:

54-2305. BOARD OF PSYCHOLOGIST EXAMINERS -- POWERS. The board of psychologist examiners shall have the following powers:

(a) To pass upon the qualifications and fitness of applicants for licenses and reciprocal licenses; and, at its option to adopt and revise rules and regulations requiring applicants to pass examinations relating to their qualifications as a prerequisite to the issuance of licenses.

(b) To adopt, and, from time to time, revise such rules and regulations not inconsistent with the law as may be necessary to carry into effect the provisions of this act. Such rules and regulations shall include, but not be limited to, (1) a code of ethics for psychologists in the state consistent with the current, and as future amended, ethical standards for psychologists of the American psychological association; (2) the educational and professional qualifications of applicants for licensing under this act.

(c) To examine for, deny, approve, issue, revoke, suspend and renew the licenses of psychologist applicants pursuant to this act,

and to conduct hearings in connection therewith.

(d) To conduct hearings upon complaints concerning violations of the provisions of and the rules and regulations adopted pursuant to this act and cause the prosecution and enjoinder of all such violations.

(e) The board, or its duly appointed hearing officer, shall have the power in any disciplinary proceeding under this chapter, to administer oaths, take depositions of witnesses within or without the state in the manner provided by law in civil cases, and may apply to any district court of this state for a subpoena to require the attendance of such witnesses and the production of such books, records, and papers as it deems necessary. The fees and mileage of the witnesses shall be the same as that allowed in district courts in criminal cases, which fees and mileage shall be paid in the same manner as other expenses of the board are paid. In any case of disobedience to, or neglect of, any subpoena or subpoena duces tecum served upon any person, or the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated. It shall be the duty of any district court in this state, on application by the board, to compel compliance with the subpoena by proceedings for contempt, as in the case of disobedience of the requirements of the subpoena issued from such court for refusal to testify therein. The licensed person accused in such proceedings shall have the same right of subpoena.

(f) To authorize, by written agreement, the bureau of occupational licenses as agent to act in its interest.

SECTION 3. That Section 54-2309, Idaho Code, be, and the same is hereby amended to read as follows:

54-2309. NONISSUANCE AND REVOCATION OF LICENSE. No license ~~shall~~ may be issued, and a license previously issued may be revoked or suspended, if the person applying, or the person licensed be:

(a) ~~Convicted--of--a-crime-involving-moral-turpitude~~ Found guilty by a court of competent jurisdiction of a felony;

(b) ~~An-habitual-user-of-narcotics~~ Found by the board to be a repeated and excessive abuser of a controlled substance;

(c) ~~An--habitual-drunkard~~ Found by the board to be a repeated and excessive abuser of alcohol;

(d) ~~Convicted-of-a~~ Found by the board to be in violation of any provision of this act; or

(e) Found ~~guilty~~ by the board ~~of-the~~ to have been unethical ~~practice--of--psychology~~ as detailed by the current, and future amended, ethical standards of the American Psychological Association.

SECTION 4. That Section 54-2310, Idaho Code, be, and the same is hereby amended to read as follows:

54-2310. VIOLATION AND PENALTY. Any person who shall practice or attempt to offer to practice psychology, as defined in this act, without having at the time of so doing a valid, unexpired, unrevoked, and unsuspended license issued under this act shall be deemed guilty of a

misdemeanor and shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than six (6) months or both for each violation.

Approved March 31, 1984.

CHAPTER 142
(H.B. No. 532)

AN ACT

RELATING TO THE SIZE OF VEHICLES; AMENDING SECTION 49-913, IDAHO CODE, TO ESTABLISH A MAXIMUM KINGPIN TO REAR AXLE DISTANCE ON TRACTOR-SEMITRAILER COMBINATIONS OPERATING ON WINDING, NARROW HIGHWAYS, AND TO CLARIFY THE SIZE OF EXTRA-LENGTH COMBINATIONS THAT ARE ALLOWED TO OPERATE ON DESIGNATED HIGHWAYS.

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

SECTION 1. That Section 49-913, Idaho Code, be, and the same is hereby amended to read as follows:

49-913. SIZE OF VEHICLES AND LOADS. A. No vehicle shall exceed a total outside width including any load thereon, of eight and one-half (8 1/2) feet, except that certain safety devices as determined by the Idaho transportation board as necessary for safe and efficient operation of motor vehicles shall not be included in the calculation of width, and further that the limitations as to size of vehicles stated in this section shall not apply to farm tractors and implements of husbandry, including the load thereon, log jammers and log loaders, and including all equipment used in land-leveling operations, temporarily propelled, moved or transported upon the public highway to or from the farm. Notwithstanding any other provision of this section, the total outside width of any farm tractor using the interstate system in this state may not exceed nine (9) feet, except as permitted by section 49-905, Idaho Code. Such overwidth vehicle must not proceed at a speed in excess of thirty-five (35) miles per hour, must display one (1) twelve (12) inch by twelve (12) inch red flag on front of truck or tractor pulling or hauling implement or trailer, display one (1) twelve (12) inch by twelve (12) inch red flag on outermost left projection of implement hauled, and move in daylight only.

B. No vehicle unladen or with load shall exceed a height of fourteen (14) feet.

C. No motor vehicle shall exceed a length of forty (40) feet, extreme overall dimension, inclusive of front and rear bumpers~~;-no~~. No trailer or semitrailer shall exceed a length of forty-eight (48) feet overall dimensions, provided that the length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer shall be excluded from the length of a trailer~~; and-no~~. The distance from the kingpin to the last axle shall not

exceed thirty-nine (39) feet on semitrailers operating on routes restricted by the Idaho transportation board or other proper authorities in charge of, or having jurisdiction over a public highway where severe curvature, limited width and/or heavy traffic conditions exist. No combination of vehicles coupled together shall consist of more than three (3) vehicles and, when combined as a truck-trailer combination, shall not exceed a total length of seventy-five (75) feet, inclusive of front and rear bumpers, and when combined as a truck-tractor semitrailer trailer, the length of the semitrailer trailer portion, including the connecting device, shall not be more than sixty (60) feet. Combinations consisting of ~~three-(3)-or~~ not more than four (4) vehicles may be operated on designated highways with an overall length not to exceed one hundred five (105) feet, provided that such combinations of vehicles exceeding ~~seventy-five-(75)-feet--in--overall~~ the length limits as provided in this section must be operated in accordance with rules and regulations adopted by the Idaho transportation board. The overall allowable length of commercial vehicles shall not include additional length required by energy conservation devices, provided that no cargo is carried in the energy conservation device. For purposes of this section, a converter gear shall not be considered a vehicle.

D. No train of vehicles or vehicle operated alone shall carry any load extending more than four (4) feet beyond the front thereof.

E. No passenger vehicle shall carry any load extending beyond the line of the fenders on the left side of such vehicle nor extending more than six (6) inches beyond the line of the fender on the right side thereof.

F. Earth-moving equipment may be used to move a load or travel to a site of operation, when said equipment is wider than eight and one-half (8 1/2) feet, in daylight hours, without requiring a permit therefor, provided that said equipment is equipped, in addition to those requirements set forth in chapter 8, title 49, Idaho Code, with a flashing amber colored light at least four (4) inches in diameter clearly visible from in front of the equipment, and a flashing red colored light at least four (4) inches in diameter clearly visible from the back of said equipment.

Approved March 31, 1984.

CHAPTER 143
(H.B. No. 533)

AN ACT

RELATING TO THE TITLING OF MOTOR VEHICLES; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE EXCEPTIONS OF TITLING REQUIREMENTS BY RULE AND REGULATION OF THE IDAHO TRANSPORTATION BOARD; AMENDING SECTION 49-405, IDAHO CODE, TO STRIKE THE PROVISION THAT NO PERSON SHALL BRING AN UNTITLED MOTOR VEHICLE INTO THIS STATE UNLESS HE HAS A CERTIFICATE OR STATEMENT OF ORIGIN AND TO PROVIDE THAT IF A LIEN

IS TO BE RECORDED THE TITLE DOCUMENTATION SHALL BE SUBMITTED TO AN AGENT OF THE TRANSPORTATION DEPARTMENT BY THE DEALER OR THE LIENHOLDER UPON AN APPLICATION SIGNED BY THE PURCHASER; AMENDING SECTION 49-412, IDAHO CODE, TO STRIKE CERTAIN TITLING REQUIREMENTS AND TO PROVIDE FOR TITLING APPLICATIONS AND THE EFFECT OF INCOMPLETE OR MISSING TITLING DOCUMENTS; AND AMENDING SECTION 49-426, IDAHO CODE, TO STRIKE PROVISIONS RELATING TO THE APPLICATION FOR AN IDAHO TITLE BY USED MOTOR VEHICLE DEALERS FOR FOREIGN REGISTERED AND TITLED VEHICLES.

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

SECTION 1. That Section 49-402, Idaho Code, be, and the same is hereby amended to read as follows:

49-402. APPLICATION TO CERTAIN VEHICLES -- EXEMPTIONS. The provisions of this chapter shall apply exclusively to every motor vehicle required to be registered with the department under the laws of this state except that the board may, by rules and regulations, exempt vehicle and motor vehicle registrations under provisions of subsection c of section 49-107 and sections 49-127 and 49-127B, Idaho Code, from the titling requirements of this chapter. ~~any-said-v~~Vehicles owned by the federal government and ~~excepting-also~~ vehicles exempt from registration under the provisions of section 49-108, Idaho Code, are exempt from the provisions of this chapter.

SECTION 2. That Section 49-405, Idaho Code, be, and the same is hereby amended to read as follows:

49-405. APPLICATIONS TO DEPARTMENT FOR CERTIFICATES -- PROCEDURE --IDENTIFICATION NUMBERS. (a) Application for a certificate of title shall be made upon a form furnished and approved by the department and shall contain a full description of the motor vehicle including the make, the engine or identification numbers, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon said vehicle, and the name and address of the person

(b) If a certificate of title has not previously been issued for such motor vehicle in this state, said application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or a duly certified copy thereof, or by a certificate of title, bill of sale or other evidence of ownership required by the law of any other state from which such motor vehicle was brought into this state.

(c) In the case of a new motor vehicle being titled for the first time, no certificate of title or registration shall be issued unless such application is indorsed by a franchised new motor vehicle dealer licensed to sell such new motor vehicle in the state of Idaho. Each such application shall be accompanied by a manufacturers' certificate of origin or manufacturers' statement of origin executed by the manufacturer and delivered to his agent or his franchised motor vehicle dealer. ~~No--person--shall-bring-into-this-state-an-untitled-new-motor~~

~~vehicle-unless-he-has-in-his-possession-a-certificate-or-statement--of origin.~~ The certificate or statement of origin shall be in such form as set by the board in accordance with the provisions of the administrative procedures act and shall contain the year of manufacture or the model year of the motor vehicle, the manufacturer's vehicle identification number of the motor vehicle, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new motor vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate of statement, together with any lien or encumbrance to which the vehicle is subject.

(d) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an engine or identification numbers index of registered motor vehicles, and upon receiving an application for a certificate of title, shall first check the engine or identification number shown in the application against said index and against the stolen and recovered motor vehicle index required to be maintained by section 49-411, Idaho Code. The department, when satisfied that the applicant is the owner of such motor vehicle and that the application is in proper form, shall thereupon issue in the name of the owner of the vehicle a certificate of title bearing a title number and the signature of the director of the department and the seal of his office, and setting forth the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle therein described, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(e) In all cases of transfer of motor vehicles the application for certificates of title shall be filed within ~~seven--(7)~~ ten (10) days after the delivery of such motor vehicles, provided, licensed dealers need not apply for certificate of title for such motor vehicles in stock or when such are acquired for stock purposes.

(f) In the case of the sale of a motor vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser~~,-and-in~~. If a lien is to be recorded, the title documentation as required in this section shall be submitted to an agent of the department by the dealer or the lienholder upon application signed by the purchaser. In all other cases such certificates shall be obtained by the purchaser.

(g) If the motor vehicle has no engine and no identification number, then the department shall designate an identification number for such motor vehicle at the time of issuance of the certificate of title, which identification number shall be permanently affixed to or indented upon the frame of the motor vehicle and legibly maintained thereon by the owner at all times while a certificate of title to such vehicle shall be issued and outstanding.

SECTION 3. That Section 49-412, Idaho Code, be, and the same is hereby amended to read as follows:

49-412. LIENS AND ENCUMBRANCES -- FILING -- FEE -- NOTATION ON CERTIFICATE -- CONSTRUCTIVE NOTICE. No lien or encumbrance on any vehicle registered under the laws of this state created subsequent to the effective date of this act, irrespective of whether such registration was effected prior or subsequent to the creation of such lien or encumbrance, shall be perfected as against creditors or subsequent purchasers or encumbrancers without notice until the holder of such lien or encumbrance, or his successor or assignee, has ~~filed with the department at its office in Boise, Idaho, the original or duplicate original of the agreement creating such lien or encumbrance, or a copy of said agreement, with an attached certificate of a notary public stating that the same is a true and correct copy of the original, accompanied by a properly indorsed certificate of title to the vehicle described in said agreement, and if a certificate of title has not previously been issued for such motor vehicle in this state, said agreement shall be accompanied by a properly executed application for a certificate of title, as provided by this chapter~~ complied with the requirements of section 49-405, Idaho Code, and has filed the properly completed title application and all required supporting documents with the department or an agent of the department.

When the holder of a lien or encumbrance, his successor or assignee, has filed with the department ~~the original or a duplicate original of said agreement, or a copy of the chattel mortgage, or conveyance intended to operate as a mortgage as herein provided~~ or agent of the department a properly completed title application and supporting documents as required by section 49-405, Idaho Code, together with a fee of one dollar ($1.00) to pay for the filing thereof, it shall be the duty of the department or agent of the department to forthwith file the same, indorsing ~~thereon~~ on the title application the date and hour received ~~at its office in Boise, Idaho~~. If the title application is incomplete or if the supporting documents are incomplete or missing, the title application and supporting documents as submitted will be returned to the lienholder or his successor or assignee for correction and the original date and hour of receipt by the department or agent of the department shall be void.

When the department is satisfied as to the genuineness and regularity of the documents submitted as in this chapter provided, it shall issue a new certificate of title as in this chapter provided, which shall contain the name of the owner of the vehicle, the name and address of each holder of a lien or encumbrance, and a statement of all liens or encumbrances which have been filed with the department, together with the date of each lien or encumbrance and the date and hour received by the department or agent of the department, and such filing of a lien or encumbrance and the notation thereof upon the certificate of title shall be a condition of perfection and shall constitute constructive notice of such lien or encumbrance and its contents to creditors and subsequent purchasers and encumbrancers, and all liens or encumbrances so filed with the department and so noted upon the certificate of title shall be perfected and take priority according to the order of time in which the same are noted upon the

certificate of title by the department.

SECTION 4. That Section 49-426, Idaho Code, be, and the same is hereby amended to read as follows:

49-426. DEALERS IN USED VEHICLES -- RECORDS OF PURCHASES AND SALES -- POSSESSION OF CERTIFICATES OF TITLE -- FOREIGN VEHICLES. (a) Every dealer in used motor vehicles, trailers or semi-trailers shall maintain a record in form as prescribed by the department of every used motor vehicle, trailer or semi-trailer bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange, which record shall contain a description of every said vehicle, including the name of the maker, type, engine and serial number and other distinguishing marks and whether any numbers thereon have been defaced, destroyed, or changed and shall state with reference to each such vehicle the name and address of the person from whom purchased or received and when sold or otherwise disposed of by the licensee the name and address of the person to whom sold or delivered.

(b) Every licensee shall have in possession a separate certificate of title assigned to such licensee or other documentary evidence of his right to the possession of and for every motor vehicle in his possession.

~~(c)--Whenever-a-dealer-shall-purchase,-receive-in-trade,-or-otherwise--become--the--owner--or--possessor--of-a-foreign-vehicle-which-is registered-in-any-state-except-Idaho,-a-foreign-country,--province--or subdivision--thereof,--and/or--has-attached-thereto-a-license-plate-or plates-of-any-state-except-Idaho,-a-foreign-country,-province-or--subdivision-thereof,-shall-within-5-days-after-becoming-the-owner-or-possessor--of-said-foreign-vehicle,-deliver-to-the-department-the-license plate-or-plates-thereof-and-at-the-same-time-make--application--for--a certificate-of-title-in-accordance-with-the-provisions-of-this-act.~~

Approved March 31, 1984.

CHAPTER 144
(H.B. No. 539)

AN ACT

RELATING TO FURBEARING ANIMALS DAMAGING PROPERTY; AMENDING SECTION 36-1107, IDAHO CODE, TO PROVIDE THAT OWNERS OR LESSEES OF PROPERTY BEING DAMAGED MAY CONTRACT WITH A LICENSED TRAPPER TO REMOVE FURBEARERS CAUSING DAMAGES.

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

SECTION 1. That Section 36-1107, Idaho Code, be, and the same is hereby amended to read as follows:

36-1107. WILD ANIMALS AND BIRDS DAMAGING PROPERTY. Other provi-

sions of this title notwithstanding, any person may control, trap, and/or remove any wild animals or birds or may destroy the houses, dams, or other structures of fur-bearing animals for the purpose of protecting property from the depredations thereof as hereinafter provided.

(a) Director to Authorize Removal of Wildlife Causing Damage. When any wildlife, protected by this title, is doing damage to or is destroying any property or is likely to do so, the owner or lessee thereof may make complaint and report the facts to the director who shall investigate the conditions complained of. If it appears that the complaint is well-founded and the property of such complainant is being or is likely to be damaged or destroyed by any such wildlife protected under this title, the director may:

1. Send a representative onto the premises to control, trap, and/or remove such protected wildlife as will stop the damage to said property. Any animals or birds so taken shall remain the property of the state and shall be turned over to the director.
2. Grant properly safeguarded permission to the complainant to control, trap and/or remove such protected wildlife or to destroy any houses, dams, or other structures erected by said animals or birds. Any protected wildlife so taken shall remain the property of the state and shall be turned over to the director.
3. Whenever deemed to be in the public interest, authorize or cause the removal or destruction of any dam, house, structure or obstruction erected by any fur-bearing animals, provided that no liability whatever shall accrue to the department or the director by reason of any direct or indirect damage arising from such destruction or removal.
4. Issue a permit to any bona fide owner or lessee of property which is being actually and materially damaged by fur-bearing animals, to trap or kill <u>or to have trapped or killed</u> such animals on his own or leased premises. Such permit may be issued without cost to a landholder applicant ~~who possesses a valid trapping license~~ and shall designate therein the number of fur-bearing animals that may be trapped or killed<u>, the name of the person who the landowner has designated to take such furbearers and the valid trapping license number of the taker. Furbearers so taken shall be the property of the taker</u>. Beaver so taken shall be handled in the manner provided in section 36-1104, Idaho Code. The term "premises" shall be construed to include any irrigation ditch or right-of-way appurtenant to the land for which said permit is issued.

(b) Control of Depredation of Bear, Mountain Lion, and Predators Within Wildlife Preserves. Bear and mountain lion, and predators within wildlife preserves, may be disposed of by livestock owners or their employees when same are molesting livestock and it shall not be necessary to obtain any permit from the department. Mountain lion so taken shall be reported to the director.Livestock owners may take steps they deem necessary to protect their livestock

(c) Taking of Muskrats in Irrigation Systems Authorized. Muskrats may be taken at any time in or along the banks of irrigation ditches, canals, reservoirs or dams, by the owners, their employees,

or those in charge of said irrigation ditches or canals.

Approved March 31, 1984.

CHAPTER 145
(H.B. No. 547, As Amended)

AN ACT

RELATING TO PAYMENT OF CHECKS WHICH HAVE BEEN PHOTOCOPIED AND PRESENTED FOR PAYMENT; AMENDING PART 4, CHAPTER 4, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-4-404A, IDAHO CODE, TO PROVIDE THAT A BANK SHALL PREPARE AND FORWARD NOTICE TO A CUSTOMER THAT THE BANK HAS HONORED A PHOTOCOPY OF A CHECK; AMENDING PART 4, CHAPTER 4, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-4-404B, IDAHO CODE, TO PROVIDE A FORM FOR NOTIFYING CUSTOMERS OF BANKS WHEN A PHOTOCOPY OF A CUSTOMER'S CHECK HAS BEEN HONORED; AND AMENDING PART 4, CHAPTER 4, TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 28-4-404C, IDAHO CODE, TO PROVIDE WHEN THE NOTICE OF A PHOTOCOPIED CHECK SHALL NOT BE REQUIRED.

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

SECTION 1. That Part 4, Chapter 4, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-4-404A, Idaho Code, and to read as follows:

28-4-404A. BANK SHALL PROVIDE NOTICE OF USE OF PHOTOCOPY CHECK. In the event the original copy of a check is lost or mutilated during processing by a bank, and if a photocopy of a check is presented for payment, and the bank honors the photocopy for payment, the bank shall prepare a notice to its customer, which shall be forwarded to the customer with the monthly statement of accounts.

SECTION 2. That Part 4, Chapter 4, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-4-404B, Idaho Code, and to read as follows:

28-4-404B. STATUTORY FORM FOR NOTICE OF PROCESSING PHOTOCOPIED CHECK. The notice of a photocopied check required by section 28-4-404A, Idaho Code, shall be imprinted on the jacket containing the photocopied check or the facsimile itself and the notice shall be substantially in the following form:

NOTICE OF PROCESSING OF PHOTOCOPIED CHECK.

A check drawn by you has been photocopied and the photocopy has been honored. The original of the check has been lost or mutilated, and the photocopy has been used for your convenience. We have attempted to insure that payment has been made only one time. This is

your notice of this process so that you may check your statement of account to determine that payment has not been duplicated.

SECTION 3. That Part 4, Chapter 4, Title 28, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 28-4-404C, Idaho Code, and to read as follows:

28-4-404C. WHEN NOTICE NOT REQUIRED. The notice required by section 28-4-404B, Idaho Code, shall not be required in the event that the customer has elected to have the bank hold checks.

Approved March 31, 1984.

CHAPTER 146
(H.B. No. 557)

AN ACT

RELATING TO THE DISTRIBUTION OF FUNDS COLLECTED UNDER THE IDAHO CIGARETTE TAX ACT TO THE CENTRAL TUMOR REGISTRY ACCOUNT; AMENDING SECTION 63-2520, IDAHO CODE, TO INCREASE THE MONEYS DISTRIBUTED TO THE CENTRAL TUMOR REGISTRY FUND FROM NINETY-FIVE THOUSAND DOLLARS TO ONE HUNDRED THOUSAND DOLLARS.

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

SECTION 1. That Section 63-2520, Idaho Code, be, and the same is hereby amended to read as follows:

63-2520. DISTRIBUTION OF MONEYS COLLECTED. Revenues received from the taxes imposed by this act, and any penalties, interest, or deficiency additions, shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(a) To the cigarette tax refund account in state operating fund, and from which all refunds authorized to be paid by this act shall be paid, the amount of money necessary to maintain such account at the monthly balance of three thousand dollars ($3,000) or such greater sum as will in the judgment of the state tax commission meet any reasonable requirement imposed upon such account.

(b) The balance remaining with the state treasurer after deducting the amount described in paragraph (a) above shall be distributed as follows:

(1) 10.989% of such balance shall be distributed to the permanent building account created by section 57-1108, Idaho Code.

(2) 10.989% of such balance shall be distributed to the water pollution control account.

(3) 1.099% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed ~~ninety-five~~ one

hundred thousand dollars ($95100,000) per fiscal year, and at such time as ~~ninety-five~~ one hundred thousand dollars ($95100,000) has been distributed to the central tumor registry account during any fiscal year, all such distributions in excess of ~~ninety-five~~ one hundred thousand dollars ($95100,000) shall be made instead to the general account of the state of Idaho.

(4) 3.645% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;

(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general account on July 1 and the state auditor shall order such transfer.

(5) All remaining moneys shall be distributed to the general account of the state of Idaho.

Approved March 31, 1984.

CHAPTER 147
(H.B. No. 580)

AN ACT

RELATING TO THE HEARING IMPAIRED; AMENDING SECTIONS 18-5811, 18-5812, 18-5812A, AND 56-701, IDAHO CODE, TO PROVIDE FOR INCLUSION OF REFERENCES TO THE HEARING IMPAIRED; AMENDING CHAPTER 7, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-701A, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING SECTIONS 56-702 THROUGH 56-706, IDAHO CODE, TO PROVIDE FOR INCLUSION OF REFERENCES TO THE HEARING IMPAIRED; AMENDING SECTION 56-707, IDAHO CODE, TO PROVIDE FOR INCLUSION OF THE HEARING IMPAIRED AND THE USE OF SICK LEAVE FOR THE PURPOSE OF OBTAINING A GUIDE DOG AND NECESSARY TRAINING; AMENDING SECTION 67-5407, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF SPECIAL AND BRIGHTLY COLORED FLUORESCENT TAGS FOR GUIDE DOGS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-5811, Idaho Code, be, and the same is hereby amended to read as follows:

18-5811. PRECAUTIONS TO BE TAKEN BY PEDESTRIANS OR DRIVERS CONCERNING BLIND AND HEARING IMPAIRED PERSONS. Any pedestrian who is not wholly or partially blind or hearing impaired, or any driver of a

vehicle who approaches or comes in contact with a person wholly or partially blind, carrying a cane or walking stick white in color; or white tipped with red, or a blind or hearing impaired person using a guide dog, shall immediately come to a full stop and take such precautions before proceeding as may be necessary to avoid accident or injury to the person wholly or partially blind or hearing impaired.

SECTION 2. That Section 18-5812, Idaho Code, be, and the same is hereby amended to read as follows:

18-5812. BLIND AND HEARING IMPAIRED PERSONS -- PROTECTION OF, PENALTIES. Any person other than a person wholly or partially blind who shall carry a cane or walking stick such as is described in this act, or any person other than a person wholly or partially blind or hearing impaired who shall utilize a dog with either a guide dog tag as described in section 67-5407(i), Idaho Code, or a similar tag to that defined in section 56-701A, Idaho Code, contrary to the provisions of this act, or who shall fail to heed the approach of a blind or hearing impaired person using a guide dog or carrying such a cane as is described by this ~~act~~ chapter, or who shall fail to come to a stop when approaching or coming in contact with a person so carrying such a cane or walking stick or using a guide dog, or who shall fail to take a precaution against accidents or injury to such person after coming to a stop, as provided for herein is guilty of a misdemeanor.

SECTION 3. That Section 18-5812A, Idaho Code, be, and the same is hereby amended to read as follows:

18-5812A. BLIND OR HEARING IMPAIRED PERSONS MAY BE ACCOMPANIED BY GUIDE DOGS -- PENALTY FOR VIOLATION. (1) A blind or hearing impaired person shall not be denied the use of any common carrier or public transportation facility or admittance to any hotel, motel, cafe, elevator or any other public place within the state of Idaho by reason of his being accompanied by a guide dog specially trained for such purpose. A blind or hearing impaired person shall be entitled to have a guide dog with him in such places and while using such facilities without being required to pay any additional charges for his guide dog, but shall be liable for any damage caused by ~~such~~ his guide dog.

(2) Any person, firm, association or corporation violating the provisions of this section shall be guilty of a misdemeanor.

SECTION 4. That Section 56-701, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 5. That Chapter 7, Title 56, Idaho Code, be, and the same

is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-701A, Idaho Code, and to read as follows:

56-701A. DEFINITIONS. As used in this chapter:

(1) "Guide dog" means a dog that has been properly identified as being from a recognized school for seeing eye, hearing ear or guide dogs, and the dog is properly harnessed or leashed so that the blind or hearing impaired person may maintain control of the dog, and the dog has attached to its harness or collar a special and brightly colored fluorescent tag issued by the commission for the blind under the provisions of section 67-5407(i), Idaho Code.

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

SECTION 6. That Section 56-702, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 7. That Section 56-703, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 8. That Section 56-704, Idaho Code, be, and the same is hereby amended to read as follows:

56-704. RIGHT TO USE OF GUIDE DOG -- LIABILITY. Every totally or partially blind or hearing impaired person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places listed in section 56-703, Idaho Code, without being required to pay an extra charge for the guide dog; provided that he

shall be liable for any damage done to the premises or facilities by ~~such~~ his dog.

SECTION 9. That Section 56-705, Idaho Code, be, and the same is hereby amended to read as follows:

56-705. RESTRICTIONS ON VEHICULAR TRAFFIC WITH RESPECT TO BLIND OR HEARING IMPAIRED PERSONS. The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color (with or without a red tip) or using a guide dog or a hearing impaired person using a guide dog, shall take reasonable precautions to avoid injury to such ~~blind~~ a pedestrian, and any driver who fails to take reasonable precautions shall be presumed negligent and liable in damages for any injury caused ~~such~~ that pedestrian; provided that a totally or partially blind pedestrian not carrying such a cane or using a guide dog, or a hearing impaired person not using a guide dog, in any of the places, accommodations, or conveyances listed in sections 56-702, 56-703 and 56-704, Idaho Code, shall have all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind pedestrian to carry such a cane or to use a guide dog, or a hearing impaired person to use a guide dog in any such places, accommodations or conveyances shall not be held to constitute nor be evidence of contributory negligence.

SECTION 10. That Section 56-706, Idaho Code, be, and the same is hereby amended to read as follows:

56-706. INTERFERENCE WITH RIGHTS OR ACTIVITIES -- PENALTY. Any person or persons, firm or corporation, or the agent of any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities enumerated in ~~sections 56-702,--56-703--and--56-704~~ this chapter or otherwise interferes with the rights of a totally or partially blind, hearing impaired, or otherwise disabled person under ~~sections-56-702,-56-703-and-56-704~~ this chapter shall be guilty of a misdemeanor.

SECTION 11. That Section 56-707, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

dogs and necessary training.

SECTION 12. That Section 67-5407, Idaho Code, be, and the same is hereby amended to read as follows:

67-5407. DUTIES. The commission shall:

(a) Assist blind persons in achieving physical and psychological orientation, inform blind persons of available services, stimulate and assist the blind in achieving social and economic independence, and do all things which will ameliorate the condition of the blind.

(b) Provide intensive programs of case finding, education, vocational and other rehabilitation training, job findings and placement, physical restoration, and such other services and equipment as may assist in rendering blind persons more self-supporting and socially independent.

(c) Provide a business enterprise program including management, supervision and development services.

(d) Enter into such contracts with the United States library of congress division for the blind and physically handicapped as are necessary to be designated, the talking book machine lending agency, and shall distribute such machines to those individuals entitled to such services under such contracts.

(e) Provide a program for the prevention of blindness and sight restoration as designed in this act. The commissioner shall pay for all necessary expenses incurred in connection with the diagnosis, treatment or surgery to prevent blindness or restore vision. Necessary expenses include the cost of getting service, the cost of services, medical and physician fees, hospital services, nursing services, maintenance while the applicant or recipient is away from the home, transportation to the physician or hospital and return to his home, and the cost of nursing home care when such care is necessary. These services will be provided to individuals without financial resources to procure such services for themselves.

(f) Establish rules and regulations in accordance with the provisions of the administrative procedure act.

(g) On or before December first in 1968, and each year thereafter, render a report to the legislature and to the governor of its activities, including recommendations for improvements therein.

(h) Enter into contracts and agreements with the federal government through its appropriate agency or instrumentality whereby the commission shall receive federal grants or other benefits for the prevention of blindness or for services to the blind, including medical eye care, instruction in the home, social adjustment and vocational and other rehabilitations, and shall act as the official state agency to collaborate with the federal government in the administration of any present or subsequent programs that may be set up for the purposes of providing services to or rehabilitating the blind.

(i) Issue a special and brightly colored fleuorescent tag at no charge to any person training and socializing a dog to become a guide dog for the blind, and for use at times when that person takes the dog into places listed in section 56-703, Idaho Code, as a necessary part

of the dog's training to become or for utilization as a guide dog for the blind. The tags shall bear an identifying number.

(j) Issue a special and brightly colored fluorescent tag at no charge to persons utilizing a guide dog as defined in section 56-701A, Idaho Code. The tags shall bear an identifying number, and the guide dog shall not be required to have any other license or tag that may otherwise be required by a city or county.

SECTION 13. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 31, 1984.

CHAPTER 148
(H.B. No. 582)

AN ACT

RELATING TO PESTICIDES AND PESTICIDE APPLICATORS; AMENDING SECTION 22-3404, IDAHO CODE, TO ESTABLISH TESTING FEES FOR COMMERCIAL APPLICATORS, COMMERCIAL OPERATORS, LIMITED APPLICATORS, TO CLARIFY COMMERCIAL OPERATOR LICENSING AND TO ESTABLISH PRIVATE APPLICATOR LICENSING FEES, AND TO CLARIFY THE UNIFORM MINIMUM AGE REQUIREMENT; AMENDING SECTION 22-3405, IDAHO CODE, TO ESTABLISH TESTING FEES FOR PEST CONTROL CONSULTANTS; AND AMENDING SECTION 22-3406, IDAHO CODE, TO REQUIRE TESTING OF PESTICIDE DEALERS AND TO PROVIDE A TESTING FEE.

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

SECTION 1. That Section 22-3404, Idaho Code, be, and the same is hereby amended to read as follows:

22-3404. PESTICIDE APPLICATORS -- CLASSIFICATION LICENSING REQUIREMENTS. (1) The director may classify pesticide applicator licenses issued under this act. Such classifications may include but are not limited to commercial applicators, limited applicators, and private applicators. Separate licensing requirements and testing procedures may be utilized for each classification.

(2) Commercial Applicators - no individual shall act as a commercial applicator without first obtaining a commercial applicator's license issued by the department.

(a) Application for a license shall be on a form prescribed by the department; and

(b) an applicant must be at least eighteen (18) years of age and must pass the department's examination in order to demonstrate his knowledge of how to apply, use and handle pesticides in areas relevant to the operations he intends to undertake; and

(c) insurance, bond, or cash deposit in escrow must be provided

for as prescribed by regulation; and

(d) an applicant must pay an annual license fee and registration fee for each piece of spraying equipment as prescribed by regulation; and

(e) an examination fee will be charged as prescribed by regulation and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date; and

(f) if at any time a licensed commercial applicator fails to maintain the financial responsibility required by paragraph (c) of this subsection, his license shall be automatically suspended until the department receives verification that he is in compliance with paragraph (c) of this subsection;~~-and~~

~~(g)--no-individual-shall-act--as--a--commercial--operator--without first-obtaining-a-license-issued-by-this-department.--An-applicant must--be-employed-by-a-licensed-commercial-applicator-and-pass-the department's-examination-in-order-to-receive-a-license.~~

(3) Commercial Operators - no individual shall act as a commercial operator without first obtaining a commercial operator license issued by the department.

(a) Application for a license shall be on a form prescribed by the department; and

(b) an applicant must be at least eighteen (18) years of age and must pass the department's examination in order to demonstrate his knowledge of how to apply, use and handle pesticides in areas relevant to the operations he intends to undertake; and

(c) an examination fee will be charged as prescribed by regulation and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date; and

(d) an applicant must pay an annual license fee as prescribed by regulation; and

(e) an applicant must be employed by a licensed commercial applicator.

(4) Limited Applicator - no individual shall act as a limited applicator without first obtaining a limited applicator's license issued by the department.

(a) Application for a license shall be on a form prescribed by the department; and

(b) an applicant must be at least eighteen (18) years of age and must pass the department's examination in order to demonstrate his knowledge of how to use, apply and handle pesticides in areas relevant to the operations he plans to undertake; and

(c) an examination fee will be charged as prescribed by regulation and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date; and

(d) an applicant must pay an annual license fee as prescribed by regulation.

(~~4~~5) Private Applicator - no individual shall act as a private applicator without first fulfilling the licensing requirements pre-

scribed by regulation.

(a) Application for a license shall be on a form prescribed by the department; and

(b) an applicant must be at least eighteen (18) years of age; and

(c) an applicant must pay a license fee as prescribed by regulation.

(5~~6~~) If the director finds an applicant qualified for a commercial applicator's license, operator's license, limited applicator's license or private applicator's license; and if an applicant applying for a license to engage in the aerial application of pesticides has met all of the requirements of the federal aviation agency and any other applicable federal or state laws and regulations, the director shall issue such license. The license or permit may restrict the applicant to the use of a certain type or types of equipment or pesticides. If a license or permit is not issued as applied for, the department shall inform the applicant in writing of the reasons therefor.

(6~~7~~) The director may by regulation require commercial or limited applicators to maintain and furnish records forthwith pertaining to the application of pesticides and other relevant information as he may deem necessary.

(7~~8~~) License expiration:

(a) Licenses issued to commercial applicators, commercial operators, and limited applicators shall expire on December 31, following issuance unless it has been suspended or revoked as provided for in section 22-3409, Idaho Code; and

(b) licenses issued to private applicators shall expire as designated by the director unless suspended or revoked as provided for in section 22-3409, Idaho Code.

(8~~9~~) Exemptions:

(a) The following individuals are exempt from paragraphs (2), (3), ~~and~~ (4) and (5) of this section:

1. Any farmer applying pesticides other than restricted-use pesticides restricted to use only by certified applicators for himself or on an exchange of service basis who does not publicly hold himself out as a commercial applicator; and

2. any individual using hand-powered equipment to apply pesticides other than restricted-use pesticides restricted to use only by certified applicators to lawns, or to ornamental trees and shrubs owned by such person or as an incidental part of his business of taking care of yards for remuneration and not holding himself out as a commercial applicator; and

3. any industry, governmental, University of Idaho research personnel and extension research personnel who apply pesticides other than restricted-use pesticides restricted to use only by certified applicators to experimental plots or to demonstrate the use of pesticides and do not publicly hold themselves out as commercial applicators; and

4. any veterinarian who applies pesticides as an integral part of his business and does not publicly hold himself out as a commercial applicator.

(b) Federal, state, and county agencies are exempt from the licensing fees provision of subsections (2) and (3) of this section.

SECTION 2. That Section 22-3405, Idaho Code, be, and the same is hereby amended to read as follows:

22-3405. PEST CONTROL CONSULTANTS -- LICENSING REQUIREMENTS. No individual shall act as a pest control consultant after January 1, 1977, without first obtaining a pest control consultant's license.

(1) Application for a license shall be on a form prescribed by the department.

(2) Applicants must be at least eighteen (18) years of age and must demonstrate their knowledge of pesticide laws, regulations, pesticide hazards, and safety involving the distribution, use and disposal of pesticides by passing a written examination.

(3) An examination fee will be charged as prescribed by regulation and an additional examination fee of five dollars ($5.00) shall be charged when an examination is requested at other than a regularly scheduled examination date.

(4) The director may classify licenses to be issued under the provisions of this section. Each such classification may be subject to separate testing procedures and requirements.

(5) An applicant shall pay an annual licensing fee as prescribed by regulation.

(6) Licenses issued to pest control consultants shall expire on December 31 following issuance unless it has been suspended or revoked as provided for in section 22-3409, Idaho Code.

(7) Exemptions:

(a) A licensed limited applicator or commercial applicator is exempt from the licensing provisions of this section; and

(b) all federal, state, other governmental, or University of Idaho research and extension research personnel are exempt from paragraph (5) of this section; and

(c) any individual who recommends only the use of pesticides labeled for home and garden use only is exempt from the licensing provisions of this section.

SECTION 3. That Section 22-3406, Idaho Code, be, and the same is hereby amended to read as follows:

22-3406. PESTICIDE DEALERS. No individual shall act as a pesticide dealer without first obtaining a pesticide dealer's license issued by the department.

(1) Licensing:

(a) Application for a pesticide dealer's license shall be on a form prescribed by the department and shall be accompanied by a fee as prescribed by regulation; and

(b) an applicant must pass the department's examination in order to demonstrate his knowledge of how to use and handle pesticides in areas relevant to the operation he intends to undertake; and

(c) such application shall be due on or before July 1 of each year; and

(~~c~~d) a license shall be required for each location, outlet, or warehouse located within this state from which such pesticides are distributed~~.~~; and

(e) an examination fee will be charged as prescribed by regulation and an additional examination fee of five dollars ($5.00) shall be charged when an exam is requested at other than a regularly scheduled examination date.

(2) Records and Reports:

(a) The director shall require a pesticide dealer to keep accurate records which contain the trade name or brand name and distribution of restricted-use pesticides or devices within the state. The director may also require a pesticide dealer to maintain other records and furnish reports that he determines necessary to implement the provisions of this act; and

(b) these records shall be available for inspection and reproduction by the director at all reasonable times.

(3) Pesticide dealers shall sell restricted-use pesticides restricted to use only by certified applicators only to licensed commercial applicators, limited applicators, private applicators, and dealers.

(4) Exemptions: A manufacturer's representative or wholesale distributor shall be exempt from subsection (1) of this section provided such representative or distributor does not have a warehouse in Idaho that pesticides are sold, stored or distributed from.

Approved March 31, 1984.

CHAPTER 149
(H.B. No. 605)

AN ACT

RELATING TO FEES FOR SERVICES; AMENDING SECTION 49-104, IDAHO CODE, TO PROVIDE A FEE FOR ISSUING LETTERS OF TEMPORARY OPERATING AUTHORITY TO IDAHO BASED MOTOR CARRIERS.

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

SECTION 1. That Section 49-104, Idaho Code, be, and the same is hereby amended to read as follows:

49-104. RECORDS OF DEPARTMENT -- FEES FOR SERVICES BY BOARD -- PORTION OF FEES TO COUNTY. a. All registration and license records in the office of the department shall be public records and open to inspection by the public during business hours.

b. In addition to all other fees required by law to be collected by the board, the board shall collect for the following services the

following fees:

1. For certifying a copy of any record pertaining to any motor vehicles license, any certificate of title, or any operator's or chauffeur's license $3.00

2. For recording the transfer of any interest upon a certificate of title $3.00

3. For issuance of every certificate of title on a new motor vehicle sold by a registered dealer to a purchaser $3.00

4. For issuance or transfer of every certificate of title on a new or used motor vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section $15.00

5. For furnishing a duplicate copy of any certificate of title or receipt of registration $3.00

6. For issuing an Idaho certificate of title, or an interstate letter in lieu of the Idaho certificate of title on any motor vehicle that has previously been licensed in another state . $3.00

7. For answering inquiries as to registration or ownership of motor vehicles or driver's license records, per vehicle registration, title or per driver's license record $2.00

8. For services in furnishing copies of files of motor vehicle or other registrations, motor vehicle titles, driver's licenses or chauffeur's licenses, per hour $10.00

9. Placing "stop" cards in motor vehicle registration or title files, each $2.00

10. For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

11. For a vehicle identification number (VIN) inspection conducted by any city or county peace officer as defined in section 19-5101(d), Idaho Code, or any peace officer or designated agent of the motor vehicle division, department of law enforcement, per inspection $3.00

12. For all duplicate registration stickers, each ..... $.50

13. For issuing letters of temporary operating authority to Idaho based motor carriers $5.00

c. The fees required by this section shall not apply when the service is furnished to any federal, state, county or city peace officer as defined in section 19-5101(d), Idaho Code, when such service is required in the performance of their duties as peace officers.

d. The board shall pay one dollar ($1.00) of the fee collected by a county assessor or other agent of the department under subsections b 1,2,3,4,5 and 6 of this section to the county assessor of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county general fund; the remainder of the fees collected under this section shall be paid by the board to the state treasurer and placed in the state highway account. The fee collected under subsection b. 11. of this section shall be placed in the city general fund if collected by a city peace officer, in the county current expense fund if collected by a county peace officer or agent of the department employed by the county or paid to the state treasurer and placed in the motor vehicle account if collected by the

board.

Approved March 31, 1984.

CHAPTER 150
(H.B. No. 613)

AN ACT

RELATING TO PROCEEDINGS FOR SUSPENSION, REVOCATION OR DENIAL OF A TEACHING CERTIFICATE; AMENDING SECTION 33-1208, IDAHO CODE, TO PROVIDE ADDITIONAL GROUNDS FOR REVOCATION, SUSPENSION OR DENIAL OF A CERTIFICATE; AND AMENDING SECTION 33-1209, IDAHO CODE, TO PROVIDE THAT PROCEDURES SPECIFIED SHALL APPLY TO SUSPENSIONS OF A TEACHING CERTIFICATE.

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

SECTION 1. That Section 33-1208, Idaho Code, be, and the same is hereby amended to read as follows:

33-1208. REVOCATION, SUSPENSION OR DENIAL OF CERTIFICATE -- GROUNDS. The state board of education may revoke or suspend any certificate issued or authorized under section 33-1201, Idaho Code, upon any of the following grounds:

a. Gross neglect of duty;

b. Incompetency;

c. Breach of the teaching contract;

d. Making any material statement of fact in the application for a certificate, which the applicant knows to be false;

e. Revocation, suspension, denial or surrender of a certificate in another state for any reason constituting grounds for revocation in this state;

f. Conviction, withheld judgment or suspended sentence, in this or any other state of a crime involving moral turpitude;

g. Any disqualification which would have been sufficient grounds for refusing to issue or authorize a certificate, if the disqualification existed or had been known at the time of its issuance or authorization;

h. Wilful violation of any professional code or standard of ethics or conduct, adopted by the state board of education.

The state board may deny the issuance of a certificate for any reason that would be a ground for revocation or suspension.

A district superintendent shall report to the chief officer of teacher certification the name of any educator dismissed or otherwise severed from employment for the commission of an act or acts that would constitute grounds for revocation or suspension of a certificate.

SECTION 2. That Section 33-1209, Idaho Code, be, and the same is

hereby amended to read as follows:

33-1209. PROCEEDINGS TO REVOKE OR SUSPEND -- COMPLAINT -- HEARING. Proceedings to revoke or suspend any certificate issued or authorized under section 33-1201, Idaho Code, shall be commenced by a written complaint against the holder thereof. Such complaint shall be made by the chief certification officer of the state board of education to the said state board, stating the ground or grounds for revocation and proposing that the certificate be revoked. A copy of the complaint shall be served upon the certificate holder, either by personal service or by certified mail.

Not more than thirty (30) days after the date of service of any complaint, the person complained against may request, in writing, a hearing upon the complaint. Any such request shall be made and addressed to the state board of education; and if no such request for hearing be made, the grounds for revocation stated in the complaint shall be deemed admitted.

Upon receiving any request for hearing, the state board of education shall give notice, in writing, to the person requesting the hearing, which notice shall state the time and place of the hearing; but the time of such hearing shall be not less than five (5) days from the date of notice thereof.

The state board shall have the power to order the issuance of any subpoena requested by its chief certification officer, or by the respondent, requiring the attendance of any witness at the hearing, and the state board may, upon its own motion, order the issuance of such subpoena. The state board may hold such hearing, or may delegate to one ~~(1)~~ or more of its members, or to some other suitable person, authority to hold such hearing, with full power to issue subpoenas as hereinabove. A written record of the testimony of witnesses, and of any documentary evidence, adduced or presented at such hearing shall be kept.

All hearings shall be informal, with the object of ascertaining the truth. The person complained against may appear in person or by attorney, and may produce, examine and cross-examine witnesses; and, if he chooses so to do, may submit for the consideration of the state board of education a written statement in lieu of oral testimony, but any such statement shall be under oath and the affiant shall be subject to cross-examination.

At the conclusion of any hearing which the board has delegated authority to be heard, the person holding the hearing shall submit to the board a concise statement of the proceedings, a summary of the testimony, and any documentary evidence offered, together with his findings of fact and recommendation. The board shall review the record so made, as well as its own records, and make its determination, or it may order another hearing before the same or other persons, or before the board.

The determination of the board, upon any hearing, shall be entered in its records, and written notice of its determination shall be given to the person complained against by the state superintendent of public instruction, which notice shall be a part of the records of the state

board of education.

The final determination of the state board of education may be reviewed by writ of review in the district court of the county in which the holder of a revoked certificate has been last employed as a teacher; but application for such writ of review shall be made not more than thirty (30) days from the date of notice of revocation.

Whenever any certificate has been refused or revoked, the state board of education may, upon a clear showing that the cause constituting grounds for refusal or revocation no longer exists, issue a certificate or reinstate a revoked certificate either conditionally or unconditionally.

Approved March 31, 1984.

CHAPTER 151
(H.B. No. 621)

AN ACT

RELATING TO MOTOR VEHICLE PRODUCT LIABILITY RESPONSIBILITY; AMENDING SECTION 49-2420, IDAHO CODE, TO STRIKE THE REQUIREMENT THAT A MOTOR VEHICLE MANUFACTURER COMPENSATE AN AUTHORIZED DEALER FOR CERTAIN WORK; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2423, IDAHO CODE, TO PROVIDE FOR THE PAYMENT FOR DELIVERY PREPARATION AND WARRANTY SERVICE BY A MANUFACTURER.

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

SECTION 1. That Section 49-2420, Idaho Code, be, and the same is hereby amended to read as follows:

49-2420. PRODUCT LIABILITY RESPONSIBILITY. A manufacturer must file with the department a copy of the delivery and preparation obligations required to be performed by a dealer prior to the delivery of a new motor vehicle to a buyer. These delivery and preparation obligations constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from an express or implied warranty of the manufacturer constitute the manufacturer's product or warranty liability only; provided, however, that this section shall not affect the obligation of new motor vehicle dealers to perform such warranty repair and maintenance as may be required by law or contract. ~~The manufacturer must compensate an authorized dealer who performs work to rectify the manufacturer's product or warranty defect or delivery and preparation obligations in the same manner and method and at the dealer's regularly established labor and parts retail rates for similar nonwarranty work.~~

SECTION 2. That Chapter 24, Title 49, Idaho Code, be, and the

same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-2423, Idaho Code, and to read as follows:

49-2423. PAYMENT FOR DELIVERY PREPARATION AND WARRANTY SERVICE. (1) Each new motor vehicle manufacturer shall specify in writing to each of its new motor vehicle dealers licensed in this state, the dealer's obligations for predelivery preparation and warranty service on its products, shall compensate the new motor vehicle dealer for service required of the dealer by the manufacturer, and shall provide the dealer a schedule of compensation to be paid the dealer for parts, work and service in connection therewith, and the time allowance for the performance of that work and service.

(2) In no event shall a schedule of compensation fail to include reasonable compensation for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed. In no event shall the hourly labor rate paid to a dealer for warranty services be less than the rate charged by the dealer for warranty service to nonwarranty customers for nonwarranty service and repairs, provided that rate is reasonable.

(3) It is a violation of the provisions of this section for any new motor vehicle manufacturer to fail to perform any warranty obligations or to fail to include in written notices of factory recalls to new motor vehicle owners and dealers, the expected date by which necessary parts and equipment will be available to dealers for the correction of those defects, or to fail to compensate any of the new motor vehicle dealers in this state for repairs effected by recall.

(4) All claims made by new motor vehicle dealers pursuant to this section for labor and parts shall be paid within thirty (30) days following their approval. The manufacturer retains the right to audit claims and to charge the dealer for unsubstantiated, incorrect, false, or fraudulent claims for a period of two (2) years following payment. All claims shall be either approved or disapproved within thirty (30) days after their receipt, on forms and in the manner specified by the manufacturer, and any claim not specifically disapproved in writing within thirty (30) days after receipt shall be construed to be approved and payment must follow within thirty (30) days.

Approved March 31, 1984.

CHAPTER 152
(H.B. No. 629)

AN ACT

RELATING TO TRANSFERS TO MINORS; REPEALING CHAPTER 8, TITLE 68, IDAHO CODE; AMENDING TITLE 68, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 8, TITLE 68, IDAHO CODE, TO DEFINE TERMS; TO PROVIDE SCOPE AND JURISDICTION OF THE CHAPTER; TO PROVIDE FOR NOMINATION OF A

CUSTODIAN; TO PROVIDE FOR TRANSFER BY GIFT OR EXERCISE OF POWER OF APPOINTMENT; TO PROVIDE FOR A TRANSFER AUTHORIZED BY A WILL OR TRUST; TO PROVIDE FOR OTHER TRANSFERS BY A FIDUCIARY; TO PROVIDE FOR TRANSFERS BY AN OBLIGOR; TO PROVIDE A RECEIPT FOR CUSTODIAL PROPERTY; TO PROVIDE A MANNER OF CREATING CUSTODIAL PROPERTY AND EFFECTING TRANSFER, TO PROVIDE DESIGNATION OF AN INITIAL CUSTODIAN AND TO PROVIDE FOR CONTROL OF THE PROPERTY; TO PROVIDE FOR SINGLE CUSTODIANSHIP; TO PROVIDE FOR VALIDITY AND EFFECT OF A TRANSFER; TO PROVIDE FOR CARE OF CUSTODIAL PROPERTY; TO PROVIDE FOR USE OF CUSTODIAL PROPERTY; TO PROVIDE FOR A CUSTODIAN'S EXPENSES, COMPENSATION AND BOND; TO PROVIDE FOR EXEMPTION OF THIRD PERSONS FROM LIABILITY; TO PROVIDE FOR LIABILITY TO THIRD PERSONS; TO PROVIDE FOR RENUNCIATION, RESIGNATION, DEATH OR REMOVAL OF A CUSTODIAN AND TO PROVIDE FOR DESIGNATION OF A SUCCESSOR CUSTODIAN; TO PROVIDE FOR ACCOUNTING BY AND DETERMINATION OF LIABILITY OF A CUSTODIAN; TO PROVIDE FOR TERMINATION OF A CUSTODIANSHIP; TO PROVIDE FOR APPLICABILITY OF THE PROVISIONS OF THE CHAPTER; TO PROVIDE EFFECT OF THE CHAPTER ON EXISTING CUSTODIANSHIPS; TO PROVIDE UNIFORMITY OF APPLICATION AND CONSTRUCTION; TO PROVIDE A SHORT TITLE; AND TO PROVIDE SEVERABILITY.

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

SECTION 1. That Chapter 8, Title 68, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 68, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 8, Title 68, Idaho Code, and to read as follows:

68-801. DEFINITIONS. As used in this chapter:

(1) "Adult" means an individual who has attained the age of twenty-one (21) years.

(2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(3) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others.

(4) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

(5) "Court" means the district courts of the state of Idaho.

(6) "Custodial property" means (i) any interest in property transferred to a custodian under this chapter and (ii) the income from and proceeds of that interest in property.

(7) "Custodian" means a person so designated under section 68-809, Idaho Code, or a successor or substitute custodian designated under section 68-818, Idaho Code.

(8) "Financial institution" means a bank, trust company, savings and loan association, or credit union, chartered and supervised under

state or federal law.

(9) "Legal representative" means an individual's personal representative or conservator.

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

(11) "Minor" means an individual who has not attained the age of twenty-one (21) years.

(12) "Person" means an individual, corporation, organization, or other legal entity.

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

(14) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(15) "Transfer" means a transaction that creates custodial property under section 68-809, Idaho Code.

(16) "Transferor" means a person who makes a transfer under this chapter.

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

68-802. SCOPE AND JURISDICTION. (1) This chapter applies to a transfer that refers to this chapter in the designation under section 68-809(1), Idaho Code, by which the transfer is made, if at the time of the transfer, the transferor, the minor, or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to this chapter despite a subsequent change in residence of a transferor, the minor, or the custodian, or the removal of custodial property from this state.

(2) A person designated as custodian under this chapter is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(3) A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act, or a substantially similar act, of another state is governed by the law of the designated state and may be executed and is enforceable in this state if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

68-803. NOMINATION OF CUSTODIAN. (1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian, followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to

Minors Act." The nomination may name one or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(2) A custodian nominated under this section must be a person to whom a transfer of property of that kind may be made under section 68-809(1), Idaho Code.

(3) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under section 68-809, Idaho Code. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event, the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to section 68-809, Idaho Code.

68-804. TRANSFER BY GIFT OR EXERCISE OF POWER OF APPOINTMENT. A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to section 68-809, Idaho Code.

68-805. TRANSFER AUTHORIZED BY WILL OR TRUST. (1) A personal representative or trustee may make an irrevocable transfer pursuant to section 68-809, Idaho Code, to a custodian for the benefit of a minor as authorized in the governing will or trust.

(2) If the testator or settlor has nominated a custodian under section 68-803, Idaho Code, to receive the custodial property, the transfer must be made to that person.

(3) If the testator or settlor has not nominated a custodian under section 68-803, Idaho Code, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under section 68-809(1), Idaho Code.

68-806. OTHER TRANSFER BY FIDUCIARY. (1) Subject to subsection (3) of this section, a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to section 68-809, Idaho Code, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(2) Subject to subsection (3) of this section, a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to section 68-809, Idaho Code.

(3) A transfer under subsection (1) or (2) of this section may be

made only if (i) the personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor, (ii) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument, and (iii) the transfer is authorized by the court if it exceeds ten thousand dollars ($10,000) in value.

68-807. TRANSFER BY OBLIGOR. (1) Subject to subsections (2) and (3), a person not subject to the provisions of either section 68-805 or 68-806, Idaho Code, who holds property of or owes a liquidated debt to a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to section 68-809, Idaho Code.

(2) If a person having the right to do so under section 68-803, Idaho Code, has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(3) If no custodian has been nominated under section 68-803, Idaho Code, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds ten thousand dollars ($10,000) in value.

68-808. RECEIPT FOR CUSTODIAL PROPERTY. A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to this chapter.

68-809. MANNER OF CREATING CUSTODIAL PROPERTY AND EFFECTING TRANSFER -- DESIGNATION OF INITIAL CUSTODIAN -- CONTROL. (1) Custodial property is created and a transfer is made whenever:

(a) An uncertificated security or a certificated security in registered form is either:

1. registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act"; or

2. delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection (2) of this section;

(b) Money is paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act";

(c) The ownership of a life or endowment insurance policy or annuity contract is either:

1. registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act"; or

2. assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act";

(d) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act";

(e) An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act";

(f) A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

1. issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act"; or

2. delivered to an adult other than the transferor or to a trust company, endorsed to that person, followed in substance by the words: "as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act"; or

(g) An interest in any property not described in paragraphs (a) through (f) is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection (2) of this section.

(2) An instrument in the following form satisfies the requirements of paragraphs (a)2. and (g) of subsection (1):

"TRANSFER UNDER THE IDAHO UNIFORM
TRANSFERS TO MINORS ACT

I, (name of transferor or name and representative capacity if a fiduciary) hereby transfer to (name of custodian) , as custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated:

(Signature)

(name of custodian) acknowledges receipt of the property

described above as custodian for the minor named above under the Idaho Uniform Transfers to Minors Act.
Dated:

(Signature of Custodian)"

(3) A transferor shall place the custodian in control of the custodial property as soon as practicable.

68-810. SINGLE CUSTODIANSHIP. A transfer may be made only for one (1) minor, and only one (1) person may be the custodian. All custodial property held under this chapter by the same custodian for the benefit of the same minor constitutes a single custodianship.

68-811. VALIDITY AND EFFECT OF TRANSFER. (1) The validity of a transfer made in a manner prescribed in this chapter is not affected by:

(a) Failure of the transferor to comply with section 68-809(3), Idaho Code, concerning possession and control;

(b) Designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under section 68-809(1), Idaho Code; or

(c) Death or incapacity of a person nominated under section 68-803, Idaho Code, or designated under section 68-809, Idaho Code, as custodian or the disclaimer of the office by that person.

(2) A transfer made pursuant to section 68-809, Idaho Code, is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this chapter, and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided in this chapter.

(3) By making a transfer, the transferor incorporates in the disposition all the provisions of this chapter and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this chapter.

68-812. CARE OF CUSTODIAL PROPERTY. (1) A custodian shall:

(a) Take control of custodial property;

(b) Register or record title to custodial property if appropriate; and

(c) Collect, hold, manage, invest, and reinvest custodial property.

(2) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, a custodian, in the custodian's

discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor.

(3) A custodian may invest in or pay premiums on life insurance or endowment policies on (i) the life of the minor only, if the minor or the minor's estate is the sole beneficiary, or (ii) the life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian, is the irrevocable beneficiary.

(4) A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "as a custodian for (name of minor) under the Idaho Uniform Transfers to Minors Act."

(5) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if the minor has attained the age of fourteen (14) years.

68-813. POWERS OF CUSTODIAN. (1) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.

(2) The provisions of this section do not relieve a custodian from liability for breach of the provisions of section 68-812, Idaho Code.

68-814. USE OF CUSTODIAL PROPERTY. (1) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to (i) the duty or ability of the custodian personally or of any other person to support the minor, or (ii) any other income or property of the minor which may be applicable or available for that purpose.

(2) On petition of an interested person or the minor if the minor has attained the age of fourteen (14) years, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit, so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(3) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the minor.

68-815. CUSTODIAN'S EXPENSES, COMPENSATION, AND BOND. (1) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(2) Except for one who is a transferor under section 68-804, Idaho Code, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(3) Except as provided in section 68-818(6), Idaho Code, a custodian need not give a bond.

68-816. EXEMPTION OF THIRD PERSON FROM LIABILITY. A third person, in good faith and without court order, may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

(1) The validity of the purported custodian's designation;

(2) The propriety of, or the authority under this chapter for, any act of the purported custodian;

(3) The validity or propriety under this chapter of any instrument or instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

(4) The propriety of the application of any property of the minor delivered to the purported custodian.

68-817. LIABILITY TO THIRD PERSONS. (1) A claim based on (i) a contract entered into by a custodian acting in a custodial capacity, (ii) an obligation arising from the ownership or control of custodial property, or (iii) a tort committed during the custodianship, may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable therefor.

(2) A custodian is not personally liable:

(a) On a contract properly entered into in the custodial capacity, unless the custodian fails to reveal that capacity and to identify the custodianship in the contract; or

(b) for an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(3) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship, unless the minor is personally at fault.

68-818. RENUNCIATION, RESIGNATION, DEATH, OR REMOVAL OF CUSTODIAN --DESIGNATION OF SUCCESSOR CUSTODIAN. (1) A person nominated under section 68-803, Idaho Code, or designated under section 68-809, Idaho Code, as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under section 68-803, Idaho Code,

the person who made the nomination may nominate a substitute custodian under section 68-803, Idaho Code; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under section 68-809(1), Idaho Code. The custodian so designated has the rights of a successor custodian.

(2) A custodian, at any time, may designate a trust company or an adult other than a transferor under section 68-804, Idaho Code, as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

(3) A custodian may resign at any time by delivering written notice to the minor, if the minor has attained the age of fourteen (14) years, and to the successor custodian and by delivering the custodial property to the successor custodian.

(4) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor has attained the age of fourteen (14) years, the minor may designate as successor custodian, in the manner prescribed in subsection (2) of this section, an adult member of the minor's family, a conservator of the minor, or a trust company. If the minor has not attained the age of fourteen (14) years, or fails to act with sixty (60) days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person, may petition the court to designate a successor custodian.

(5) A custodian who declines to serve under subsection (1) of this section or resigns under subsection (3) of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian, by action, may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(6) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor, or the minor, if the minor has attained the age of fourteen (14) years, may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under section 68-804, Idaho Code, or to require the custodian to give appropriate bond.

68-819. ACCOUNTING BY AND DETERMINATION OF LIABILITY OF CUSTODIAN. (1) A minor who has attained the age of fourteen (14) years, the minor's guardian of the person or legal representative, an adult

member of the minor's family, a transferor, or a transferor's legal representative may petition the court (i) for an accounting by the custodian or the custodian's legal representative; or (ii) for a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property, unless the responsibility has been adjudicated in an action under section 68-817, Idaho Code, to which the minor or the minor's legal representative was a party.

(2) A successor custodian may petition the court for an accounting by the predecessor custodian.

(3) The court, in a proceeding under this chapter or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(4) If a custodian is removed under section 68-818(6), Idaho Code, the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

68-820. TERMINATION OF CUSTODIANSHIP. The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(1) The minor's attainment of twenty-one (21) years of age with respect to custodial property transferred under section 68-804 or section 68-805, Idaho Code;

(2) The minor's attainment of eighteen (18) years of age, with respect to custodial property transferred under section 68-806 or section 68-807, Idaho Code;

(3) The minor's death.

68-821. APPLICABILITY. The provisions of this chapter apply to a transfer within the scope of section 68-802, Idaho Code, made after its effective date if:

(1) The transfer purports to have been made under the Uniform Gifts to Minors Act of Idaho; or

(2) The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state, and the application of this chapter is necessary to validate the transfer.

68-822. EFFECT ON EXISTING CUSTODIANSHIPS. (1) Any transfer of custodial property as now defined in this chapter made before July 1, 1984, is validated, notwithstanding that there was no specific authority in the Uniform Gifts to Minors Act of Idaho, for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(2) The provisions of this chapter apply to all transfers made before the effective date of this chapter, in a manner and form prescribed in the Uniform Gifts to Minors Act of Idaho, except insofar as the application impairs constitutionally vested rights or extends the

duration of custodianships in existence on the effective date of this chapter.

(3) Sections 68-801 and 68-820, Idaho Code, with respect to the age of a minor for whom custodial property is held under this chapter, do not apply to custodial property held in a custodianship that terminated because of the minor's attainment of the age of eighteen (18) years after July 1, 1972 and before July 1, 1984.

68-823. UNIFORMITY OF APPLICATION AND CONSTRUCTION. The provisions of this chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

68-824. SHORT TITLE. This chapter may be cited as the "Idaho Uniform Transfers to Minors Act."

68-825. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter 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 chapter.

Approved March 31, 1984.

CHAPTER 153
(H.B. No. 635, As Amended in the Senate)

AN ACT

RELATING TO BACTERIAL DISEASES OF BEANS; AMENDING CHAPTER 19, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1922, IDAHO CODE, PROHIBITING THE VIOLATION OF THE RULES AND REGULATIONS OF THE DEPARTMENT OF AGRICULTURE CONCERNING BACTERIAL DISEASES OF BEANS, "PHASEOLUS" SPECIES, BEING DULY IMPOSED BY THE IDAHO STATE DEPARTMENT OF AGRICULTURE AND PROVIDING FOR CRIMINAL AND CIVIL PENALTIES FOR VIOLATION OF SUCH PROHIBITION.

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

SECTION 1. That Chapter 19, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 22-1922, Idaho Code, and to read as follows:

22-1922. VIOLATION OF RULES AND REGULATIONS CONCERNING BACTERIAL DISEASES OF BEANS, "PHASEOLUS" SPECIES, PROHIBITED -- PENALTIES FOR VIOLATION. It shall be unlawful to plant any bean seed that has not been approved for planting as provided in the rules and regulations concerning bacterial diseases of beans, "phaseolus" species. Any person, firm, corporation, dealer, or shipper violating the provisions

of this section shall be liable for a civil fine of not less than five thousand dollars ($5,000) and not more than twenty-five thousand dollars ($25,000). All civil fines collected pursuant to this section shall be remitted to the state board of education and board of regents of the university of Idaho, for the benefit of the college of agriculture at the university of Idaho for research pertaining to beans and bean production in the state of Idaho. The burden of proof for such civil liability shall be met by showing a preponderance of the evidence. In addition, any person, firm, corporation, dealer, or shipper who violates the provisions of the rules and regulations concerning bacterial diseases of beans, "phaseolus" species, shall be guilty of a misdemeanor and, upon conviction, may be imprisoned for not more than six (6) months or be fined for not more than three hundred dollars ($300), or both. The attorney general or the appropriate prosecuting attorney may prosecute any violations of the provisions of this section.

Approved March 31, 1984.

CHAPTER 154
(S.B. No. 1237, As Amended)

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE THE FISH AND GAME COMMISSION MAY DELEGATE TO THE DIRECTOR THE AUTHORITY TO DECLARE SPECIAL OPEN DEPREDATION SEASONS FOR THE TAKING OF WILDLIFE CAUSING PROPERTY DAMAGE.

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

SECTION 1. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director Created. The commission shall appoint a director of the department of fish and game, hereinafter referred to as the director, who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation, restoration, and management of the wildlife resources of the state. The director shall not hold any other public office, nor any office in any political party organization, and shall devote his entire time to the service of the state in the discharge of his official duties, under the direction of the commission.

(b) Secretary to Commission. The director shall serve as secretary to the commission.

(c) Compensation and Expenses. The director shall receive such compensation as the commission, with the concurrence and approval of the governor, may determine and shall be reimbursed at the rate pro-

vided by law for state employees for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties.

(d) Oath and Bond. Before entering upon the duties of his office, the director shall take and subscribe to the official oath of office, as provided by section 59-401, Idaho Code, and shall, in addition thereto, swear and affirm that he holds no other public office, nor any position under any political committee or party. Such oath, or affirmation, shall be signed in the office of the secretary of state.

The director shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code.

(e) Duties and Powers of Director.

1. The director shall have general supervision and control of all activities, functions, and employees of the department of fish and game, under the supervision and direction of the commission, and shall enforce all the provisions of the laws of the state, and rules and regulations of the commission relating to wild animals, birds, and fish and, further, shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of the state not inconsistent with this act, and shall exercise all necessary powers incident thereto not specifically conferred on the commission.

2. The director is hereby authorized to appoint as many classified employees as the commission may deem necessary to perform administrative duties, to enforce the laws and to properly implement management, propagation, and protection programs established for carrying out the purposes of the Idaho fish and game code.

3. The appointment of such employees shall be made by the director in accordance with the Idaho personnel commission act and rules promulgated pursuant to chapter 53, title 67, Idaho Code, and they shall be compensated as provided therein. Said employees shall be bonded to the state of Idaho in the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

4. The director is hereby authorized to establish and maintain fish hatcheries for the purpose of hatching, propagating, and distributing all kinds of fish.

5. (A) The director, or any person appointed by him in writing to do so, may take wildlife of any kind, dead or alive, or import the same, subject to such conditions, restrictions and regulations as he may provide, for the purpose of inspection, cultivation, propagation, distribution, scientific or other purposes deemed by him to be of interest to the fish and game resource of the state.

(B) The director shall have supervision over all of the matters pertaining to the inspection, cultivation, propagation and distribution of the wildlife propagated under the provisions of title 36, Idaho Code. He shall also have the power and authority to obtain, by purchase or otherwise, wildlife of any kind or variety which he may deem most suitable for distribution in the state and may have the same properly cared for and distributed throughout the state of Idaho as he

may deem necessary.

6. (A) The director shall have the power, at any time when it is desired to introduce any new species, or if at any time any species of wildlife of the state of Idaho shall be threatened with excessive shooting, trapping, or angling or otherwise, to close any open season for such time as he may designate; in the event an emergency is declared to exist such closure shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(B) In order to protect property from damage by wildlife, the fish and game commission may delegate to the director the authority to declare an open season upon that particular species of wildlife to reduce its population. The director shall make an order embodying his findings in respect to when, under what circumstances, in which localities, by what means, and in what amounts, numbers and sex the wildlife subject to the hunt may be taken. In the event an emergency is declared to exist such open season shall become effective forthwith upon written order of the director; in all other cases upon publication and posting as provided in section 36-105, Idaho Code.

(C) Any order issued under authority hereof shall be published in at least one (1) newspaper of general circulation in the area affected by the order for at least once a week for two (2) consecutive weeks, and such order shall be posted in public places in each county as the director may direct.

(~~C~~D) During the closure of any open season or the opening of any special depredation season by the director all provisions of laws relating to the closed season or the special depredation season on such wildlife shall be in force and whoever violates any of the provisions shall be subject to the penalties prescribed therefore.

7. The director shall make an annual report to the governor, the legislature, and the secretary of state, of the doings and conditions of his office, which report shall be made in accordance with section 67-2509, Idaho Code.

8. The director may sell or cause to be sold publications and materials in accordance with section 59-1012, Idaho Code.

Approved April 2, 1984.

CHAPTER 155
(S.B. No. 1300, As Amended)

AN ACT

RELATING TO THE REGULATION OF INJECTION WELLS; AMENDING SECTION 42-3901, IDAHO CODE, TO PROVIDE THE PROVISIONS OF THE CHAPTER ARE APPLICABLE TO ALL INJECTION WELLS; AMENDING SECTION 42-3902, IDAHO

CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING CHAPTER 39, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3902A, IDAHO CODE, TO PROHIBIT THE INJECTION OF HAZARDOUS WASTES AND RADIOACTIVE WASTES INTO OR ABOVE A DRINKING WATER SOURCE; AMENDING CHAPTER 39, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3903A, IDAHO CODE, TO AUTHORIZE THE ADOPTION OF RULES AND REGULATIONS FOR SHALLOW INJECTION WELLS; AMENDING SECTION 42-3904, IDAHO CODE, TO PROVIDE AN OPERATOR IS RESPONSIBLE FOR PERMIT APPLICATION, TO STRIKE REFERENCE TO THE DEPARTMENT OF HEALTH AND WELFARE AND TO PROVIDE THAT CERTAIN MINE SHAFTS SHALL BE EXEMPT FROM PERMIT REQUIREMENTS UNTIL AN INVENTORY AND ASSESSMENT OF THE CONTAMINATION POTENTIAL POSED BY THE OPERATION IS COMPLETED; AMENDING SECTION 42-3905, IDAHO CODE, TO INCREASE PERMIT FILING FEES, TO REQUIRE A SEPARATE PERMIT FOR EACH WELL NEEDING A PERMIT AND TO PROVIDE A REFUND OF FEES IN CERTAIN INSTANCES; REPEALING SECTION 42-3906, IDAHO CODE, RELATING TO REVIEW OF APPLICATIONS BY THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 42-3907, IDAHO CODE, TO AUTHORIZE PUBLIC NOTICE OF PERMIT APPLICATIONS, AND TO STRIKE REFERENCE TO THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 42-3908, IDAHO CODE, TO STRIKE REFERENCE TO THE ADVISORY AUTHORITY OF THE DEPARTMENT OF HEALTH AND WELFARE, AND TO EXPAND THE PERMIT AUTHORITY TO INCLUDE ALL INJECTION WELLS; AMENDING SECTION 42-3909, IDAHO CODE, TO INCLUDE REFERENCE TO OPERATOR, AND TO PROVIDE FOR SERVICE OF PROCESS; AMENDING SECTION 42-3910, IDAHO CODE, TO INCLUDE REFERENCE TO OPERATOR, AND TO PROVIDE FOR SERVICE OF PROCESS; AMENDING SECTION 42-3911, IDAHO CODE, TO INCLUDE REFERENCE TO OPERATOR, AND TO PROVIDE FOR A PENALTY; AMENDING SECTION 42-3912, IDAHO CODE, TO REQUIRE AN APPROVED PERMIT PRIOR TO DRILLING OR MODIFYING A WASTE DISPOSAL AND INJECTION WELL AND TO PROVIDE WHEN A DRILLER'S LICENSE IS NOT REQUIRED; AMENDING SECTION 42-3913, IDAHO CODE, TO PROVIDE STANDARDS FOR WASTE DISPOSAL AND INJECTION WELLS, TO AUTHORIZE MINIMUM STANDARDS FOR THE CONSTRUCTION AND ABANDONMENT OF SHALLOW INJECTION WELLS; AMENDING SECTION 42-3914, IDAHO CODE, TO STRIKE REFERENCE TO THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE FOR MINIMUM STANDARDS FOR SHALLOW INJECTION WELLS, TO PROVIDE FOR A PENALTY AND TO PROVIDE APPLICATION TO STATE OR LOCAL GOVERNMENTS INVOLVED IN HIGHWAY AND STREET CONSTRUCTION AND MAINTENANCE; AMENDING CHAPTER 39, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3915, IDAHO CODE, TO PROVIDE AUTHORITY FOR THE BOARD TO ADOPT RULES AND TO PROVIDE THAT REGULATIONS REGARDING THE INVENTORY OF SHALLOW INJECTION WELLS SHALL NOT BE MORE STRINGENT THAN FEDERAL LAW OR REGULATIONS; AMENDING CHAPTER 39, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3916, IDAHO CODE, TO PROVIDE FOR INJUNCTIVE RELIEF; AMENDING CHAPTER 39, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3917, IDAHO CODE, TO PROVIDE FOR CIVIL PENALTIES; AMENDING CHAPTER 39, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3918, IDAHO CODE, TO PROVIDE FOR CEASE AND DESIST ORDERS; AND AMENDING CHAPTER 39, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3919, IDAHO CODE, TO PROVIDE FOR CRIMINAL PEN-

ALTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-3901, Idaho Code, be, and the same is hereby amended to read as follows:

42-3901. GROUND WATER AS PUBLIC RESOURCE -- PROTECTION. The legislature of the state of Idaho hereby declares the ground water of this state to be a public resource which must be protected against unreasonable contamination or deterioration of quality to preserve such waters for diversion to beneficial uses; that in order to protect such waters against contamination or deterioration in quality it is necessary that the ~~drilling~~ construction and use of ~~waste-disposal-and~~ injection wells be controlled as provided in this ~~act~~ chapter.

SECTION 2. That Section 42-3902, Idaho Code, be, and the same is hereby amended to read as follows:

42-3902. DEFINITIONS. Whenever used in this ~~act,--the--term~~ chapter:

(1) ~~"Waste-disposal-and-injection-well"-means-any--excavation--or artificial--opening--into--the--ground-more-than-eighteen-(18)-feet-in vertical--depth--below--land--surface--which--is--constructed--by--any percussion,--rotary,-boring,-digging,-jetting,-or-augering-machine-and which-is-used-for,-or-intended-to-be-used-for,-the-subsurface-disposal of-any-liquid-or-solid-material-which-may-affect-the-ground-waters--of the--state-of-Idaho.--~~"Aquifer" means any geologic formation that will yield water to a well in sufficient quantities to make production of water from the formation feasible for beneficial use, except when the water in such formation results solely from injection through a waste disposal and injection well.

(2) "Director" means the director of the department of water resources.

(3) "Drinking water source" means an aquifer which contains water having less than 10,000 mg/l total dissolved solids and has not been exempted from this designation by the director of the department of water resources.

(4) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gaseous or any other form or state.

(5) "Formation" means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is mappable at the earth's surface or traceable in the subsurface.

(6) "Hazardous waste" means any fluid or combination of fluids, excluding radioactive wastes, which because of quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illness; or

(b) Pose a substantial threat to human health or to the environ-

ment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties, but do not include solid or dissolved material in domestic sewage or solid or dissolved material in irrigation return flows.

(7) "Injection" means the subsurface emplacement of fluids.

(8) "Injection well" means any excavation or artificial opening into the ground which meets the following three (3) criteria:

(a) It is a bored, drilled or dug hole, or is a driven mine shaft or a driven well point; and

(b) It is deeper than its largest straight-line surface dimension; and

(c) It is used for or intended to be used for injection.

(9) "Irrigation waste water" means surplus water diverted for irrigation but not applied to crops or runoff of surplus water from the cropland as a result of irrigation.

(~~2~~10) "Licensed driller" means any person holding a valid license to drill water wells in Idaho as provided and defined in section 42-238, Idaho Code.

(11) "Operate" means to allow fluids to enter an injection well by action or by inaction of the operator.

(12) "Operator" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district or federal agency who operates or proposes to operate any injection well.

(~~3~~13) "Owner" means any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, or federal agency owning land on which any ~~waste-disposal-and~~ injection well exists or is proposed to be constructed.

(14) "Radioactive material" means any material, solid, liquid or gas which emits radiation spontaneously.

(15) "Radioactive waste" means any fluid which contains radioactive material in concentrations which exceed those established for discharges to water in an unrestricted area by the board of health and welfare under the provisions of chapter 30, title 39, Idaho Code.

(16) "Shallow injection well" means an injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface.

(17) "Sanitary waste" means any fluid generated through domestic activities, such as food preparation, cleaning and personal hygiene.

(18) "Surface runoff water" means runoff water from the natural ground surface and cropland. Runoff from urbanized areas, such as streets, parking lots, airports, and runoff from animal feedlots, agricultural processing facilities and similar facilities are not included within the scope of this term.

(19) "Waste disposal and injection well" means an injection well which is more than eighteen (18) feet in vertical depth below land surface.

SECTION 3. That Chapter 39, Title 42, Idaho Code, be, and the

same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3902A, Idaho Code, and to read as follows:

42-3902A. PROHIBITION OF INJECTION OF HAZARDOUS WASTES AND OF RADIOACTIVE WASTES. Construction of an injection well to be used for injection of hazardous wastes or of radioactive wastes into or above a drinking water source is prohibited. Injection of hazardous wastes or of radioactive wastes through an existing injection well into or above a drinking water source is prohibited. Any such injection shall subject any person responsible for said activity to the sanctions and penalties of this chapter in addition to all other applicable sanctions and penalties provided by statute or the common law.

SECTION 4. That Chapter 39, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3903A, Idaho Code, and to read as follows:

42-3903A. SHALLOW INJECTION WELLS -- AUTHORIZATION FOR CONSTRUCTION AND USE. Construction and use of shallow injection wells shall be authorized by rules and regulations adopted by the water resource board. Shallow injection wells used for the disposal of nonhazardous and nonradioactive sanitary wastes generated in, on, or in conjunction with a single family noncommercial dwelling are exempt from the authorization requirements of this chapter, but shall be subject to the applicable requirements of the Idaho environmental protection and health act of 1972, sections 39-101, et seq., Idaho Code.

SECTION 5. That Section 42-3904, Idaho Code, be, and the same is hereby amended to read as follows:

42-3904. APPLICATION FOR PERMIT -- OWNER -- ~~LANDLORD~~ OPERATOR RESPONSIBLE. The owner or operator shall make application to the director of the department of water resources for ~~such~~ a permit as provided in this chapter. ~~For--purposes--of--this--section,--an owner-landlord-shall-be-responsible-for-making-application-and-obtaining-such-permits-for-his-tenant.~~ When a facility is owned by one person but operated by another, it shall be the operator's duty to obtain a permit. Such application shall be upon forms furnished by the director which shall require information concerning the location and description of the ~~waste-disposal-and~~ injection well, the quantity, quality, and nature of the material being or proposed to be injected, the description of the underground formation and aquifer into which the material is proposed to be or is being injected, the availability of alternative sources of disposal, and such other information as will enable the director ~~and-the-director-of-the-department-of-health-and welfare~~ to determine the effect of the injection of the material upon the quality of the ground water, the effect upon the beneficial uses of said ground water, the effect upon the public health and the effect upon public benefits derived therefrom, if any. Such application shall

be submitted complete with fees as provided in this ~~act~~ chapter. Mine shafts used for the disposal of wastes resulting from the mining and concentration process shall be exempt from the permit requirements of this chapter until an inventory and assessment of the contamination potential posed by such operation is completed.

SECTION 6. That Section 42-3905, Idaho Code, be, and the same is hereby amended to read as follows:

42-3905. FEES -- TRANSMITTED TO STATE TREASURER. Fees provided for in this section shall accompany all applications. No such application shall be accepted unless accompanied by a filing fee of ~~twenty-five~~ fifty dollars ($250.00) per application~~;--providing--that for--any--such-application-covering-more-than-one-(1)-well-there-shall be-an-additional-filing-fee-of-ten-dollars--($10.00)--for--each--additional-well.-No-fee-shall-be-charged-for-modification-of-a-well-or-for renewal--or--extension--of--a--permit-which-has-been-previously-issued under-the-provisions-of-this-act.--No-fee-shall-be-charged-for--applications--submitted-on-wells-in-operation-on-or-before-January-1,-1971~~. A separate application shall be filed for each waste disposal and injection well and each shallow injection well for which a permit is required by the rules and regulations adopted by the water resource board. All fees received under the provisions of this ~~act~~ chapter are deemed to be non-refundable except those fees submitted with applications that do not require a permit shall be returned to the applicant, and shall be transmitted to the state treasurer for deposit in the water administration fund as established under the provisions of section 42-238(a), Idaho Code. Fees collected may be used by the director of the department of water resources to carry out the provisions of this ~~act~~ chapter.

SECTION 7. That Section 42-3906, Idaho Code, be, and the same is hereby repealed.

SECTION 8. That Section 42-3907, Idaho Code, be, and the same is hereby amended to read as follows:

42-3907. DEPARTMENT OF WATER RESOURCES -- PUBLIC NOTICE AND INVESTIGATION. (1) Upon receipt of an application or other notice to construct, maintain, modify or abandon an injection well, the director shall give public notice as required by the rules and regulations promulgated under authority of this chapter.

(2) The director ~~of-water-resources~~ shall examine each application and shall make an investigation to determine what effect the use of the proposed or existing ~~waste-disposal--and~~ injection well will have or is having upon the rights of others to use water for beneficial purposes. For purposes of such investigation, the director may conduct a fact finding or investigative hearing. He may apply to the district court of the county in which the well is located for subpoenas requiring the appearance of witnesses and production of books, records, and papers; or he may administer oaths, and take testimony at

any place and time. Employees and agents of the department of water resources ~~or--department--of--health--and-welfare~~ may make reasonable entry upon any lands in the state for purposes of making investigations and surveys, or for other purposes necessary to carry out the intent of this ~~act~~ chapter.

SECTION 9. That Section 42-3908, Idaho Code, be, and the same is hereby amended to read as follows:

42-3908. PERMIT APPROVING CONSTRUCTION AND USE -- CONDITIONS -- REJECTION OF APPLICATION. If the director of the department of water resources determines the use of the proposed or existing ~~waste-disposal-and~~ injection well will not affect the rights of others to use water for beneficial purposes ~~and-if-the-director-of-the-department-of health--and-welfare-recommends-the-application-be-approved,-the-director-of-the-department-of-water-resources~~ shall issue a permit approving the construction, modification or continued operation of such well. Such permit shall contain conditions, if any, determined to be necessary to protect the public interest in the ground water resource including, but not limited to, the method and manner of operation of the injection well, the period during which the injection well may be operated, a date when such permit shall expire, and periodic reports to the department of water resources of the quality and quantity of the ~~material~~ fluids injected. No waste disposal and injection well or shallow injection well, as may be required by rules and regulations adopted under this chapter, shall be used unless a valid permit is in effect in accordance with this ~~act~~ chapter.

If the director of the department of water resources determines the use of the proposed or existing ~~waste-disposal-and~~ injection well will interfere or is interfering with the right of the public to withdraw water for beneficial uses, ~~or-if-the-director-of-the-department of-health-and-welfare-recommends-the-application-be--denied,~~ and the director finds there are no overriding needs existing to justify the use of the ~~waste-disposal-and~~ injection well, the director may reject the application and forward notice of such rejection to the owner or operator by certified mail.

SECTION 10. That Section 42-3909, Idaho Code, be, and the same is hereby amended to read as follows:

42-3909. DISAPPROVAL OF APPLICATION -- OWNER OR OPERATOR ENTITLED TO HEARING -- PROCEDURE -- JUDICIAL REVIEW. Any owner or operator aggrieved by the disapproval of an application or by the conditions imposed in a permit shall upon request therefor in writing within thirty (30) days after receipt of notice of such disapproval or conditional approval, be afforded an opportunity for a hearing before the water resources board, such hearing to be conducted in accordance with chapter 52, title 67, Idaho Code, at a place convenient to the owner or operator. Such hearing shall be held for the purpose of determining whether the permit should ~~issue~~ be issued or whether the conditions imposed in a permit are reasonable, or whether a change in circum-

stances warrants a change in the conditions imposed in a valid permit. For purposes of such hearing the water resource board shall have power to administer oaths, examine witnesses, and issue in the name of the board subpoenas requiring testimony of witnesses and the production of evidence relevant to any matter in the hearing. A certified transcript of the proceedings and the evidence received at such hearing shall be maintained by the board. The board shall affirm, modify or reject the director's decision, and make its decision in the form of an order to the director. Judicial review of a final determination by the board may be secured by the owner or operator by filing a petition for review as prescribed by chapter 52, title 67, Idaho Code, in the district court of the county wherein the ~~waste--disposal--and~~ injection well is situated. The petition for review shall be served upon the chairman of the water resource board and upon the attorney general as provided by the Idaho rules of civil procedure.

SECTION 11. That Section 42-3910, Idaho Code, be, and the same is hereby amended to read as follows:

42-3910. CANCELLATION OF PERMIT -- NOTICE -- HEARING -- REVIEW. When the director of the department of water resources has reason to believe the operation and use of an ~~waste-disposal-and~~ injection well, for which a permit has been issued in accordance with this ~~act~~ chapter, is interfering with the right of the public to withdraw water for beneficial uses, or is causing unreasonable contamination or deterioration of the quality of the ground water below the adopted water quality standards of the board of health and welfare, he may cancel such permit. Prior to the cancellation of such permit there shall be a hearing before the water resource board for the purpose of determining whether or not the permit should be cancelled. At such hearing the director of the department of water resources shall be the complaining party. For purposes of such hearing, the board shall have power to administer oaths, examine witnesses and issue subpoenas requiring testimony of witnesses and production of evidence relevant to any matter in the hearing. The hearing shall be conducted in accordance with chapter 52, title 67, Idaho Code, and the board shall provide the owner or operator whose permit is proposed to be cancelled with reasonable notice and the opportunity to be heard in accordance with chapter 52, title 67, Idaho Code. A certified transcript of the proceedings and the evidence received at such hearing shall be maintained by the board. The board shall affirm, modify or reject the director's decision, and make its decision in the form of an order to the director. Review of a final determination by the board may be secured by the owner or operator by filing a petition for review as prescribed by chapter 52, title 67, Idaho Code, in the district court of the county wherein the ~~waste-disposal-and~~ injection well is situated. The petition for review shall be served upon the chairman of the water resource board and upon the attorney general as provided by the Idaho rules of civil procedure.

SECTION 12. That Section 42-3911, Idaho Code, be, and the same is

hereby amended to read as follows:

42-3911. FAILURE TO OBTAIN REQUIRED PERMIT OR SUBMIT REQUIRED INFORMATION -- PENALTY. Any owner or operator who causes to be constructed or consents either expressly or impliedly to the construction of a new waste disposal and injection well without having first obtained a permit therefor from the director of the department of water resources as provided in this ~~act~~ chapter shall be guilty of a misdemeanor. Any owner or operator who causes an existing waste disposal and injection well to be modified or consents either expressly or impliedly to the modification of an existing waste disposal and injection well without having first obtained a permit therefor from the director of the department of water resources as provided in this ~~act~~ chapter shall be guilty of a misdemeanor. From and after January 1, 1974, any owner or operator who continues to ~~use~~ operate and maintain or consents either expressly or impliedly to the continued ~~use~~ operation and maintenance of an existing waste disposal and injection well without having first obtained a permit therefor from the director of the department of water resources as provided in this ~~act~~ chapter shall be guilty of a misdemeanor; provided, that no misdemeanor shall occur where an owner or operator applied for a permit before January 1, 1974, and the director of the department of water resources has not approved or rejected said application. Any owner or operator of a proposed or existing injection well who violates the rules and regulations of the water resource board shall be guilty of a misdemeanor. Each and every day that such activity is carried on in violation of this section shall constitute a separate and distinct offense.

SECTION 13. That Section 42-3912, Idaho Code, be, and the same is hereby amended to read as follows:

42-3912. DRILLERS -- MUST BE LICENSED -- ~~OWNERS'~~ APPROVED PERMITS -- CERTIFIED COPIES. It shall be unlawful for any person not a licensed driller to construct a new waste disposal and injection well or modify an existing waste disposal and injection well, except that a driller's license is not required for the construction of a driven mine shaft or dug hole for the purposes of this chapter. All licensed drillers shall obtain a certified copy of the ~~owner's~~ approved permit from the director of the department of water resources prior to construction of any new waste disposal and injection well or prior to the modification of any existing waste and injection well. Failure by a licensed driller to comply with this section shall constitute cause for revocation of a well driller's license in accordance with section 42-238, Idaho Code.

SECTION 14. That Section 42-3913, Idaho Code, be, and the same is hereby amended to read as follows:

42-3913. MINIMUM STANDARDS -- RULES AND REGULATIONS -- ADOPTION. The water resource board shall adopt minimum standards for the construction or abandonment of waste disposal and injection wells ~~in~~

~~accordance-with-chapter-52,-title-67,-Idaho-Code~~. Such standards shall require each waste disposal and injection well to be so constructed as to protect the ground water of this state from waste and unreasonable contamination. Each licensed well driller or operator will be furnished with a copy of the adopted standards, and will be required to construct each waste disposal and injection well drilled after the effective date of said rules and regulations in compliance with the determined standards. Failure by a licensed driller to comply with such standards shall constitute cause for revocation of the well driller's license in accordance with section 42-238, Idaho Code.

The water resource board shall also adopt minimum standards for the construction and abandonment of shallow injection wells. Any person who constructs or abandons a shallow injection well without complying with such standards shall be guilty of a misdemeanor.

SECTION 15. That Section 42-3914, Idaho Code, be, and the same is hereby amended to read as follows:

42-3914. BOARDS TO ESTABLISH STANDARDS. The provisions of this ~~act~~ chapter shall not prevent the present or future use of any existing or proposed ~~waste-disposal-and~~ injection well which is used exclusively for disposal of irrigation waste water or of surface runoff water where such disposal does not adversely affect ~~domestic~~ drinking water sources, and state or local government entities involved in highway and street construction and maintenance shall be exempt from fees and permit applications for shallow injection wells. The ~~board of-health-and-welfare-and-the~~ water resource board shall establish criteria and standards for ~~disposal-of-irrigation-waste-waters~~ the injection of fluids under the provisions of this ~~act~~ chapter which shall not become valid and enforceable until adopted under provisions of the administrative procedures act, chapter 52, title 67, Idaho Code.

SECTION 16. That Chapter 39, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3915, Idaho Code, and to read as follows:

42-3915. ADOPTION OF REGULATIONS. The water resource board shall adopt all regulations authorized by the provisions of chapter 39, title 42, Idaho Code, in conformance with the provisions of chapter 52, title 67, Idaho Code, provided that the board shall not adopt any regulation regarding the inventory of shallow injection wells that is more stringent than federal law or any regulations promulgated pursuant thereto.

SECTION 17. That Chapter 39, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3916, Idaho Code, and to read as follows:

42-3916. INJUNCTIVE RELIEF. The director shall have the further authority to seek a preliminary or permanent injunction, or both, or a temporary restraining order restraining any person from violating or attempting to violate the provisions of this chapter, of the regulations adopted thereunder, or of the permits issued by the director and mandating any person to take action appropriate under the circumstances to correct any violation. In any such action the director need not show irreparable injury for the issuance of a preliminary or permanent injunction, or both, or a temporary restraining order.

SECTION 18. That Chapter 39, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3917, Idaho Code, and to read as follows:

42-3917. CIVIL PENALTIES -- INJECTION OF HAZARDOUS AND RADIOACTIVE WASTES. Any person who constructs, operates, maintains, converts, plugs, abandons, or conducts any other activity in a manner that results or may result in the unauthorized injection of a hazardous waste or of a radioactive waste through an injection well shall be in violation of section 42-3902A, Idaho Code, and subject to a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each day in which such action occurs. The director shall have the authority to file an action in the appropriate district court to impose, assess and recover said civil penalties.

SECTION 19. That Chapter 39, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3918, Idaho Code, and to read as follows:

42-3918. CEASE AND DESIST ORDERS -- INJECTION OF HAZARDOUS AND RADIOACTIVE WASTES. Whenever the director finds that any person has constructed, operated, maintained, converted, plugged, abandoned or conducted any other activity in a manner that results in the unauthorized injection of a hazardous waste or of a radioactive waste through an injection well or whenever the director finds that any person proposes to do or to allow any such acts, then the director may issue a cease and desist order. The cease and desist order shall become effective and final upon issuance thereof. The director shall serve forthwith in accordance with the Idaho rules of civil procedure a certified copy of any such order on that person. That person shall have the right to a hearing in accordance with section 42-1701A, Idaho Code.

SECTION 20. That Chapter 39, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3919, Idaho Code, and to read as follows:

42-3919. CRIMINAL PENALTY -- WILLFUL VIOLATION -- VIOLATION OF CEASE AND DESIST ORDER. Any person who willfully constructs, operates,

maintains, converts, plugs, abandons, or conducts any other activity in a manner that results or may result in the injection of a hazardous waste or of a radioactive waste through an injection well in violation of section 42-3902A, Idaho Code, or any person who willfully violates any cease and desist order after the same has been served on that person is guilty of a misdemeanor and:

(1) May be sentenced to jail for a period not to exceed six (6) months;

(2) May be fined in an amount not to exceed five thousand dollars ($5,000) for each offense; and

(3) Each day of violation shall constitute a separate offense.

SECTION 21. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 2, 1984.

CHAPTER 156
(S.B. No. 1309, As Amended in the House)

AN ACT

RELATING TO COUNCIL-MANAGER FORM OF GOVERNMENT FOR CITIES; AMENDING SECTIONS 50-801, 50-802, 50-803, 50-804, 50-807 AND 50-813, IDAHO CODE, TO CHANGE CITY MANAGER TO COUNCIL-MANAGER AND TO CORRECT A REFERENCE; AND AMENDING SECTION 50-812, IDAHO CODE, TO CHANGE CITY MANAGER TO COUNCIL-MANAGER AND TO CHANGE THE WORDING ON A BALLOT FOR POSSIBLE DISCONTINUANCE OF THE COUNCIL-MANAGER FORM OF GOVERNMENT TO PROVIDE CLARIFICATION TO THE ELECTORATE.

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

SECTION 1. That Section 50-801, Idaho Code, be, and the same is hereby amended to read as follows:

50-801. CITIES MAY ADOPT PLAN. Any city within the state of Idaho, organized under the general laws of the state, special chapter, or a general incorporation act, may adopt the ~~city~~ council-manager plan of government by proceedings as herein provided.

SECTION 2. That Section 50-802, Idaho Code, be, and the same is hereby amended to read as follows:

50-802. INSTITUTING ELECTION, PETITION -- RESOLUTION. Procedure for instituting a special election on adoption of the ~~city~~ council-manager plans shall be by petition of electors as provided for initiative in sections 50-501 ~~through 50-517~~, Idaho Code, or by resolution passed by one-half (1/2) plus one (1) of the members of the full council.

SECTION 3. That Section 50-803, Idaho Code, be, and the same is hereby amended to read as follows:

50-803. TIME FOR HOLDING SPECIAL ELECTION ON PROPOSITION. Within ten (10) days after the filing of such petition or resolution with the city clerk, the mayor shall, by proclamation, establish a date for holding a special election on the question of adopting the ~~city~~ council-manager plan, such date to be determined as follows: (1) when the petition or resolution is filed with the city clerk during a year when no general city election is to be held, such election shall be held within sixty (60) days following filing of such petition or resolution; (2) when the petition or resolution is filed with the city clerk during a year when a general city election is to be held, such election shall be held not less than sixty (60) days prior to the date for holding general city elections.

SECTION 4. That Section 50-804, Idaho Code, be, and the same is hereby amended to read as follows:

50-804. PROPOSITION TO BE VOTED. At such election the proposition to be submitted to the electors shall be: "Shall the City of .... adopt the ~~city~~ council-manager plan of government, as set forth in sections 50-801 through 50-812, Idaho Code?"

SECTION 5. That Section 50-807, Idaho Code, be, and the same is hereby amended to read as follows:

50-807. EFFECTIVE DATE FOLLOWING ADOPTION OF PLAN. The effective date of the ~~city~~ council-manager plan shall be not more than seventy-five (75) days following the election of officials, to be determined by the incumbent council.

SECTION 6. That Section 50-812, Idaho Code, be, and the same is hereby amended to read as follows:

50-812. DISCONTINUANCE OF ~~CITY~~ COUNCIL-MANAGER PLAN -- PROPOSITION TO BE VOTED. Any city which shall have operated for more than six (6) years under the provisions of sections 50-801 through 50-812, Idaho Code, may resume operation under sections 50-601 through 50-708, Idaho Code, by proceedings held as sections 50-801 through 50-812, Idaho Code, provide for adoption of the ~~city~~ council-manager plan. The proposition to be submitted shall be: "Shall the City of .... ~~abandon~~ retain its organization under the '~~city~~ council-manager plan'?"

SECTION 7. That Section 50-813, Idaho Code, be, and the same is hereby amended to read as follows:

50-813. CALCULATION FOR NUMBER OF REQUIRED SIGNATURES. In cases where a city is operating under the ~~city~~ council-manager plan, if there is no direct mayoral election, and a statute provides for peti-

tions or elections based upon the total number of votes cast for mayor at the last preceding city election, the calculation of signatures or votes necessary under state law shall be based upon the total number of votes cast for the city councilman who received the highest number of votes at the last preceding city election.

Approved April 2, 1984.

CHAPTER 157
(S.B. No. 1317, As Amended)

AN ACT

RELATING TO HAZARDOUS WASTE MANAGEMENT; AMENDING SECTION 39-4414, IDAHO CODE, TO PROVIDE THAT ANY PERSONS VIOLATING THE STATE'S HAZARDOUS WASTE MANAGEMENT LAW MAY BE ASSESSED FOR COMPENSATION FOR DAMAGES TO PRIVATELY HELD RESOURCES, FOR ATTORNEYS' FEES AND COSTS, AND FOR DAMAGE TO PERSONAL HEALTH.

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

SECTION 1. That Section 39-4414, Idaho Code, be, and the same is hereby amended to read as follows:

39-4414. REMEDIES. The remedies specified in this section are cumulative and nonexclusive.

(1) MONETARY PENALTIES.

(a) Any person who makes a false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for the purpose of complying with the provisions of this chapter shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each separate violation or for each day of a continuing violation.

(b) Any person who violates this chapter or any permit, standard, regulation, condition, requirement, compliance agreement, or order issued or promulgated pursuant to this chapter shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each separate violation or for each day of a continuing violation.

(c) The imposition or computation of monetary penalties may take into account the seriousness of the violation and good faith efforts to comply with the law.

(2) ASSESSMENT OF COSTS. Any person who violates this chapter or any permit, standard, regulation, condition, requirement, compliance agreement, or order issued or promulgated pursuant to this chapter may be assessed for:

(a) The state's costs for any nonroutine investigations, inspections, monitoring, or surveys which lead to evidence of the violation;

(b) The state's costs, including the reasonable value of attor-

neys' services, for preparing and litigating the case;

(c) The state's costs for mitigating, removing, correcting or terminating adverse effects upon soil, air, or water quality resulting from the violation;

(d) The state's costs for impounding, storing, and disposing of contaminated property;

(e) Compensation for damages to publicly held resources including but not limited to, land, water, recreational uses, wildlife, fish and aquatic life to restore the resource to its highest previous use~~.~~;

(f) Compensation for damages to privately held resources including, but not limited to, livestock, land, water, or other personal property, and compensation for court costs allowed by statute, reasonable attorney's fees for trial preparation and trial of the case, and all other reasonable costs of trial preparation and trial of the case;

(g) Compensation for damages to personal health and compensation for court costs allowed by statute, reasonable attorney's fees for trial preparation and trial of the case, and all other reasonable costs of trial preparation and trial of the case;

(h) The imposition or computation of costs may take into account the seriousness of the violation and good faith efforts to comply with the law.

(3) RESTRAINING ORDERS, INJUNCTIONS AND OTHER RELIEF.

(a) Any person who violates any provision of this chapter or any permit, standard, regulation, condition, requirement, compliance agreement, or order issued or promulgated pursuant to this chapter shall be subject to a permanent or temporary injunction, restraining order, or other relief deemed appropriate. Upon a showing to the court that a violation is causing an imminent hazard to the public health, the public safety, or to the environment, the department need not allege or prove at any stage of the proceeding that long term irreparable damage will occur should the injunction or order not be issued or that the remedy at law is inadequate.

(b) A receiver may be appointed to oversee or operate any hazardous waste facility or site which is established or operated in violation of this chapter or any standard, regulation, condition, requirement, compliance agreement, or order issued or promulgated pursuant to this chapter.

(4) PAYMENT TO HAZARDOUS WASTE EMERGENCY ACCOUNT. Moneys recovered by the department pursuant to subsections (1), (2), and (3) of this section and any moneys paid to settle any enforcement proceeding instituted under section 39-4413, Idaho Code, shall be paid into the hazardous waste emergency account created by section 39-4417, Idaho Code.

Approved April 2, 1984.

CHAPTER 158
(S.B. No. 1341)

AN ACT

RELATING TO ACTIONS FOR PERSONAL INJURY AND WRONGFUL DEATH; AMENDING SECTION 5-310, IDAHO CODE, TO PROVIDE FOR A CIVIL ACTION WHEN THE INJURY OF A MINOR CHILD, A MINOR CHILD WHO WAS MARRIED AT THE TIME, OR THE WARD OF A GUARDIAN IS CAUSED BY THE WRONGFUL ACT OR NEGLECT OF ANOTHER; REPEALING SECTION 5-311, IDAHO CODE; AND AMENDING CHAPTER 3, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-311, IDAHO CODE, TO PROVIDE FOR A CIVIL ACTION WHEN THE DEATH OF A PERSON IS CAUSED BY THE WRONGFUL ACT OR NEGLECT OF ANOTHER AND TO DEFINE THE TERM HEIRS.

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

SECTION 1. That Section 5-310, Idaho Code, be, and the same is hereby amended to read as follows:

5-310. ACTION FOR INJURY ~~OR DEATH OF~~ TO UNMARRIED CHILD. The parents may maintain an action for the injury ~~or death~~ of an unmarried minor child, and for the injury ~~or death~~ of a minor child who was married at the time of his ~~death~~ injury and whose spouse died as a result of the same occurrence and who leaves no issue, and a guardian for the injury ~~or death~~ of his ward, when such injury ~~or death~~ is caused by the wrongful act or neglect of another, but if either the father or mother be dead or has abandoned his or her family, the other is entitled to sue alone. Such action may be maintained against the person causing the injury ~~or death~~, or if such person be employed by another person, who is responsible for his conduct, also against such other person.

SECTION 2. That Section 5-311, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 3, Title 5, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 5-311, Idaho Code, and to read as follows:

5-311. SUIT FOR WRONGFUL DEATH BY OR AGAINST HEIRS OR PERSONAL REPRESENTATIVES -- DAMAGES. (1) When the death of a person is caused by the wrongful act or neglect of another, his or her heirs or personal representatives on their behalf may maintain an action for damages against the person causing the death, or in case of the death of such wrongdoer, against the personal representative of such wrongdoer, whether the wrongdoer dies before or after the death of the person injured. If any other person is responsible for any such wrongful act or neglect, the action may also be maintained against such other person, or in case of his or her death, his or her personal repre-

sentatives. In every action under this section, such damages may be given as under all the circumstances of the case as may be just.

(2) For the purposes of subsection (1) of this section, "heirs" mean:

(a) Those persons who would be entitled to succeed to the property of the decedent according to the provisions of subsection (21) of section 15-1-201, Idaho Code.

(b) Whether or not qualified under subsection (2)(a) of this section, the decedent's spouse, children, stepchildren, parents, and, when partly or wholly dependent on the decedent for support or services, any blood relatives and adoptive brothers and sisters. It includes the illegitimate child of a mother, but not the illegitimate child of the father unless the father has recognized a responsibility for the child's support.

1. "Support" includes contributions in kind as well as money.

2. "Services" mean tasks, usually of a household nature, regularly performed by the decedent that will be a necessary expense to the heirs of the decedent. These services may vary according to the identity of the decedent and heir and shall be determined under the particular facts of each case.

(c) Whether or not qualified under subsection (2)(a) or (2)(b) of this section, the putative spouse of the decedent, if he or she was dependent on the decedent for support or services. As used in this subsection, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid.

(d) Nothing in this section shall be construed to change or modify the definition of "heirs" under any other provision of law.

Approved April 2, 1984.

CHAPTER 159
(S.B. No. 1345)

AN ACT

RELATING TO EXECUTION OF THE SENTENCE OF DEATH; REPEALING SECTION 19-2705, IDAHO CODE; AMENDING CHAPTER 27, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2705, IDAHO CODE, TO PROVIDE PROCEDURES WHEN A PERSON IS SENTENCED TO DEATH; REPEALING SECTIONS 19-2706 AND 19-2707, IDAHO CODE; AMENDING SECTION 19-2708, IDAHO CODE, TO PROVIDE THAT NO JUDGE, COURT OR OFFICER CAN SUSPEND THE EXECUTION OF A JUDGMENT OF DEATH WITH EXCEPTIONS; AMENDING SECTION 19-2714, IDAHO CODE, TO PROVIDE PROCEDURES FOR EXECUTION OF THE JUDGMENT IF IT IS FOUND THAT A WOMAN IS NOT PREGNANT AND TO PROVIDE PROCEDURES WHEN IT IS DISCOVERED THAT THE WOMAN IS PREGNANT; AMENDING SECTION 19-2715, IDAHO CODE, TO PROVIDE WHEN A STAY OF

EXECUTION WILL BE GRANTED TO PERSONS SENTENCED TO DEATH, TO PROVIDE UPON REMITTITUR AFTER A SENTENCE OF DEATH HAS BEEN AFFIRMED, THE DISTRICT COURT SHALL SET A NEW EXECUTION DATE NOT MORE THAN THIRTY DAYS THEREAFTER, AND TO PROVIDE THAT ACTION OF THE DISTRICT COURT UNDER THE PROVISIONS OF THIS SECTION SHALL BE MINISTERIAL ONLY AND THAT NO HEARING SHALL BE REQUIRED FOR SETTING A NEW EXECUTION DATE, AND THE COURT SHALL INQUIRE ONLY INTO THE FACT OF AN EXISTING DEATH SENTENCE AND THE ABSENCE OF A VALID STAY OF EXECUTION; AMENDING CHAPTER 27, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-2719, IDAHO CODE, TO PROVIDE SPECIAL APPELLATE AND POST-CONVICTION PROCEDURES WHEN A SENTENCE OF DEATH HAS BEEN IMPOSED; TO PROVIDE THAT THIS ACT SHALL APPLY TO ALL CASES IN WHICH CAPITAL SENTENCES WERE IMPOSED ON OR PRIOR TO THE EFFECTIVE DATE OF THIS ACT BUT WHICH HAVE NOT BEEN CARRIED OUT AND TO ALL CAPITAL CASES ARISING THEREAFTER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 19-2705, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 27, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-2705, Idaho Code, and to read as follows:

19-2705. DEATH WARRANT AND CONFINEMENT THEREUNDER. (1) Whenever a person is sentenced to death, the judge passing sentence shall, in accordance with section 19-2719, Idaho Code, sign and file a death warrant fixing a date of execution not more than thirty (30) days thereafter.

(2) The warrant shall be directed to the warden of the state penitentiary and shall be delivered to him forthwith.

(3) The warden shall keep persons under sentence of death in solitary confinement until execution of the death penalty; no person shall be allowed access to the said convict except law enforcement personnel investigating matters within the scope of their duties, counsel, attending physicians, a spiritual adviser of the condemned's choosing, and members of the immediate family of the condemned, and then only in accordance with the prison rules.

SECTION 3. That Sections 19-2706 and 19-2707, Idaho Code, be, and the same are hereby repealed.

SECTION 4. That Section 19-2708, Idaho Code, be, and the same is hereby amended to read as follows:

19-2708. SUSPENSION OF JUDGMENT OF DEATH. No judge, court or officer, ~~other than the governor,~~ can suspend the execution of a judgment of death, except ~~the sheriff,~~ as provided ~~in the six succeeding~~

~~sections;--unless--an-appeal-is-taken~~ in sections 19-2715 and 19-2719, Idaho Code.

SECTION 5. That Section 19-2714, Idaho Code, be, and the same is hereby amended to read as follows:

19-2714. FINDING ~~OF-JURY~~ IN CASE OF PREGNANCY. If it is found by the ~~inquisition~~ report that the female is not pregnant, the ~~sheriff~~ warden must execute the judgment; if it is found that she is pregnant, the ~~sheriff~~ warden must suspend the execution of the judgment, and transmit the ~~inquisition~~ report to the ~~governor~~ district court that imposed the sentence. When the ~~governor~~ district court that imposed the sentence is satisfied that the female is no longer pregnant, he may issue his warrant appointing a day for the execution of the judgment.

SECTION 6. That Section 19-2715, Idaho Code, be, and the same is hereby amended to read as follows:

19-2715. MINISTERIAL ACTIONS RELATING TO STAYS OF EXECUTION, RESETTING EXECUTION DATES, AND ORDER FOR EXECUTION OF JUDGMENT OF DEATH. (1) Hereafter, no further stays of execution shall be granted to persons sentenced to death except that a stay of execution shall be granted during an appeal taken pursuant to section 19-2719, Idaho Code, and during the automatic review of judgments imposing the punishment of death provided by section 19-2827, Idaho Code.

(2) Upon remittitur after a sentence of death has been affirmed, the district court shall set a new execution date not more than thirty (30) days thereafter.

(3) If for any reason a judgment of death has not been executed, and it remains in force, the court in which the conviction was had, on the application of the prosecuting attorney, must order the defendant to be brought before it, or if he is at large a warrant for his apprehension may be issued. Upon the defendant being brought before the court, the court must inquire into the facts, and if no legal reason exists against the execution of the judgment, must make an order that the warden execute the judgment at a special specified time. The warden must execute the judgment accordingly.

(4) Action of the district court under this section is ministerial only. No hearing shall be required for setting a new execution date and the court shall inquire only into the fact of an existing death sentence and the absence of a valid stay of execution.

SECTION 7. That Chapter 27, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-2719, Idaho Code, and to read as follows:

19-2719. SPECIAL APPELLATE AND POST-CONVICTION PROCEDURE FOR CAPITAL CASES -- AUTOMATIC STAY. The following special procedures shall be interpreted to accomplish the purpose of eliminating unnecessary

delay in carrying out a valid death sentence.

(1) When the punishment of death is imposed the time for filing an appeal shall begin to run when the death warrant is filed.

(2) The death warrant shall not be filed until forty-two (42) days after the judgment imposing the death sentence has been filed, or, in the event a post-conviction challenge to the conviction or sentence is filed, until the order deciding such post-conviction challenge is filed.

(3) Within forty-two (42) days of the filing of the judgment imposing the punishment of death, and before the death warrant is filed, the defendant must file any legal or factual challenge to the sentence or conviction that is known or reasonably should be known.

(4) Any remedy available by post-conviction procedure, habeas corpus or any other provision of state law must be pursued according to the procedures set forth in this section and within the time limitations of subsection (3) of this section.

(5) If the defendant fails to apply for relief as provided in this section and within the time limits specified, he shall be deemed to have waived such claims for relief as were known, or reasonably should have been known. The courts of Idaho shall have no power to consider any such claims for relief as have been so waived or grant any such relief.

(6) In the event the defendant desires to appeal from any post-conviction order entered pursuant to this section, his appeal must be part of any appeal taken from the conviction or sentence. All issues relating to conviction, sentence and post-conviction challenge shall be considered in the same appellate proceeding.

(7) If post-conviction challenge is made under this section, questions raised thereby shall be heard and decided by the district court within ninety (90) days of the filing of any motion or petition for relief timely filed as provided by this section. The court shall give first priority to capital cases. In the event the district court fails to act within the time specified, the supreme court of Idaho shall, on its own motion or the motion of any party, order the court to proceed forthwith, or if appropriate, reassign the case to another judge. When the supreme court intervenes as provided, it shall set a reasonable time limit for disposition of the issues before the district court.

(8) The time limit provided in subsection (7) of this section for disposition of post-conviction claims may be extended only upon a showing of extraordinary circumstances which would make it impossible to fairly consider defendant's claims in the time provided. Such showing must be made under oath and the district court's finding that extraordinary circumstances exist for extending the time shall be in writing and shall be immediately reported to the supreme court, which shall at once independently consider the sufficiency of the circumstances shown and determine whether an extension of time is warranted.

(9) When a judgment imposing the penalty of death is filed, the clerk and the reporter shall begin preparation of the transcripts of the trial, and other proceedings, and the clerk's transcript.

(10) When the procedures specified in this section and section

19-2827, Idaho Code, have been carried out and a remittitur issued, and an execution date set as provided by law, the defendant shall be deemed to have exhausted all state remedies.

(11) A stay of execution while the special appellate procedures specified herein are followed and during the pendency of automatic review of death sentences shall be automatically entered by the clerk of the supreme court at the time the district court transmits to the supreme court the report required by section 19-2827, Idaho Code. If the sentence is upheld, the clerk shall dissolve such stay when the remittitur is filed. Thereafter the district court shall set a new execution date.

SECTION 8. This act shall apply to all cases in which capital sentences were imposed on or prior to the effective date of this act but which have not been carried out, and to all capital cases arising after the effective date of this act.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 2, 1984

CHAPTER 160
(S.B. No. 1367)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2705, IDAHO CODE, TO BRING SCHEDULE I CONTROLLED SUBSTANCES INTO CONFORMANCE WITH THE FEDERAL CONTROLLED SUBSTANCES ACT AND TO MAKE METHAQUALONE A SCHEDULE I SUBSTANCE; AMENDING SECTION 37-2707, IDAHO CODE, TO BRING SCHEDULE II CONTROLLED SUBSTANCES INTO CONFORMANCE WITH THE FEDERAL CONTROLLED SUBSTANCES ACT AND TO DELETE REFERENCE TO METHAQUALONE; AMENDING SECTION 37-2709, IDAHO CODE, TO CORRECT A SPELLING; AMENDING SECTION 37-2711, IDAHO CODE, TO BRING SCHEDULE IV CONTROLLED SUBSTANCES INTO CONFORMANCE WITH THE FEDERAL CONTROLLED SUBSTANCES ACT; AND AMENDING SECTION 37-2713, IDAHO CODE, TO BRING SCHEDULE V CONTROLLED SUBSTANCES INTO CONFORMANCE WITH THE FEDERAL CONTROLLED SUBSTANCES ACT.

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

SECTION 1. That Section 37-2705, Idaho Code, be, and the same is hereby amended to read as follows:

37-2705. SCHEDULE I. (a) The controlled substances listed in this section are included in schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers,

unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acetylmethadol;
(2) Allylprodine;
(3) Alphacetylmethadol;
(4) Alphameprodine;
(5) Alphamethadol;
(6) Alphamethylfentanyl;
(7) Benzethidine;
(~~7~~8) Betacetylmethadol;
(~~8~~9) Betameprodine;
(~~9~~10) Betamethadol;
(~~10~~11) Betaprodine;
(~~11~~12) Clonitazene;
(~~12~~13) Dextromoramide;
(~~13~~14) Diampromide;
(~~14~~15) Diethylthiambutene;
(~~15~~16) Difenoxin;
(~~16~~17) Dimenoxadol;
(~~17~~18) Dimepheptanol;
(~~18~~19) Dimethylthiambutene;
(~~19~~20) Dioxaphetyl butyrate;
(~~20~~21) Dipipanone;
(~~21~~22) Ethylmethylthiambutene;
(~~22~~23) Etonitazene;
(~~23~~24) Etoxeridine;
(~~24~~25) Furethidine;
(~~25~~26) Hydroxypethidine;
(~~26~~27) Ketobemidone;
(~~27~~28) Levomoramide;
(~~28~~29) Levophenacylmorphan;
(~~29~~30) Morpheridine;
(~~30~~31) Noracymethadol;
(~~31~~32) Norlevorphanol;
(~~32~~33) Normethadone;
(~~33~~34) Norpipanone;
(~~34~~35) Phenadoxone;
(~~35~~36) Phenampromide;
(~~36~~37) Phenomorphan;
(~~37~~38) Phenoperidine;
(~~38~~39) Piritramide;
(~~39~~40) Proheptazine;
(~~40~~41) Properidine;
(~~41~~42) Propiram;
(~~42~~43) Racemoramide;
(~~43~~44) Sufentanil;
(~~44~~45) Tilidine;
(~~45~~46) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the

existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine (except hydrochloride salt);
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-N-Oxide;
(18) Myrophine;
(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine;
(23) Thebacon.

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 4-bromo-2,5-dimethoxy amphetamine;
(2) 2,5-dimethoxyamphetamine;
(3) 4-methoxyamphetamine;
(4) 5-methoxy-3,4-methylenedioxy-amphetamine;
(5) 4-methyl-2,5-dimethoxy-amphetamine;
(6) 3,4-methylenedioxy amphetamine;
(7) 3,4,5-trimethoxy amphetamine;
(8) Bufotenine;
(9) Diethyltryptamine;
(10) Dimethyltryptamine;
(11) Ibogaine;
(12) Lysergic acid diethylamide;
(13) Marihuana;
(14) Mescaline;
(15) Parahexyl;
(16) Peyote;
(~~16~~17) N-ethyl-3-piperidyl benzilate;
(~~17~~18) N-methyl -3- piperidyl benzilate;
(~~18~~19) Psilocybin;
(~~19~~20) Psilocyn;
(~~20~~21) Tetrahydrocannabinols (THC; Synthetic equivalents of the

substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity);

(2~~1~~2) Thiophene analog of phencyclidine (1-(1-(2-thienyl) cyclohexyl) piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;

(2~~2~~3) Ethylamine analog of phencyclidine (N-ethyl -1-phenylcyclohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(2~~3~~4) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) -pyrrolidine, PCP~~y~~, PHP.

(e) Any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers wherever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylline;

(2) N-ethylamphetamine.

SECTION 2. That Section 37-2707, Idaho Code, be, and the same is hereby amended to read as follows:

37-2707. SCHEDULE II. (a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding naloxone and its salts, and naltrexone and its salts, but including the following:

1. Raw opium;
2. Opium extracts;
3. Opium fluid extracts;
4. Powdered opium;
5. Granulated opium;
6. Tincture of opium;
7. Codeine;
8. Ethylmorphine;
9. Etorphine hydrochloride;

10. Hydrocodone;
11. Hydromorphone;
12. Metopon;
13. Morphine;
14. Oxycodone;
15. Oxymorphone;
16. Thebaine.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b) (1) of this section, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Methylbenzoylecgonine (Cocaine - its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, unless specifically excepted or unless listed in another schedule:

(1) Alphaprodine;
(2) Anileridine;
(3) Bezitramide;
(4) Bulk Dextropropoxyphene (nondosage forms);
(5) Dihydrocodeine;
(6) Diphenoxylate;
(7) Fentanyl;
(8) Isomethadone;
(9) Levomethorphan;
(10) Levorphanol;
(11) Metazocine;
(12) Methadone;
(13) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(14) Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl propane-carboxylic acid;
(15) Pethidine (meperidine);
(16) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine;
(17) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate;
(18) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(19) Phenazocine;
(20) Piminodine;
(21) Racemethorphan;
(22) Racemorphan.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(2) Methamphetamine, its salts, isomers, and salts of its isomers;
(3) Phenmetrazine and its salts;
(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;
(2) **Methaqualone;**
~~(3)~~ Pentobarbital;
(4~~3~~) Phencyclidine;
(5~~4~~) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:
  (a) Phenylacetone;
(2) Immediate precursors to phencyclidine (PCP):
  (a) 1-phenylcyclohexylamine;
  (b) 1-piperidinocyclohexanecarbonitrile (PCC).

SECTION 3. That Section 37-2709, Idaho Code, be, and the same is hereby amended to read as follows:

37-2709. SCHEDULE III. (a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, (whether optical or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed on August

25, 1971, as excepted compounds under C.F.R. Sec. 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) Mazindol;

(6) Phendiametrazine.

(c) Depressants. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:

i. Amobarbital;

ii. Secobarbital;

iii. Pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

i. Amobarbital;

ii. Secobarbital;

iii. Pentobarbital or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;

(4) Chlorhexadol;

(5) Glutethimide;

(6) Lysergic acid;

(7) Lysergic acid amide;

(8) Methyprylon;

(9) Sulfondiethylmethane;

(10) Sulfonethylmethane;

(11) Sulfonmethane.

(d) Nalorphine.

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an

isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) of this section from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 4. That Section 37-2711, Idaho Code, be, and the same is hereby amended to read as follows:

37-2711. SCHEDULE IV. (a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) No more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;
(2) Barbital;
(~~2~~3) Chloral betaine;
(~~3~~4) Chloral hydrate;
(~~4~~5) Chlordiazepoxide;
(~~5~~6) Clonazepam;
(~~6~~7) Clorazepate;
(~~7~~8) Diazepam;
(~~8~~9) Ethchlorvynol;
(~~9~~10) Ethinamate;
(~~10~~11) Flurazepam;
(12) Halazepam;
(~~11~~13) Lorazepam;
(~~12~~14) Mebutamate;
(~~13~~15) Meprobamate;
(~~14~~16) Methohexital;
(~~15~~17) Methylphenobarbital;
(~~16~~18) Oxazepam;
(~~17~~19) Paraldehyde;
(~~18~~20) Petrichloral;
(~~19~~21) Phenobarbital;
(~~20~~22) Prazepam;
(23) Temazepam;
(24) Triazolam.

(d) Fenfluramine - Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Diethylpropion;

(2) Phentermine;

(3) Pemoline (including organometallic complexes and chelates thereof);

(4) Pipradrol;

(5) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(f) Other substances. Unless specifically excepted, or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine.

(g) The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (c) of this section from the application of all or any part of this act if

the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 5. That Section 37-2713, Idaho Code, be, and the same is hereby amended to read as follows:

37-2713. SCHEDULE V. (a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts thereof, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

~~(c)--Loperamide.~~

Approved April 2, 1984.

CHAPTER 161
(S.B. No. 1377)

AN ACT

RELATING TO FINES AND FORFEITURES; AMENDING SECTION 19-4705, IDAHO CODE, TO PROVIDE FOR THE DISPOSITION OF FINES AND FORFEITURES REMITTED FOR VIOLATION OF STATE DRIVING PRIVILEGE LAWS AND OF STATE LAWS PROHIBITING DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR ANY OTHER INTOXICATING SUBSTANCES; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 19-4705, Idaho Code, be, and the same is hereby amended to read as follows:

19-4705. PAYMENT OF FINES AND FORFEITURES -- SATISFACTION OF JUDGMENT -- DISPOSITION -- APPORTIONMENT. (a) All fines and forfeitures collected pursuant to the judgment of any court of the state shall be remitted to the court in which such judgment was rendered. Such judgment shall then be satisfied by entry in the docket of the court. The clerk of the court shall daily remit all fines and forfeitures to the county auditor who shall at the end of each month apportion the proceeds according to the provisions of this act. Every other existing law regarding the disposition of fines and forfeitures is hereby repealed to the extent such law is inconsistent with the provisions of this act.

(b) Fines and forfeitures remitted for violations of fish and game laws shall be apportioned five per cent (5%) to the state treasurer for deposit in the state general account, five per cent (5%) to the search and rescue account, twenty-two and one-half per cent (22 1/2%) to the district court fund and sixty-seven and one-half per cent (67 1/2%) to the public school income fund.

(c) Fines and forfeitures remitted for violation of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account, forty-five per cent (45%) to the state treasurer for deposit in the state highway account, twenty-two and one-half per cent (22 1/2%) to the district court fund and twenty-two and one-half per cent (22 1/2%) to the state treasurer for deposit in the public school income fund; provided, however, that fines and forfeitures remitted for violation of state motor vehicle laws, for violation of state driving privilege laws, and for violation of state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, where an arrest is made or a citation is issued by a city law enforcement official, shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the city whose officer made the arrest or issued the citation.

(d) Fines and forfeitures remitted for violation of any state law not involving fish and game laws, or motor vehicles laws, or state driving privilege laws, or state laws prohibiting driving while under the influence of alcohol, drugs or any other intoxicating substances, shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county in which the violation occurred.

(e) Fines and forfeitures remitted for violation of county ordinances shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county whose ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten per cent (10%) to the state treasurer

for deposit in the state general account and ninety per cent (90%) to the city whose ordinance was violated.

(g) Fines and forfeitures remitted for violations not specified in this act shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department shall have made the arrest for any such violation, in which case ninety per cent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas shall be apportioned ten per cent (10%) to the state treasurer for deposit to the state general account and ninety per cent (90%) to the general account of the county or city whose officer issued the citation.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to March 1, 1984.

Approved April 2, 1984.

CHAPTER 162
(S.B. No. 1381)

AN ACT

EXPRESSING LEGISLATIVE INTENT, APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1985; DESIGNATING PROGRAM LIMITS; AND EXEMPTING CONSTRUCTION AUTHORIZED IN THIS ACT FROM THE PROVISIONS OF SECTION 67-5711, IDAHO CODE.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Fish and Game not exceed the following amounts for the period July 1, 1984 through June 30, 1985:

FOR:	
Personnel Costs	$10,715,600
Operating Expenditures	5,696,500
Capital Outlay	6,391,300
TOTAL	$22,803,400
FROM:	
Fish and Game Account	$22,803,400

SECTION 2. There is hereby appropriated to the Department of Fish and Game the following amounts, to be expended for designated programs

according to designated expense classes from the listed account for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
Fish & Game Account	$1,586,000	$ 210,500	$ 324,300	$ 2,120,800
II. ENFORCEMENT:				
FROM:				
Fish & Game Account	$2,752,700	$ 653,700	$ 288,600	$ 3,695,000
III. FISHERIES:				
FROM:				
Fish & Game Account	$3,034,300	$2,346,300	$4,778,300	$10,158,900
IV. WILDLIFE:				
FROM:				
Fish & Game Account	$2,355,900	$1,661,100	$ 805,200	$ 4,822,200
V. WINTER FEEDING AND DEPRADATION CONTROL:				
FROM:				
Fish & Game Account		$ 400,000		$ 400,000
VI. INFORMATION AND EDUCATION:				
FROM:				
Fish & Game Account	$ 442,900	$ 354,100	$ 76,800	$ 873,800
VII. ENGINEERING:				
FROM:				
Fish & Game Account	$ 435,800	$ 46,300	$ 117,800	$ 599,900
VIII. PROGRAM COORDINATION:				
FROM:				
Fish & Game Account	$ 108,000	$ 24,500	$ 300	$ 132,800
GRAND TOTAL	$10,715,600	$5,696,500	$6,391,300	$22,803,400

SECTION 3. Construction authorized under the provisions of this act, to include all preliminary matters through completion of construction, is expressly exempt from the provisions of Section 67-5711, Idaho Code.

Approved April 2, 1984.

CHAPTER 163
(S.B. No. 1382)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1985; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. There is hereby appropriated to the Lieutenant Governor the following amount, to be expended according to expense classes designated for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$50,500
Operating Expenditures	14,200
TOTAL	$64,700
FROM:	
General Account	$64,700

SECTION 2. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 1, may be used at the discretion of the Lieutenant Governor to assist in defraying expenses relating to or resulting from the discharge of the Lieutenant Governor's official duties. Such moneys shall be accounted for solely on the itemized certificate of the Lieutenant Governor and shall be exempted from the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved April 2, 1984.

CHAPTER 164
(S.B. No. 1383)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1985; DESIGNATING PROGRAM LIMITS; AND EXEMPTING CONSTRUCTION AUTHORIZED IN THIS ACT FROM THE PROVISIONS OF SECTION 67-5711, IDAHO CODE.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Parks and Recreation from the listed accounts, not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$1,882,700
Cross-Country Skiing Account	20,800
Park & Recreation Capital Improvement Account	803,800
Park & Recreation Account	679,700
Waterways Improvement Account	350,000
Park Donation Account	5,300
Lava Hot Springs Foundation Account	535,800
Off-Road Motor Vehicle Account	325,300
State Snowmobile Account	170,000
Lucky Peak Concession Account	8,000

Motorbike Recreation Account	5,100
Parks and Recreation Federal Account	5,800
Federal Pass-Through Account	1,500,000
Federal Surcharge Account	338,300
Harriman State Park Account	63,100
TOTAL	$6,693,700

SECTION 2. There is hereby appropriated to the Department of Parks and Recreation the following amounts, to be expended for the designated programs from the listed accounts for the period July 1, 1984, through June 30, 1985:

I. ADMINISTRATION:

FROM:

General Account	$386,900
Park & Recreation Account	110,000
Park & Recreation Capital Improvement Account	21,000
Federal Surcharge Account	117,800
TOTAL	$635,700

II. PARK OPERATIONS:

FROM:

General Account	$1,316,500
Park & Recreation Capital Improvement Account	557,800
Park & Recreation Account	515,600
Lucky Peak Concession Account	8,000
Park Donation Account	5,300
Harriman State Park Account	63,100
TOTAL	$2,466,300

III. PARK DEVELOPMENT:

General Account	$ 134,800
Park & Recreation Capital Improvement Account	225,000
Park & Recreation Account	11,300
TOTAL	$ 371,100

IV. RECREATION RESOURCES:

General Account	$ 44,500
Park & Recreation Account	42,800
Waterways Improvement Account	350,000
Off-road Motor Vehicle Account	325,300
State Snowmobile Account	170,000
Motorbike Recreation Account	5,100
Federal Pass-Through Account	1,500,000
Cross-Country Skiing Account	20,800
Park & Recreation Federal Account	5,800
Federal Surcharge Account	220,500
TOTAL	$2,684,800

V. LAVA HOT SPRINGS FOUNDATION:

FROM:

Lava Hot Springs Foundation Account	$ 535,800
GRAND TOTAL	$6,693,700

SECTION 3. Construction authorized under the provisions of this

act, to include all preliminary matters through completion of construction, is expressly exempt from the provisions of Section 67-5711, Idaho Code.

Approved April 2, 1984.

CHAPTER 165
(S.B. No. 1384)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. It is Legislative intent that the expenditures for the Secretary of State not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

OPERATION OF THE SECRETARY OF STATE OFFICE:

FOR:	
Personnel Costs	$ 628,200
Operating Expenditures	464,600
Capital Outlay	4,500
Trustee & Benefit Payments	208,400
TOTAL	$1,305,700
FROM:	
General Account	$ 895,100
Interagency Billing and Receipts Account	43,700
Idaho Commission on Arts & Humanities Account	366,900
TOTAL	$1,305,700

SECTION 2. There is hereby appropriated to the Secretary of State, the following amounts, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. OPERATION OF THE SECRETARY OF STATE:					
FROM:					
General Account	$462,100	$266,100	$1,500	$ 30,000	$ 759,700

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
II. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Account		$ 7,800			$ 7,800
III. ARTS AND HUMANITIES COMMISSION:					
FROM:					
General Account	$103,900	$ 20,700	$3,000		$ 127,600
Interagency Billing and Receipts Account		43,700			43,700
Idaho Commission on Arts and Humanities Account	62,200	126,300		$178,400	366,900
TOTAL	$166,100	$140,700	$3,000	$178,400	$ 538,200
GRAND TOTAL	$628,200	$464,600	$4,500	$208,400	$1,305,700

SECTION 3. It is legislative intent that an amount not to exceed $1,000 of the amounts appropriated in Section 2, may be used at the discretion of the Secretary of State to assist in defraying expenses relating to or resulting from the discharge of his official duties. Such moneys shall be accounted for solely on the itemized certificate of the Secretary of State and shall be exempted from provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved April 2, 1984.

CHAPTER 166
(S.B. No. 1385)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Department of Administration for the Personnel Commission the following amounts, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Personnel Commission Account	$1,083,300	$281,600	$1,400	$1,366,300
Interagency Billing and Receipts Account		15,000		15,000
TOTAL	$1,083,300	$296,600	$1,400	$1,381,300

Approved April 2, 1984.

CHAPTER 167
(S.B. No. 1388)

AN ACT

APPROPRIATING MONEYS TO THE AGENCIES LISTED IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. There is hereby appropriated to the following agencies in the Department of Self-governing Agencies the following amounts, to be expended according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE ATHLETIC DIRECTOR:				
FROM:				
General Account		$ 5,000		$ 5,000
Athletic Account		5,000		5,000
TOTAL		$ 10,000		$ 10,000
B. BOARD OF PHARMACY:				
FROM:				
General Account	$ 30,000			$ 30,000
Pharmacy Board Account	163,100	$ 103,500	$ 17,500	284,100
TOTAL	$ 193,100	$ 103,500	$ 17,500	$ 314,100
C. BOARD OF ACCOUNTANCY:				
FROM:				
State Board of Accountancy Account	$ 72,800	$ 113,200	$ 1,300	$ 187,300
D. BOARD OF DENTISTRY:				
FROM:				
State Board of Dentistry Account	$ 65,200	$ 51,200	$ 1,700	$ 118,100
E. BOARD OF ENGINEERING EXAMINERS:				
FROM:				

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Professional Engineers Account	$ 77,200	$ 79,300	$ 1,500	$ 158,000
F. BOARD OF MEDICINE:				
FROM:				
State Board of Medicine Account	$ 116,200	$ 59,400	$ 500	$ 176,100
G. BOARD OF NURSING:				
FROM:				
State Board of Nursing Account	$ 170,100	$ 104,400	$ 15,000	$ 289,500
H. BUREAU OF OCCUPATIONAL LICENSES:				
FROM:				
Occupational License Account	$ 293,200	$ 172,200	$ 11,900	$ 477,300
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:				
FROM:				
Public Works Contractors State License Board Account	$ 96,900	$ 73,400	$ 400	$ 170,700
J. IDAHO REAL ESTATE COMMISSION:				
FROM:				
Idaho Real Estate Brokers Commission Account	$ 458,500	$ 300,600	$ 47,700	$ 806,800
K. PROFESSIONAL GEOLOGISTS BOARD:				
FROM:				
Professional Geologists Account	$ 12,800	$ 12,200		$ 25,000
L. BOARD OF OPTOMETRY:				
FROM:				
State Board of Optometry Account	$ 2,500	$ 5,900		$ 8,400
M. IDAHO CERTIFIED SHORTHAND REPORTERS BOARD:				
FROM:				
State Certified Shorthand Reporters Account	$ 6,300	$ 11,900		$ 18,200
N. OUTFITTERS AND GUIDES BOARD:				
FROM:				
Outfitters and Guides Board Account	$ 122,600	$ 72,800	$ 15,500	$ 210,900
O. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Board of Veterinary Medicine Account	$ 10,000	$ 15,000		$ 25,000
GRAND TOTAL	$1,697,400	$1,185,000	$113,000	$2,995,400

Approved April 2, 1984.

CHAPTER 168
(S.B. No. 1389)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE GENERAL SERVICES AREA, FOR FISCAL YEAR 1985; AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the General Services Area the following amounts, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. PUBLIC EMPLOYEES' RETIREMENT SYSTEM:				
FROM:				
Public Employees' Retirement System Account	$ 860,900	$ 407,800	$ 20,600	$1,289,300
II. STATE LIQUOR DISPENSARY:				
FROM:				
Liquor Account	$4,092,900	$2,071,500	$100,000	$6,264,400
III. STATE INSURANCE FUND:				
FROM:				
State Insurance Fund Account	$1,083,700	$ 299,900	$ 49,000	$1,432,600
IV. ENDOWMENT FUND INVESTMENT BOARD:				
FROM:				
General Account	$ 105,000	$ 71,700	$ 1,300	$ 178,000
Interagency Billing and Receipts Account	32,200	5,200	400	37,800
TOTAL	$ 137,200	$ 76,900	$ 1,700	$ 215,800

Approved April 2, 1984.

CHAPTER 169
(S.B. No. 1391)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Department of Finance the following amounts, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$701,900	$160,700	$862,600
State Cemetery Board Account		1,700	1,700
Interagency Billing and Receipts Account		2,000	2,000
TOTAL	$701,900	$164,400	$866,300

Approved April 2, 1984.

CHAPTER 170
(S.B. No. 1392)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS; APPROPRIATING MONEYS FROM THE PUBLIC UTILITIES COMMISSION ACCOUNT AND TRANSFERRING SUCH MONEYS TO THE GENERAL ACCOUNT.

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

SECTION 1. It is legislative intent that the expenditures for the Public Utilities Commission not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$1,523,000
Operating Expenditures	1,279,000
Capital Outlay	177,200
TOTAL	$2,979,200
FROM:	
General Account	$ 136,500
Public Utilities Commission Account	2,842,700
TOTAL	$2,979,200

SECTION 2. There is hereby appropriated to the Public Utilities Commission the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. UTILITIES REGULATION:				
FROM:				
Public Utilities Commission Account	$ 726,100	$ 867,700		$1,593,800
B. REGULATED CARRIERS:				
FROM:				
Public Utilities Commission Account	$ 266,800	$ 264,200	$ 11,000	$ 542,000
C. ADMINISTRATION:				
FROM:				
General Account	$ 136,500			$ 136,500
Public Utilities Commission Account	393,600	$ 147,100	$166,200	706,900
TOTAL	$ 530,100	$ 147,100	$166,200	$ 843,400
GRAND TOTAL	$1,523,000	$1,279,000	$177,200	$2,979,200

SECTION 3. Notwithstanding any other provisions of law, there is hereby appropriated from the Public Utilities Commission Account and transferred to the General Account the sum of $136,500 for fiscal year 1985 only.

Approved April 2, 1984.

CHAPTER 171
(S.B. No. 1393)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT FOR DEPOSIT IN THE PUBLIC HEALTH TRUST ACCOUNT FOR FISCAL YEAR 1985; APPROPRIATING MONEYS FROM THE PUBLIC HEALTH TRUST ACCOUNT FOR FISCAL YEAR 1985; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated from the General Account the following moneys, to be deposited in the Public Health Trust Account for the designated purpose for the period July 1, 1984 through June 30, 1985:

FOR:	
Public Health District Programs	$2,172,100
FROM:	
General Account	$2,172,100

SECTION 2. There is hereby appropriated out of the Public Health Trust Account, the following moneys for the designated purpose for the

period July 1, 1984 through June 30, 1985:

FOR:	
Public Health District Programs	$2,172,100
FROM:	
Public Health Trust Account	$2,172,100

SECTION 3. It is legislative intent that the appropriation in this act is made with the understanding that the Public Health Districts will eliminate inspection fees in the Milk Program and reduce fees in the Food Program by fifty percent (50%).

Approved April 2, 1984.

CHAPTER 172
(S.B. No. 1390)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1985 AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Administration not exceed the following amounts from the listed accounts for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$ 1,921,800
Interagency Billing and Receipts Account	7,366,100
Permanent Building Fund Account	677,800
Federal Surplus Property Revolving Account	324,500
Risk Retention Account	259,300
Employee Group Insurance Account	241,000
TOTAL	$10,790,500

SECTION 2. There is hereby appropriated to the Department of Administration the following amounts, to be expended for the designated programs from the listed accounts for the period July 1, 1984, through June 30, 1985.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 83,800	$ 60,800	$ 400		$ 145,000
Interagency Billing and Receipts Account	300,700	213,400	5,300	$ 21,000	540,400
TOTAL	$ 384,500	$ 274,200	$ 5,700	$ 21,000	$ 685,400
II. GENERAL SERVICES:					
FROM:					
General Account	$ 204,000	$ 44,000	$ 500		$ 248,500
Interagency Billing and Receipts Account	1,187,400	1,531,800	322,500		3,041,700
TOTAL	$1,391,400	$1,575,800	$323,000		$ 3,290,200
III. PUBLIC WORKS:					
FROM:					
General Account				$1,231,400	$ 1,231,400
Interagency Billing and Receipts Account	$ 679,500	$1,679,700	$ 12,500	1,063,500	3,435,200
Permanent Building Fund Account	486,000	191,500	300		677,800
TOTAL	$1,165,500	$1,871,200	$ 12,800	$2,294,900	$ 5,344,400
IV. PURCHASING:					
FROM:					
General Account					$ 296,900
Interagency Billing and Receipts Account					348,800
Federal Revolving Account					324,500
TOTAL					$ 970,200
V. INSURANCE MANAGEMENT:					
FROM:					
Employee Group Insurance Account	$ 135,100	$ 103,200	$ 2,700		$ 241,000
Risk Retention Account	160,400	96,100	2,800		259,300
TOTAL	$ 295,500	$ 199,300	$ 5,500		$ 500,300
GRAND TOTAL					$10,790,500

Approved April 2, 1984.

CHAPTER 173
(H.B. No. 746, As Amended in the Senate)

AN ACT

RELATING TO LEGISLATIVE DISTRICTS; PROVIDING A STATEMENT OF LEGISLATIVE FINDINGS; AMENDING CHAPTER 2, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-202A, IDAHO CODE, TO PROVIDE FOR THIRTY-SIX LEGISLATIVE DISTRICTS AND FOR THE ELECTION OF ONE SENATOR AND TWO REPRESENTATIVES OF EACH DISTRICT; AMENDING SECTION 34-704, IDAHO CODE, AS AMENDED BY HOUSE BILL NO. 645, CHAPTER 8, LAWS OF 1984, TO REQUIRE A CANDIDATE TO FILE A DECLARATION OF CANDIDACY BETWEEN THE TENTH MONDAY AND THE SIXTH FRIDAY PRECEDING A PRIMARY ELECTION; PROVIDING THAT THE REQUIREMENTS OF SECTION 34-301, IDAHO CODE, ARE WAIVED INSOFAR AS THE PROVISIONS OF THIS ACT MAY REQUIRE A PRECINCT BOUNDARY TO BE ADJUSTED TO MEET THE REQUIREMENTS OF THIS ACT; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION OF THIS ACT, AND PROVIDING FOR THE CONTINUATION OF EXISTING DISTRICTS FOR ALL NECESSARY PURPOSES OF THE FORTY-SEVENTH LEGISLATURE; AND PROVIDING SEVERABILITY.

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

SECTION 1. STATEMENT OF LEGISLATIVE FINDINGS. The Legislature recognizes that many factors impact decisions regarding legislative apportionment. In adoption of the provisions of this act, the Legislature was cognizant that apportionment is fundamental to good government. In all decisions implemented in this act, certain principles governed. The most important of these was achievement of one person, one vote, as mandated by the federal constitution and interpretations by federal courts. In addition, recognition of county boundaries, creation of compact and contiguous districts, preservation of historical socioeconomic relationships, and recognition of natural topographical barriers weighed heavily upon these deliberations. The Legislature has been particularly aware of the requirements of Section 5, Article III, of the Constitution of the State of Idaho. The necessary balance between principles of the United States Constitution and guarantees of the Idaho Constitution has been placed squarely before the Idaho Legislature. The resulting apportionment, contained herein, is a balance of these and other special criteria, noted in this statement as applicable.

In certain districts, there exist such unique conditions, that deviation from the ideal of one person, one vote, seems not only warranted, but mandated. In Legislative District No. 1 composed of Bonner and Boundary Counties, these counties are bounded on three sides by other states and a foreign nation. No other combination of counties is possible which accomplishes representation of these populations. Similarly, Kootenai County, in Districts No. 2 and No. 3, has deviations from the ideal which may exceed the most desirable, but the county is given recognition through two districts entirely within its boundaries. Any combination with other counties would only serve to dilute

the representation of Kootenai County as a separate and distinct unit.

Benewah and Shoshone Counties are combined in a district without other counties based upon their traditional ties of economic and social interests.

Four Legislative Districts, No. 5, No. 6, No. 7 and No. 8, illustrate legislative efforts to minimize deviations when it was possible without diluting representation. A floterial district concept is utilized in this area to achieve the representation to which the population total is entitled. The size of the floterial district is limited, however, to five counties, because inclusion of the ten counties north of the southern Idaho County boundary would create a district so large and cumbersome as to be difficult to represent. The diversity of interests thrown into a single district merely for the achievement of minimal deviation would then negate the legitimate representation of these interests.

District No. 9, which is well below the ideal district size, nevertheless consists of four large and sparsely populated counties. While mathematical purity might be achieved by a combination of these and some northern counties, representation of like interests would be diluted.

District No. 22 is well above the ideal district size, but represents a combination of counties very large in size, and without responsible alternatives. Bounded as it is by two states, Owyhee County with its sparsely populated expanse, warrants special consideration. Any combination of Owyhee County with another county than Elmore, would result in unnecessary and unwarranted dilution of the representation of the other county.

District No. 23, composed of five counties of Butte, Clark, Custer, Jefferson and Lemhi, once again illustrates the problems of size and population density. These counties have natural similarities of economic and social interests. They are bounded by another state on one side and by the natural topographical limitation of a large wilderness area and imposing mountain range on the other. While their interests are similar enough to be amenable to good representation, further division or other combinations would only dilute good representation.

Use of two floterial districts in the southeastern corner of the state achieves better representation because the counties included are similar in their socioeconomic traditions. The size of the resulting districts is not excessive and the similarities of interests would make good representation a reasonable expectation. Further, floterial districts used here make it possible to represent individual counties, thereby maximizing county representation in the Legislature. Only through the use of a floterial district is Bingham County assured the representation to which its population would entitle it.

While the concept of one person, one vote, has been preeminent in the accomplishment of this apportionment, another important factor has also been considered, and that is achievement of access to good representation. Each case of deviation from the ideal population size has been considered in light of the special circumstances which might warrant that deviation from the first principle, and the resulting

enactment herein contained is a merger of these diverse interests and principles.

SECTION 2. That Chapter 2, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-202A, Idaho Code, and to read as follows:

67-202A. LEGISLATIVE DISTRICTS -- SENATORS ELECTED -- REPRESENTATIVES ELECTED. Notwithstanding the provisions of section 67-202, Idaho Code, the state is divided into thirty-six (36) legislative districts. One (1) senator shall be elected from each legislative district. Two (2) representatives shall be elected from each legislative district. The names, numbers and boundaries of the precincts and counties herein referred to in describing the area included within the legislative districts shall be as the same existed on November 4, 1980. The counties and precincts constituting the legislative districts are as follows:

(1) Legislative District No. 1 shall include all the area contained within Bonner and Boundary Counties.

(2) Legislative District No. 2 shall include all the area contained within Kootenai County.

(3) Legislative District No. 3 shall include all the area contained within Kootenai County.

(4) Legislative District No. 4 shall include all the area contained within Benewah and Shoshone Counties.

(5) Legislative District No. 5 shall include all the area contained within Latah County.

(6) Legislative District No. 6 shall include all the area contained within Nez Perce County.

(7) Legislative District No. 7 shall include all the area contained within Clearwater, Idaho and Lewis Counties.

(8) Legislative District No. 8 shall include all the area contained within Clearwater, Idaho, Latah, Lewis and Nez Perce Counties.

(9) Legislative District No. 9 shall include all the area contained within Adams, Boise, Gem and Valley Counties.

(10) Legislative District No. 10 shall include all the area contained within Payette and Washington Counties.

(11) Legislative District No. 11 shall include all the area contained within the following precincts of Canyon County: No. 1, No. 4, No. 5, No. 6, No. 10, No. 12, No. 15, No. 21, No. 29, No. 51, No. 52, No. 55, No. 56, No. 57 and No. 62.

(12) Legislative District No. 12 shall include all the area contained within the following precincts of Canyon County: No. 8, No. 9, No. 18, No. 20, No. 27, No. 30, No. 32, No. 33, No. 38, No. 44, No. 45 and No. 46.

(13) Legislative District No. 13 shall include all the area contained within the following precincts of Canyon County: No. 3, No. 19, No. 22, No. 23, No. 25, No. 28, No. 34, No. 35, No. 36, No. 40, No. 42, No. 49, No. 50, No. 54, No. 59 and No. 60.

(14) Legislative District No. 14 shall include all the area con-

tained within the following precincts of Ada County: No. 34, No. 42, No. 52, No. 55, No. 65, No. 67, No. 74, No. 75, No. 76, No. 88, that portion of No. 89 lying west of Glenwood Street, No. 104, No. 106, that portion of No. 107 lying northeast of State Street, No. 119 and No. 120.

(15) Legislative District No. 15 shall include all the area contained within the following precincts of Ada County: No. 2, No. 4, No. 7, No. 18, No. 26, No. 36, No. 39, No. 40, No. 43, No. 44, No. 45, No. 46, No. 48, No. 51, No. 57, No. 60, No. 78, No. 79, No. 80, No. 81 and No. 110.

(16) Legislative District No. 16 shall include all the area contained within the following precincts of Ada County: No. 8, No. 15, No. 16, No. 17, No. 20, No. 38, No. 49, No. 50, No. 54, No. 58, No. 59, No. 82, that portion of No. 89 lying east of Glenwood Street, that portion of No. 107 lying southwest of State Street, No. 117, No. 118 and No. 121.

(17) Legislative District No. 17 shall include all the area contained within the following precincts of Ada County: No. 1, No. 5, No. 6, No. 9, No. 11, No. 19, No. 21, No. 22, No. 23, No. 24, No. 25, No. 28, No. 30, No. 31, No. 32, No. 41, No. 47, No. 64, No. 77, No. 83, No. 108, No. 109, No. 111 and No. 115.

(18) Legislative District No. 18 shall include all the area contained within the following precincts of Ada County: that portion of No. 12 lying south of Victory Road, No. 27, No. 66, No. 68, No. 69, No. 85, No. 87, No. 93, No. 94, that portion of No. 100 lying south of Franklin Road, that portion of No. 101 lying west of Five Mile Road, that portion of No. 102 lying west of Maple Grove Road, No. 103 and No. 112.

(19) Legislative District No. 19 shall include all the area contained within the following precincts of Ada County: No. 29, No. 63, No. 70, No. 71, No. 72, No. 73, No. 86, No. 90, No. 91, No. 92, No. 95, No. 96, No. 97, No. 98, No. 99, that portion of No. 100 lying north of Franklin Road, No. 105 and No. 116.

(20) Legislative District No. 20 shall include all the area contained within the following precincts of Ada County: No. 3, No. 10, that portion of No. 12 lying north of Victory Road, No. 13, No. 14, No. 33, No. 35, No. 37, No. 53, No. 56, No. 61, No. 62, No. 84, that portion of No. 101 lying east of Five Mile Road, that portion of No. 102 lying east of Maple Grove Road, No. 113 and No. 114.

(21) Legislative District No. 21 shall include all the area contained within Camas, Blaine, Gooding and Lincoln Counties.

(22) Legislative District No. 22 shall include all the area contained within Elmore and Owyhee Counties.

(23) Legislative District No. 23 shall include all the area contained within Butte, Clark, Custer, Jefferson and Lemhi Counties.

(24) Legislative District No. 24 shall include all the area contained within the following precincts of Twin Falls County: Buhl No. 1, No. 2, No. 3, No. 4, No. 5, No. 6 and No. 7, Castleford, Clover, Deep Creek, Filer No. 1, No. 2 and No. 3, Hollister, Maroa, Twin Falls No. 5, No. 6, No. 15, No. 16, No. 21, No. 25 and No. 27.

(25) Legislative District No. 25 shall include all the area con-

tained within the following precincts of Twin Falls County: Allendale, Hansen, Kimberly No. 1, No. 2 and No. 3, Murtaugh, Twin Falls No. 1, No. 2, No. 3, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, No. 14, No. 17, No. 18, No. 19, No. 20, No. 22, No. 23 and No. 26.

(26) Legislative District No. 26 shall include all the area contained within Cassia, Jerome and Minidoka Counties.

(27) Legislative District No. 27 shall include all the area contained within Cassia, Jerome and Minidoka Counties.

(28) Legislative District No. 28 shall include all the area contained within Fremont and Madison Counties.

(29) Legislative District No. 29 shall include all the area contained within Bingham County.

(30) Legislative District No. 30 shall include all the area contained within Bonneville and Teton Counties.

(31) Legislative District No. 31 shall include all the area contained within Bonneville and Teton Counties.

(32) Legislative District No. 32 shall include all the area contained within Bonneville, Fremont, Madison and Teton Counties.

(33) Legislative District No. 33 shall include all the area contained within Bannock and Power Counties.

(34) Legislative District No. 34 shall include all the area contained within Bannock and Power Counties.

(35) Legislative District No. 35 shall include all the area contained within Bannock, Bingham and Power Counties.

(36) Legislative District No. 36 shall include all the area contained within Bear Lake, Caribou, Franklin and Oneida Counties.

SECTION 3. That Section 34-704, Idaho Code, as amended by House Bill No. 645, Chapter 8, Laws of 1984, be, and the same is hereby amended to read as follows:

34-704. DECLARATION OF CANDIDACY. Any person legally qualified to hold such office is entitled to become a candidate and file his declaration of candidacy. Each political party candidate for precinct, state, district or county office shall file his declaration of candidacy in the proper office between 8 a.m., on the tenth Monday preceding the primary election and 5 p.m., on the **seventh** <u>sixth</u> Friday preceding the primary election. All political party candidates shall declare their party affiliation in their declaration of candidacy, except candidates for nonpartisan office.

Candidates who file a declaration of candidacy under a party name and are not nominated at the primary election shall not be allowed to appear on the general election ballot under any other political party name, nor as an independent candidate.

Independent candidates shall file their declaration of candidacy in the manner provided in section 34-708, Idaho Code.

SECTION 4. The time sequence provided in section 34-301, Idaho Code, which requires the establishment of precinct boundaries prior to January 15 in a general election year, is specifically waived for the purposes of this act insofar as the provisions of this act may require

a precinct boundary to be adjusted to meet the requirements of this act. Any precinct boundary adjustments required by this act shall be accomplished by the county commissioners as soon as is practicable.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after the passage and approval of this act, and retroactively to November 1, 1983, except that the legislative districts as they existed for the purposes of the 1982 general election shall continue to exist for all necessary purposes of the Forty-seventh Legislature.

SECTION 6. 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.

Approved April 2, 1984.

CHAPTER 174
(H.B. No. 443)

AN ACT

RELATING TO REDEMPTION CERTIFICATES FOR IRRIGATION DISTRICTS; AMENDING SECTION 43-712, IDAHO CODE, BY CLARIFYING THE REQUIREMENTS OF THE FEE TO RECORD A REDEMPTION CERTIFICATE FOR IRRIGATION DISTRICTS.

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

SECTION 1. That Section 43-712, Idaho Code, be, and the same is hereby amended to read as follows:

43-712. DELINQUENT ASSESSMENTS -- REDEMPTION OF LAND. After delinquency and prior to three (3) years from the date of entry of such delinquency, and thereafter until assessment deed is issued by the treasurer, redemption of lands may be made by paying to the treasurer an amount equal to the delinquent assessments thereon, plus the penalty of two per cent (2%) thereon, together with interest at the rate of eight per cent (8%) per annum from the date of delinquency entry until paid. Upon redemption, the treasurer shall note the redemption on the delinquent list and shall issue a redemption certificate in triplicate, showing the name of the redemptioner, the amount paid in redemption, description of lands redeemed, year in which assessment was levied, and the delinquency entry number, delivering one (1) copy to the redemptioner, and in case the land being redeemed has been included in a list filed with the county recorder, he shall file one (1) copy with the county recorder of the county in which the land is located, and thereupon the county recorder shall enter the redemption opposite the corresponding entry in his record of delin-

quent assessments, for which service he shall be entitled to charge a fee ~~of twenty-five cents (25¢)~~ as provided by section 31-3205, Idaho Code, which fee shall be added to the amount necessary for redemption paid by the redemptioner, and be transmitted to the county recorder by the district treasurer.

If the property on which the assessments are delinquent is not redeemed within the time hereinbefore limited, and if the assessment deed for the delinquency is made by the treasurer to the district, such property may nevertheless be redeemed by the owner thereof, or by any party in interest, up to the time a sale of the property is made by the board of directors and deed or contract for sale is delivered to the purchaser, by paying to the district treasurer the amount of all unpaid assessments levied or assessed against the said property to the time of redemption together with penalty and interest thereon and also by paying assessments for the year or years since the date of issuance of assessment deed to the district together with penalty and interest thereon, and all costs incurred for a sale of the property by the district, and the sum of two dollars ($2.00) for redemption deed from the district, and all other fees and charges for redemption otherwise prescribed by law. All assessments accruing against such property subsequent to the issuance of deed to the district shall be extended by the treasurer and be computed according to the authorized levies for the year or years to be extended. Upon payment to the district treasurer of the amounts required to be paid as herein provided, the district treasurer must issue a redemption deed to the redemptioner.

Approved April 2, 1984.

CHAPTER 175
(H.B. No. 513)

AN ACT

RELATING TO WATER DISTRICTS; AMENDING SECTION 42-605, IDAHO CODE, TO PROVIDE THAT ALL PERSONS OWNING OR HAVING THE USE OF WATER RIGHTS TO BE DIVERTED, REGARDLESS OF AMOUNT, SHALL BE ENTITLED TO VOTE FOR SELECTION OF A WATERMASTER, TO PROVIDE A VOTING PROCEDURE TO BE USED, TO PROVIDE THAT VARIOUS WATER DELIVERY ORGANIZATIONS SHALL BE CONSIDERED A PERSON FOR THE PURPOSE OF THIS SECTION AND TO DEFINE TERMS, TO PROVIDE WHEN THE DEPARTMENT OF WATER RESOURCES IS AUTHORIZED TO APPOINT A WATERMASTER AND FIX HIS COMPENSATION, TO PROVIDE FOR A HEARING WHEN A WATERMASTER IS BEING REMOVED, AND TO PROVIDE DUTIES THE WATERMASTER IS TO PERFORM.

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

SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby amended to read as follows:

42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND. (1) There shall be held on the first Monday in March in each year, commencing at two o'clock P.M., a meeting of all persons owning or having the use of a water right, in the waters of the stream or water supply comprising such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources.

(2) Such meeting shall be held at some place within the water district, convenient to a majority of those entitled to vote thereat, which place shall be designated by the department of water resources, and the department shall, between January first and February first of each year, file such designation with the county auditor of the county or counties within which such water district is situated and shall notify by mail all persons, companies or corporations known by it to own or claim the use of the waters of such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources. Provided that in water districts whose area includes land in more than four (4) counties the annual meeting shall commence at ten o'clock A.M. instead of two o'clock P.M. Provided, further, that any water district may, by resolution adopted at an annual meeting, change the date for annual meetings in subsequent years to any weekday except Saturday between the second Monday of January and the third Monday in March in which case the department of water resources shall send its notification at least thirty (30) days prior to said meeting date.

(3) At such meeting there shall be elected a watermaster for such water district, and such other regular assistants as such meeting shall deem necessary, and such meeting shall prior to the election of such watermaster and assistants fix the compensation to be paid them during the time actually engaged in the performance of their duties. At such meeting ~~each-person-present-owning-or-having-the-use-for-the-ensuing-irrigation-season-of-any-water-right-equal-to-ten-(10)--inches-of-water-in-the-stream-or-water-supply-comprising-such-water-district,-which--right-has-been-adjudicated-or-decreed-by-the-court-or-is-represented-by-valid-permit-or-license-issued-by-the--department--of--water-resources,--shall--be--entitled-to-one-(1)-vote;-provided,-that-in-any-water-district-having-fifty-(50)-or-less-than-fifty-(50)-water-rights,-which-have-been-adjudicated-or-decreed-by-the-court-or-are-represented-by--valid--permit--or--license--issued--by--the--department--of--water-resources,~~ each person present, owning or having the use for the ensuing irrigation season of any water right in the stream or water supply comprising such water district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources, shall be entitled to ~~one-(1)-vote-for-each-twenty-four-(24)-hour-second-foot-of-water-delivered-to-such-person,-or-his-predecessor-in-interest,--during--the--previous-irrigation--season,--as-shown-by-the-watermaster's-report-for-the-previous-irrigation-season,-filed-with-the-county-auditor-of--the--county-or--counties-in-which-such-district-is-located~~ a number of votes equal to the rate of flow in cubic feet per second including any fractions

thereof, of said qualifying water right.

(4) Such meeting shall choose a chairman and secretary and shall determine the manner and method of electing watermasters and assistants. Within five (5) days after such meeting the chairman and secretary shall forward a certified copy of the minutes of such meeting to the department of water resources~~;-provided,-that-a~~.

(5) A corporation or a water delivery organization, including, but not limited to corporations, water companies, irrigation districts, irrigation companies and canal companies, shall be considered a person for the purpose of this section and shall cast its vote by ~~some-one~~ someone to be designated by the corporation; provided, that each stockholder in said corporation shall be entitled to as many votes as he shall have units of ~~ten-(10)-miners'-inches~~ cubic feet per second or fraction thereof, of water in the stream or water supply comprising such water district~~;-provided,-that-should~~.

(6) Should said meeting not be held, or should said watermaster not be chosen or his compensation fixed as above provided, then the department of water resources ~~must~~ is authorized to appoint such watermaster and fix his compensation.

(7) The department of water resources may remove any watermaster whenever such watermaster fails to perform his duty as watermaster, upon complaint in that respect being made to the department in writing, by one (1) person owning or having the right to the use of a water right in such district, which right has been adjudicated or decreed by the court or is represented by valid permit or license issued by the department of water resources provided, that upon investigation the department, after a hearing with the other water users of said district, which shall be held in the district, finds such charge to be true, and the department may appoint a successor for the unexpired term.

(8) Before entering upon the duties of his office, said watermaster shall take and subscribe an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of his office, as provided in section 42-607, Idaho Code, and shall file with the department of water resources said oath and his official bond in the penal sum of five hundred dollars ($500), unless the amount of said bond be otherwise fixed in a greater amount by such meeting, with not less than two (2) sureties, to be approved by the department of water resources and conditioned for the faithful discharge of the duties of his office.

Approved April 2, 1984.

CHAPTER 176
((H.B. No. 548)

AN ACT

RELATING TO INCOME TAX DEDUCTIONS; AMENDING SECTION 63-3022E, IDAHO CODE, TO PROVIDE A DEDUCTION FROM TAXABLE INCOME FOR HOUSEHOLDS

MAINTAINING A DEPENDENT THAT IS DEVELOPMENTALLY DISABLED; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022E, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022E. HOUSEHOLD DEDUCTION FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR DEVELOPMENTALLY DISABLED PERSONS. (1) An additional deduction from taxable income, as defined by section 63 of the Internal Revenue Code, shall be allowed in the case of an individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older, or a developmentally disabled person as defined in subsection (4) of section 66-402, Idaho Code, regardless of the age of the person when such developmental disability appeared, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household. The amount of the deduction shall be one thousand dollars ($1,000) for each individual sixty-five (65) years of age or older or developmentally disabled.

(2) There shall not be allowed more than three (3) deductions of one thousand dollars ($1,000) under the provisions of this section on any one (1) return.

(3) No deductions shall be allowed under this section for the person(s) in whose name(s) the income tax return is filed.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1984.

Approved April 2, 1984.

CHAPTER 177
(H.B. No. 552)

AN ACT

RELATING TO CONFISCATION OF FIREARMS, EXPLOSIVES, CONTRABAND OR DEADLY WEAPONS UPON CONVICTION; AMENDING SECTION 19-3807, IDAHO CODE, TO PROVIDE NOTICE AND PROCEDURES FOR CONFISCATION OR RETURN OF FIREARMS, EXPLOSIVES, DEADLY WEAPONS OR CONTRABAND UPON CONVICTION OF A FELONY.

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

SECTION 1. That Section 19-3807, Idaho Code, be, and the same is hereby amended to read as follows:

19-3807. CONFISCATION OF FIREARMS, ~~OR~~ EXPLOSIVES OR CONTRABAND UPON CONVICTION. (1) At the time any person is convicted of a felony in any court of the state of Idaho, firearms, ammunition, bombs, nitroglycerin, or explosives of any nature, including illegal fireworks, or any other deadly weapons or contraband of any kind found in his possession or under his control at the time of his arrest may be confiscated and disposed of in accordance with the order of the court before which such person was tried. "Contraband" as used in this section shall mean any personal property, possession of which is illegal under the laws of the state of Idaho or the United States.

(2) Notice of confiscation proceedings shall be given to each owner or person who is believed to have an interest in the property in question by serving a copy of the state's motion describing the property with a notice of hearing on the motion as follows:

(a) Upon each owner or interested party whose name and address is known, by mailing a copy of the state's motion to confiscate and notice of hearing by certified mail to the owner or party's last known address, or to his attorney;

(b) Upon all other owners or interested parties whose addresses are unknown, but who are believed to have an interest in the property, by publishing one (1) notice in a newspaper of general circulation in the county where the property was seized.

(3) Within twenty (20) days after the mailing or publication of the notice, the owner of the property in question and any other interested party may file with the court a claim to the property described in the motion to confiscate.

(4) If one or more claims are filed, the confiscation proceeding shall be set for hearing at least thirty (30) days after the last timely claim is filed.

(5) At the confiscation hearing any person who has filed a timely claim may show by competent evidence that the property in question was not in the possession or control of the defendant at the time of his arrest or that the owner is innocent of any involvement in the acts which led to the defendant's arrest, in which case the court may return the property to the owner or interested person or order any other disposition which is appropriate under the circumstances.

(6) If no claim has been filed within twenty (20) days after the state's motion to confiscate and notice of hearing has been mailed or published, the court shall hear evidence concerning the defendant's possession and control of the property in question at the time of arrest. If it finds that the property was in the defendant's possession and control at the time of arrest or, if pursuant to subsection 5 above, the court rejects any claim which has been filed, t~~T~~he court may direct the delivery ~~of--such--firearms,--ammunition,--bombs, nitroglycerin,-or-explosives,~~ to the law enforcement agency which apprehended ~~such--person~~ the defendant, for its use or for any other disposition in its discretion.

Approved April 2, 1984.

CHAPTER 178
(H.B. No. 555)

AN ACT

RELATING TO THE STATE BOARD OF CORRECTION; AMENDING SECTION 20-244, IDAHO CODE, TO PROVIDE THAT RULES AND REGULATIONS OF THE BOARD OF CORRECTION FOR THE GOVERNMENT AND DISCIPLINE OF A CORRECTIONAL FACILITY SHALL BE GIVEN TO INMATES AT THE TIME OF RECEPTION AT THE CORRECTIONAL INSTITUTION, AND TO STRIKE SUPERFLUOUS LANGUAGE FROM THE CATCHLINE.

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

SECTION 1. That Section 20-244, Idaho Code, be, and the same is hereby amended to read as follows:

20-244. GOVERNMENT AND DISCIPLINE OF THE ~~PENITENTIARY~~ CORRECTIONAL FACILITY -- RULES AND REGULATIONS ~~---PRINTING-AND-POSTING~~. The state board of correction shall make and adopt such rules and regulations for the government and discipline of the ~~penitentiary~~ correctional facility as they may consider expedient, and from time to time, change and amend the same as circumstances may require. ~~In-making-such rules-and-regulations-they-shall,-so-far-as-practicable-and-consistent with--the-discipline-of-the-prison,-adopt-such-as-shall-in-their-judgment-best-conduce-to-the-reformation-of-the-inmates.~~ A printed copy of the rules and regulations shall be furnished to every officer and guard at the time he is appointed, and so much thereof as relates to the duties and obligations of the convicted persons shall be ~~hung--up in--a--conspicuous--place-in-each-cell-and-shop~~ given to the convicted person upon reception at the state's correctional institutions.

Approved April 2, 1984.

CHAPTER 179
(H.B. No. 639)

AN ACT

RELATING TO MOTOR VEHICLE OPERATING FEES IN LIEU OF PROPERTY TAX; AMENDING SECTION 49-133, IDAHO CODE, TO PROVIDE THAT CERTAIN VEHICLES SHALL BE EXEMPT FROM AD VALOREM TAXATION.

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

SECTION 1. That Section 49-133, Idaho Code, be, and the same is hereby amended to read as follows:

49-133. OPERATING FEE IN LIEU OF PROPERTY TAX. The operating fees imposed by this chapter upon motor vehicles shall be in lieu of all

taxes thereon, general or local, and any such motor vehicle properly registered and for which the required fee for any part of the previous year has been paid, shall be exempt from taxation~~;-provided,-that--any such-vehicles-not-registered-and-licensed-under-the-provisions-of-this act-on-January-1st-of-any-year,-which-vehicles,-whether-old-or-new-are held--in--stock--by--the-owner-or-dealer-for-sale-or-exchange-shall-be reported-to-the-county-assessor-by-the-owners-thereof-and--listed--for ad--valorem--taxation,--but-that-such-listing-shall-be-canceled-by-the assessor-with-respect-to-all-such-vehicles,-provided,-that-the--assessor--shall--be--furnished--with-documentary-proof-that-the-vehicles-so assessed-have-been-registered-in-the-state-of-Idaho-and-the--operating fees--for--the--current-year-have-been-paid-thereon,-and-provided-further,-that-no-such-cancellation-shall-be-made--unless--such--proof--be furnished--to--the-assessor-on-or-before-June-30th-of-such-year.--This section-shall-become-effective-for-assessments-of-the-year-1953.~~

Approved April 2, 1984.

CHAPTER 180
(H.B. No. 683)

AN ACT

RELATING TO SOCIAL SECURITY AND RETIREMENT PAYMENTS; AMENDING SECTION 33-903, IDAHO CODE, TO PROVIDE THAT INTEREST EARNED ON INVESTMENT OF IDLE MONEYS IN THE PUBLIC SCHOOL INCOME FUND SHALL BE PAID TO THE PUBLIC SCHOOL INCOME FUND; AMENDING SECTION 33-1009, IDAHO CODE, TO STRIKE REFERENCE TO PAYMENTS FROM THE PUBLIC SCHOOL INCOME FUND FOR PAYMENTS TO THE RETIREMENT SYSTEM FOR SCHOOL DISTRICT EMPLOYEES; REPEALING SECTION 59-1115, IDAHO CODE; AMENDING CHAPTER 11, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1115, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF THE EMPLOYER'S SHARE OF SOCIAL SECURITY TAX FOR SCHOOL DISTRICT PERSONNEL AND FOR JUNIOR COLLEGE DISTRICT PERSONNEL; AMENDING SECTION 59-1332A, IDAHO CODE, TO PROVIDE THAT SOCIAL SECURITY PAYMENTS FOR SCHOOL DISTRICT PERSONNEL SHALL BE MADE FROM APPROPRIATIONS MADE FOR THAT PURPOSE; AMENDING SECTION 59-1332B, IDAHO CODE, TO PROVIDE THAT SOCIAL SECURITY PAYMENTS FOR JUNIOR COLLEGE DISTRICT PERSONNEL MAY BE MADE FROM APPROPRIATIONS MADE FOR THAT PURPOSE; AND AMENDING SECTION 72-1349C, IDAHO CODE, TO PROVIDE THAT UNEMPLOYMENT TAX PAYMENTS FOR SCHOOL DISTRICT PERSONNEL PAYMENTS SHALL BE MADE FROM APPROPRIATIONS MADE FOR THAT PURPOSE.

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

SECTION 1. That Section 33-903, Idaho Code, be, and the same is hereby amended to read as follows:

33-903. PUBLIC SCHOOL INCOME FUND. The public school income fund is that fund in the treasury of the state of Idaho to which are cred-

ited all income from the public school fund; the proceeds of all state taxes levied for public school purposes; grants of moneys from the federal government for public school purposes when other disposition is not specified by law; ninety percent (90%) of any moneys received by any department of state government from the federal government from sales, royalties, bonuses or rentals of oil, gas or mineral lands; legislative appropriations in support of the public schools, and other moneys required by the law of the federal government or of the state of Idaho to be made a part of said fund and credited thereto. Interest earned on the investment of idle moneys in the public school income fund shall be paid to the public school income fund.

SECTION 2. That Section 33-1009, Idaho Code, be, and the same is hereby amended to read as follows:

33-1009. PAYMENTS FROM THE PUBLIC SCHOOL INCOME FUND.

1. a. Payments of the state general account appropriation for public school support shall be made each year by the state board of education to the public school districts of the state in five (5) payments. Payments to the districts shall be made not later than the fifteenth day of August, the first day of October, the fifteenth day of November, the fifteenth day of February, and the fifteenth day of May each year. Each payment by the state board of education shall be approximately twenty percent (20%) of the total general account appropriation for the fiscal year. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4 of this section shall not be subject to this limitation.

b. Payments of moneys, other than the state general account appropriation, that accrue to the public school income fund shall be made by the state board of education to the school districts of the state on the fifteenth day of November, February, May and July each year. The total amount of such payments shall be determined by the state department of education and shall not exceed the amount of moneys available and on deposit in the public school income fund at the time such payment is made.

c. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4 of this section shall not be subject to the limitation imposed by paragraphs a and b.

2. Payments made to the school districts in August, October and November are advance payments for the current year and will be based upon payments from the public school income fund for the preceding school year. Each school district shall receive its proportionate share of the advance payments in the same ratio that its total payment for the preceding year was to the total payments to all school districts for the preceding year.

3. No later than the fifteenth day of February in each year, the state board of education shall compute the state distribution factor based on the total average daily attendance for the first semester of

the then current school year. The factor will be used in payments of state funds in February and May.

As of the thirtieth day of June of each year the state board of education shall determine final payments to be made on July fifteenth next succeeding to the several school districts from the public school income fund for the school year ended June 30. The July payments shall take into consideration:

a. the average daily attendance of the several school districts for the twenty-eight (28) best weeks of the school year completed not later than the thirtieth of June,

b. all funds available in the public school income fund for the fiscal year ending on the thirtieth of June,

c. all payments distributed for the current fiscal year to the several school districts,

d. payments made or due for the transportation support program and the exceptional education support program. The state board of education shall apportion and direct the payment to the several school districts the moneys in the public school income fund in each year, taking into account the advance made under subsection 2 of this section, in such amounts as will provide in full for each district its support program, and not more than therefor required, and no school district shall receive less than fifty dollars ($50.00).

4. If the full amount appropriated from the general account by the legislature is not transferred to the public school income fund by the end of the fiscal year, the deficiency resulting therefrom shall either be restored or reduced through a special transfer from the general account in the first sixty (60) days of the following fiscal year, or shall be calculated in computing district levies, and any additional levy shall be certified by the state board of education to the board of county commissioners and added to the district's maintenance and operation levy, and the additional levy shall be exempt from the limitations imposed by section 63-923(1), Idaho Code. If the deficiency is restored or reduced by special transfer, the amount so transferred shall be in addition to the amount appropriated to be transferred in such following fiscal year, and shall be apportioned to each school district in the same amount as each would have received had the transfer been made in the year the deficiency occurred. The board shall distribute to the school district the full amount of the special transfer as soon as practical after such transfer is made. In making the levy computations required by this subsection the state board of education shall take into account and consider the full amount of money receipted into the public school income fund from all sources for the given fiscal year. Deficits in the transfer of the appropriated amount of general account revenue to the public school income fund shall be reduced by the amount, if any, that the total amount receipted from other sources into the public school income fund exceeds the official estimated amount from those sources. The official estimate of receipts from other sources shall be the total amount stated by the legislature in the appropriation bill.

5. Any apportionments in any year, made to any school district,

which may within the succeeding three (3) year period be found to have been in error either of computation or transmittal, may be corrected during the three (3) year period by reduction of apportionments to any school district to which over-apportionments may have been made or received, and corresponding addition to apportionments to any school district to which under-apportionments may have been made or received.

~~6.--Any--apportionment--made--pursuant--to--this--statute-shall-be subject-to-the-payments-from-the-public--school--income--fund--to--the public-employee-retirement-fund-as-required-by-section-59-1332A,-Idaho Code.---The--payments--shall-be-prior-to-the-payment-of-funds-from-the public-school-income-fund-to-the-several-school-districts-as--provided herein.~~

SECTION 3. That Section 59-1115, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 11, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1115, Idaho Code, and to read as follows:

59-1115. EMPLOYER'S PORTION OF SOCIAL SECURITY TAX FOR SCHOOL DISTRICT PERSONNEL AND JUNIOR COLLEGE DISTRICT PERSONNEL. The state board of education shall include in the budget request for general account appropriations an amount necessary to fund the employer's share of social security tax for school district personnel, and an amount necessary to fund the employer's share of social security tax for junior college district personnel. The board of trustees of each class of school district, at such times as prescribed by the state auditor, shall compute and certify the amount of money required for the payment of the employer's social security tax for its personnel to the state auditor, who shall promptly transfer such amount from the appropriation made for that purpose to the social security trust account. The board of trustees of each junior college district, at such times as prescribed by the state auditor, shall compute and certify the amount of money required for the payment of the employer's social security tax for its personnel to the state auditor, who shall promptly transfer such amount from the appropriation made for that purpose to the social security trust account.

SECTION 5. That Section 59-1332A, Idaho Code, be, and the same is hereby amended to read as follows:

59-1332A. TRANSFER OF MONEYS ~~FROM-PUBLIC-SCHOOL-INCOME--FUND~~ FOR SCHOOL PERSONNEL. After July 1, 196984, not less than four (4) times each fiscal year, the state board of education shall, at the request of the board, direct the transfer from the ~~public-school-income-fund~~ appropriation made for that purpose to the public employee retirement ~~fund~~ account of an aggregate sum in lieu of and equivalent to individual employer contributions provided by section 59-1330, Idaho Code, required with respect to employees of school districts on the basis of

salaries paid such employees as certified by the retirement board to the state treasurer. Such sums of money shall be taken from legislative appropriations ~~in support of public schools in said public school income fund~~ made for that purpose. No income from the public school fund shall ever be used for such purposes.

SECTION 6. That Section 59-1332B, Idaho Code, be, and the same is hereby amended to read as follows:

59-1332B. TRANSFER OF MONEYS FROM STATE JUNIOR COLLEGE ~~FUND~~ ACCOUNT. After July 1, 196984, the state board of education shall, at the request of the board, direct the transfer from the state junior college ~~fund~~ account or from appropriations made for that purpose to the public employee retirement ~~fund~~ account of an aggregate sum in lieu of and equivalent to individual employer contributions provided by section 59-1330, Idaho Code, required with respect to employees of junior college districts on the basis of salaries paid such employees as certified by the board to the state treasurer.

SECTION 7. That Section 72-1349C, Idaho Code, be, and the same is hereby amended to read as follows:

72-1349C. FINANCING OF BENEFIT PAYMENTS BY SCHOOL DISTRICTS WHICH HAVE ELECTED COST REIMBURSEMENT. (a) School districts which have elected the cost reimbursement method of financing benefits shall finance said benefits as provided in section 72-1349B, Idaho Code, paragraph (b), subparagraph (2), by reimbursement of payments and shall make payment in advance as follows: At the end of each calendar quarter after ~~January~~ July 1, 197884, the state board of education shall transfer from the ~~public school income fund~~ appropriation made for that purpose to the director an aggregate sum equal to one per cent (1%) of the previous quarter's total payroll of all school districts of the state which have elected the cost reimbursement method of financing benefits, unless the director determines that a lesser percentage will cover the cost of payment of benefits to the employees of the school districts. Such payments shall become due and payable within thirty (30) days following the quarter ending.

(b) At the end of each taxable year after January 1, 1978, the director shall compute the benefit costs attributable to each of the said school districts individually as provided in section 72-1349B, Idaho Code, paragraph (b), subparagraph (1). When payments exceed benefit costs, the school districts shall be credited collectively on subsequent benefit costs with the overpayment. When payments are not sufficient to pay benefit costs each school district shall be billed individually its proportionate share, determined in relation to the benefits paid to its employees, of the additional amount necessary to pay such costs, and such amounts are not reimbursable from the sales tax fund.

Approved April 2, 1984.

CHAPTER 181
(H.B. No. 713)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1985; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated to the State Treasurer the following amounts from the listed accounts, to be expended according to designated expense classes for the period July 1, 1984, through June 30, 1985:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$373,100	$72,500	$5,500	$451,100
Interagency Billing and Receipts Account	36,800			36,800
TOTAL	$409,900	$72,500	$5,500	$487,900

SECTION 2. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 1, may be used at the discretion of the State Treasurer to assist in defraying expenses relating to or resulting from the discharge of the State Treasurer's official duties. Such moneys shall be accounted for solely on the itemized certificate of the State Treasurer and shall be exempted from the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved April 2, 1984.

CHAPTER 182
(H.B. No. 714)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE OFFICE OF THE GOVERNOR, FOR DEPOSIT IN THE GOVERNOR'S EMERGENCY FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the General Account to the Office of the Governor the following amount for deposit in the Governor's Emergency Fund to be expended according to Section 57-1601, Idaho Code.

FOR:	
Trustee and Benefit Payments	$200,000
FROM:	
General Account	$200,000

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 2, 1984.

CHAPTER 183
(H.B. No. 715)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE AUDITOR FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS; PROVIDING THAT THIS ACT IS EFFECTIVE NOTWITHSTANDING A CERTAIN SECTION OF THE IDAHO CODE; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. It is legislative intent that the expenditures for the State Auditor not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$2,168,900
Operating Expenditures	1,724,300
Capital Outlay	11,500
TOTAL	$3,904,700
FROM:	
General Account	$1,839,600
Social Security Trust Account	7,400
Interagency Billing and Receipts Account	2,057,700
TOTAL	$3,904,700

SECTION 2. There is hereby appropriated to the State Auditor the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. PRE-AUDIT AND ACCOUNTING:				
FROM:				
General Account	$ 639,900	$ 119,100	$6,700	$ 765,700
B. SOCIAL SECURITY:				
FROM:				
General Account	$ 121,800	$ 22,800		$144,600

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
Social Security Trust Account		7,400		7,400
TOTAL	$ 121,800	$ 30,200		$ 152,000
C. DATA CENTER:				
FROM:				
General Account		$ 929,300		$ 929,300
Interagency Billing and Receipts Account	1,407,200	645,700	$4,800	2,057,700
TOTAL	$1,407,200	$1,575,000	$4,800	$2,987,000
GRAND TOTAL	$2,168,900	$1,724,300	$11,500	$3,904,700

SECTION 3. As appropriated in Section 2, this act is declared to be effective notwithstanding the provisions of Section 59-1107, Idaho Code, as such provisions restrict the use of the funds for purposes of making payments to the United States in accordance with Public Law 734.

SECTION 4. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 2, may be used at the discretion of the State Auditor to assist in defraying expenses relating to or resulting from the discharge of his official duties. Such moneys shall be accounted for solely on the itemized certificate of the State Auditor and shall be exempted from provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved April 2, 1984.

CHAPTER 184
(H.B. No. 716)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Water Resources not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$3,383,300
Operating Expenditures	1,569,400
Capital Outlay	71,700
Trustee & Benefit Payments	157,500
TOTAL	$5,181,900

SECTION 2. There is hereby appropriated to the Department of Water Resources the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT & SUPPORT SERVICES:					
FROM:					
General Account	$ 303,300	$ 220,300	$16,500		$ 540,100
Water Conservation and Development Account		41,000			41,000
Miscellaneous Federal Account	102,500	14,300			116,800
TOTAL	$ 405,800	$ 275,600	$16,500		$ 697,900
II. RESOURCES ANALYSIS:					
FROM:					
General Account	$ 633,500	$ 138,400	$20,900	$157,500	$ 950,300
Miscellaneous Federal Account	332,700	86,800			419,500
TOTAL	$ 966,200	$ 225,200	$20,900	$157,500	$1,369,800
III. ENERGY RESOURCES:					
FROM:					
Federal Energy Account	$ 599,900	$ 701,900			$1,301,800
IV. REGIONAL OFFICES:					
FROM:					
General Account	$ 744,800	$ 235,300	$31,200		$1,011,300
Watermaster Services Account	108,100	19,200			127,300
TOTAL	$ 852,900	$ 254,500	$31,200		$1,138,600
V. OPERATIONS BUREAU:					
FROM:					
General Account	$ 547,900	$ 112,200	$ 3,100		$ 663,200
Miscellaneous Federal Account	10,600				10,600
TOTAL	$ 558,500	$ 112,200	$ 3,100		$ 673,800
GRAND TOTAL	$3,383,300	$1,569,400	$71,700	$157,500	$5,181,900

Approved April 2, 1984.

CHAPTER 185
(H.B. No. 717)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1985; DESIGNATING PROGRAM LIMITS; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES.

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

SECTION 1. It is legislative intent that the expenditures for the Attorney General not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$2,320,700
Operating Expenditures	314,700
Capital Outlay	28,100
TOTAL	$2,663,500
FROM:	
General Account	$1,397,900
Interagency Billing and Receipts Account	1,265,600
TOTAL	$2,663,500

SECTION 2. There is hereby appropriated to the Attorney General the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE LEGAL SERVICES:				
FROM:				
General Account	$1,055,100	$214,700	$28,100	$1,297,900
Interagency Billing and Receipts Account	1,265,600			1,265,600
TOTAL	$2,320,700	$214,700	$28,100	$2,563,500
B. SPECIAL SERVICES LITIGATION:				
FROM:				
General Account		$100,000		$ 100,000
GRAND TOTAL	$2,320,700	$314,700	$28,100	$2,663,500

SECTION 3. It is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 2, may be used at the discretion of the Attorney General to assist in defraying expenses relating to or resulting from the discharge of his official duties. Such moneys shall be accounted for solely on the itemized certificate of the Attorney General and shall be exempted from the provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

Approved April 2, 1984.

CHAPTER 186
(H.B. No. 710)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 214, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 1, Chapter 214, Laws of 1983, there is hereby appropriated to the Department of Fish and Game the following amount to be expended for the named program according to the designated expense class from the listed account for the period July 1, 1983, through June 30, 1984:

WILDLIFE:

FOR:	
Operating Expenditures	$300,000
FROM:	
Fish and Game Account	$300,000

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 2, 1984.

CHAPTER 187
(S.B. No. 1224, As Amended,
As Amended in the House)

AN ACT

RELATING TO PAYMENT FOR PROBATION OR PAROLE SERVICES; AMENDING CHAPTER 2, TITLE 20, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 20-225, IDAHO CODE, TO PROVIDE THAT A PERSON UNDER PROBATION OR PAROLE SUPERVISION SHALL BE REQUIRED TO CONTRIBUTE MONEYS FOR HIS SUPERVISION, TO PROVIDE CONSEQUENCES OF FAILING TO CONTRIBUTE THE MONEYS, TO PROVIDE EXEMPTIONS FOR CONTRIBUTING MONEYS, TO CREATE THE PROBATION AND PAROLE RECEIPTS ACCOUNT IN THE DEDICATED FUND, AND TO PROVIDE FOR APPROPRIATION OF MONEYS IN THE ACCOUNT; AND REPEALING SECTION 20-225, IDAHO CODE, EFFECTIVE JUNE 30, 1988.

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

SECTION 1. That Chapter 2, Title 20, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 20-225, Idaho Code, and to read as follows:

20-225. PAYMENT FOR COST OF SUPERVISION. Any person under state probation or parole supervision shall be required to contribute not more than thirty-five dollars ($35.00) per month as determined by the board of correction. Any failure to pay such contribution shall constitute grounds for the revocation of probation by the court or the revocation of parole by the commission for pardons and parole. The division of probation and parole in the department of correction may exempt a person from the payment of all or any part of the foregoing contribution if it finds any of the following factors to exist:

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

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

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

SECTION 2. That Section 20-225, Idaho Code, be, and the same is hereby repealed on June 30, 1988.

Approved April 3, 1984.

CHAPTER 188
(S.B. No. 1291, As Amended)

AN ACT

RELATING TO PROFESSIONAL SERVICE CONTRACTS BETWEEN DESIGN PROFESSIONALS AND PUBLIC ENTITIES; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2320, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT, TO PROVIDE A POLICY THAT PUBLIC AGENCIES AND POLITICAL SUBDIVISIONS OF THE STATE MAY FOLLOW WHEN SELECTING FIRMS OR INDIVIDUALS TO PROVIDE PROFESSIONAL ENGINEERING, ARCHITECTURAL, AND LAND SURVEYING SERVICES PURSUANT TO A CONTRACT OR AGREEMENT, AND TO DEFINE TERMS.

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

SECTION 1. That Chapter 23, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2320, Idaho Code, and to read as follows:

67-2320. PROFESSIONAL SERVICE CONTRACTS WITH DESIGN PROFESSIONALS. (1) Notwithstanding any other provision of law to the contrary, it shall be the policy of this state that all public agencies and political subdivisions of the state of Idaho may make selections for professional engineering, architectural and land surveying services, including services by persons licensed pursuant to chapters 3, 12 and 30, title 54, Idaho Code, on the basis of qualifications and demonstrated competence and may negotiate contracts or agreements for such services on the basis of demonstrated competence and qualifications for the type of services required at fair and reasonable prices.

(2) In carrying out this policy, public agencies and political subdivisions of the state may use the following guidelines:

(a) Encourage persons engaged in the design professions to submit statements of qualifications and performance data;

(b) Establish and make available to all interested persons the criteria and procedures used for the selection of qualified persons to perform such services;

(c) Select from the interested persons those persons whom the public agency or political subdivision determines the most highly qualified to provide the required services in order of preference, pursuant to the public agency or political subdivision's established criteria and procedures;

(d) Negotiate with highest qualified person for a contract or agreement to perform such services at a price determined by the public agency or political subdivision to be reasonable and fair to the public after considering the estimated value, the scope, the complexity and the nature of the services;

(e) When unable to negotiate a satisfactory contract or agreement, formally terminate negotiations and undertake negotiations with the next most qualified person, following the procedure prescribed in subsection (2)(d) of this section; and

(f) When unable to negotiate a satisfactory contract or agreement with any of the selected persons, continue with the selection and negotiation process provided in this section until a contract or agreement is reached.

(3) (a) For the purposes of this section, "public agency" shall mean the state of Idaho and any departments, commissions, boards, authorities, bureaus, universities, college, educational institutions or other state agencies which have been created by or pursuant to statute other than courts and their agencies and divisions, and the judicial council and the district magistrate's commission;

(b) For the purposes of this section, "political subdivision" shall mean a county, city, airport, airport district, school district, health district, road district, cemetery district, junior college district, hospital district, irrigation district, sewer district, fire protection district, or any other district or municipality of any nature whatsoever having the power to levy taxes or assessment, organized under any general or special law of this state. The enumeration of certain districts herein shall not

be construed to exclude other districts or municipalities from this definition.

Approved April 3, 1984.

CHAPTER 189
(S.B. No. 1315, As Amended in the House)

AN ACT

APPROPRIATING MONEYS TO THE STATE TAX COMMISSION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 178, LAWS OF 1983; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation made by Section 2, Chapter 178, Laws of 1983, there is hereby appropriated to the State Tax Commission, Circuit Breaker Tax Relief Program, the following amount to be expended for trustee and benefit payments from the listed account for the period July 1, 1983, through June 30, 1984:

FROM:

General Account	$329,300

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 3, 1984.

CHAPTER 190
(S.B. No. 1365)

AN ACT

RELATING TO STANDARDS FOR THE DETENTION OF JUVENILES; AMENDING SECTION 16-1812A, IDAHO CODE, TO PROVIDE THAT JUVENILES DETAINED BECAUSE OF YOUTH REHABILITATION ACT VIOLATIONS BE SEGREGATED FROM JUVENILES DETAINED FOR OFFENSES WHICH LIE OUTSIDE THE SCOPE OF THE YOUTH REHABILITATION ACT.

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

SECTION 1. That Section 16-1812A, Idaho Code, be, and the same is hereby amended to read as follows:

16-1812A. STANDARDS FOR DETENTION. The following shall be minimum standards for the temporary detention of children provided for in

section 16-1812, Idaho Code:

(1) Juvenile detention facilities must be so constructed and/or maintained as to keep children segregated from adult offenders or those being treated as adult offenders under sections 16-1806 or 16-1806A, Idaho Code, with there to be no contact as to sight and/or sound between the two (2) classes.

(2) Juvenile detention facilities must provide supervision and observation of juvenile detainees sufficient to protect the physical and mental health of the detainees.

(3) Juveniles held in detention must be provided with at least three (3) adequate and nutritional meals per day.

(4) Juveniles held in detention must have access to reading materials on a regular and systematic basis. Detained juveniles may receive books, newspapers and periodicals from any source including delivery to the detention facilities by family members, subject to the right of detention authorities to inspect and remove dangerous or harmful materials. Detention authorities may forbid the introduction into holding quarters of obscene books or periodicals.

(5) A visiting program shall be established in juvenile detention facilities which will allow for family visits to each juvenile for at least two (2) hours each week.

Approved April 3, 1984.

CHAPTER 191
(S.B. No. 1366)

AN ACT

RELATING TO COMPENSATION OF VICTIMS OF CRIMES; AMENDING CHAPTER 53, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-5302, IDAHO CODE, TO PROVIDE THAT COSTS OF MEDICAL EXAMS ARE TO BE PAID BY A LAW ENFORCEMENT AGENCY.

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

SECTION 1. That Chapter 53, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-5302, Idaho Code, and to read as follows:

19-5302. COST OF MEDICAL EXAMS TO BE PAID BY LAW ENFORCEMENT AGENCY. When the victim of any crime is directed or authorized by a law enforcement agency to obtain a medical examination for the purpose of procuring evidence for use by a law enforcement agency in the investigation or prosecution of the crime, the expense incurred shall be paid by the law enforcement agency. The provisions of this section shall not be construed to require a law enforcement agency to bear the expense of any medical treatment of the victim.

Approved April 3, 1984.

CHAPTER 192
(H.B. No. 435, As Amended)

AN ACT
RELATING TO RESIGNATIONS AND VACANCIES IN COUNTY OFFICES; AMENDING SECTION 59-906, IDAHO CODE, TO CLARIFY THE QUALIFICATIONS FOR APPOINTMENT TO A COUNTY ELECTED OFFICE.

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

SECTION 1. That Section 59-906, Idaho Code, be, and the same is hereby amended to read as follows:

59-906. COUNTY OFFICES -- VACANCIES, HOW FILLED. All vacancies in any county office of any of the several counties of the state, except that of the county commissioners (who shall be appointed by the governor), shall be filled by appointment by the county commissioners of the county in which the vacancy occurs in accordance with the procedure prescribed below until the next general election, when such vacancy shall be filled by election.

The vacancy shall be filled as follows: the county central committee of the same political party, if any, of the former officer, whose office is vacant, shall submit a list of three (3) nominations to the board of county commissioners within fifteen (15) days from the day the office is vacated. The board of county commissioners shall fill the vacancy by appointment from the submitted list within fifteen (15) days. Should no appointment be made within fifteen (15) days, the county central committee of the political party submitting the nominations shall designate one (1) of the three (3) nominees to fill the vacancy. The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the office. Upon failure of the committee to make a selection before the expiration of the additional fifteen (15) day period, the board of county commissioners shall, within five (5) days, fill the vacancy by appointing a person having the same qualifications at the time of his appointment as those provided by law for election to the office. If the person who has vacated the office has not been affiliated with a political party, the vacancy shall be filled by the board of county commissioners by appointment of a person having the same qualifications at the time of his appointment as those provided by law for election to the office.

Approved April 3, 1984.

CHAPTER 193
(H.B. No. 471, As Amended, As Amended)

AN ACT
RELATING TO CHILD SAFETY; AMENDING CHAPTER 7, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-763, IDAHO CODE, TO PROVIDE FOR

CHILD SAFETY SEATS IN MOTOR VEHICLES FOR CHILDREN LESS THAN FOUR YEARS OF AGE OR FORTY POUNDS IN WEIGHT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 7, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 49-763, Idaho Code, and to read as follows:

49-763. PASSENGER SAFETY FOR CHILDREN. (1) No resident noncommercial motor vehicle operator who is a parent or guardian shall transport his child under the age of four (4) years or who weighs less than forty (40) pounds in a motor vehicle manufactured with seat belts after January 1, 1966, unless the child is properly restrained in a car safety seat that meets the requirements of federal motor vehicle safety standard 213. The provisions of this section shall not apply:

(a) If all of the motor vehicle's seat belts are in use, but in such an event any unrestrained child to which this act applies shall be placed in the rear seat of the motor vehicle, if it is so equipped; or

(b) When the child is removed from the car safety seat and held by the attendant for the purpose of nursing the child or attending the child's other immediate physiological needs.

(2) A violation of the provisions of this section shall constitute an infraction and may be dismissed by a court upon proof of possession of a required safety seat.

(3) The failure to use a child safety seat shall not be considered under any circumstances as evidence of contributory negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence.

SECTION 2. This act shall be in full force and effect on and after January 1, 1985.

Approved April 3, 1984.

CHAPTER 194
(H.B. No. 479)

AN ACT

RELATING TO THE IDAHO HOUSING AGENCY; AMENDING SECTION 67-6211, IDAHO CODE, TO INCREASE THE AMOUNT OF AGENCY OBLIGATIONS WHICH MAY BE OUTSTANDING AT THE TIME OF THE AGENCY CHAIRMAN'S CERTIFICATION TO THE STATE TAX COMMISSION AND TO LIMIT THE AMOUNT OF AGENCY OBLIGATIONS WHICH HAVE A CAPITAL RESERVE FUND SUPPORTED BY THE STATE

SALES TAX ACCOUNT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-6211, Idaho Code, be, and the same is hereby amended to read as follows:

67-6211. ADDITIONAL DEFINITIONS AND CAPITAL RESERVE FUND PROCEDURES. As used in this section, the following words and phrases shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Maximum capital reserve fund requirement" shall mean, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future fiscal year of the agency, of annual debt service of the agency, such annual debt service for any fiscal year being the amount of money equal to the aggregate of:

(1) All interest payable during such fiscal year on all bonds secured by such capital reserve fund of the agency outstanding on said date of computation, plus

(2) The principal amount of all bonds of the agency secured by such capital reserve fund, outstanding on said date of computation which matures during such fiscal year, plus

(3) The amount of all annual sinking fund payments payable during such fiscal year with respect to any bonds of the agency secured by such capital reserve fund, outstanding on said date of computation.

(b) "Annual sinking fund payment" shall mean the amount of money specified in the resolution authorizing term bonds as payable into a sinking fund during a particular fiscal year for the retirement of term bonds which mature after such fiscal year, but shall not include any amount payable by reason only of the maturity of a bond.

(c) "Available operating revenues" shall mean all amounts received on account of rentals and fees and other charges imposed by the agency, if any, and income or interest earned or added to funds of the agency due to the investment thereof and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the agency to be applied to any purposes other than payment of expenses of the agency.

(d) "Amortized value," when used with respect to securities purchased at a premium above or a discount below par, shall mean the value as of any given date obtained by dividing the total premiums or discount at which such securities were purchased by the number of interest payments remaining to maturity on such securities after such purchase, and by multiplying the amount so calculated by the number of interest payment dates having passed since the date of such purchase; and

(1) In the case of securities purchased at a premium, by deducting the product thus obtained from the purchase price, and

(2) In the case of securities purchased at a discount, by adding the product thus obtained to the purchase price.

(e) The agency shall create and establish one or more special funds (herein referred to as "capital reserve funds"), and shall pay into each such capital reserve fund:

(1) Any proceeds of sale of notes or bonds, to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof,

(2) Any funds directed to be transferred by the agency to such fund, and

(3) Any other moneys which may be made available to the agency for the purpose of such fund from any other source or sources.

(f) All moneys held in or credited to each such capital reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of bonds or of the sinking fund payments hereinafter mentioned with respect to such bonds, the purchase or redemption of bonds, the payment of interest on bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however:

(1) That moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum capital reserve fund requirement, except for the purposes of making payment, when due, with respect to such bonds, of principal or redemption price of, interest and the sinking fund payments, as the same become due, and for the payment of which other moneys of the agency are not available.

(2) Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such capital reserve fund below the maximum capital reserve fund requirement.

(g) Within sixty (60) days after the close of the agency's fiscal year, the chairman of the agency shall certify to the state tax commission the amount, if any, required to maintain the capital reserve funds established pursuant to this section at the maximum capital reserve fund requirement, but only for any capital reserve fund of the agency which is required by a resolution of the agency to be maintained by a continuing appropriation from the sales tax account. The chairman of the agency shall not be entitled to so certify to the state tax commission at any time that the total principal amount of the agency's outstanding bonds exceeds the sum of ~~four~~ <u>six</u> hundred million dollars ($4<u>6</u>00,000,000).

(h) The agency shall not issue bonds at any time if upon issuance there will be created a capital reserve fund and the amount in the capital reserve fund securing such bonds will be less than the maximum capital reserve fund requirement, unless the agency, at the time of issuance of such bonds, shall deposit in such fund, from the proceeds of the bonds so to be issued, or sources other than the state sales tax fund, an amount which, together with the amount then in such fund, will not be less than the maximum capital reserve fund requirement.

(i) Moneys in a capital reserve fund not required for immediate use or disbursement may be invested in obligations of the state or the United States of America or obligations the principal of and interest

on which are guaranteed by the state or the United States of America or obligations of agencies of the United States of America or obligations which may from time to time be legally purchased by savings banks of the state, as investment of funds belonging to them or in their control. In computing the amount of a capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par if purchased at par or, if purchased at other than par, at amortized value.

(j) The agency shall create and establish such other fund or funds as may be necessary or desirable for its corporate purposes.

(k) In the event of the dissolution of the agency, any funds or assets of the agency remaining after paying its bonds, notes or other obligations shall revert to the state.

(l) The total principal amount of the agency's outstanding bonds secured by a capital reserve fund entitled to appropriation from the state sales tax account pursuant to section 67-6211(g), Idaho Code, and section 63-3638(e), Idaho Code, shall not exceed the sum of four hundred million dollars ($400,000,000).

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 3, 1984.

CHAPTER 195
(H.B. No. 586, As Amended)

AN ACT

RELATING TO HIGHWAY USER REVENUES; REPEALING SECTIONS 40-405, 40-405A, 40-405B, 40-405C, 49-126, 49-127, 49-127A, AND 49-1806, IDAHO CODE; AMENDING SECTION 19-4705, IDAHO CODE, TO CHANGE THE ACCOUNT TO WHICH CERTAIN FINES AND FORFEITURES ARE PAID; AMENDING CHAPTER 4, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-405, IDAHO CODE, TO ESTABLISH THE HIGHWAY DISTRIBUTION ACCOUNT AND TO PROVIDE FOR APPORTIONMENT OF MONEYS IN THAT ACCOUNT; AMENDING CHAPTER 4, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-405A, IDAHO CODE, TO PROVIDE FOR THE APPORTIONMENT OF FUNDS FROM THE HIGHWAY DISTRIBUTION ACCOUNT TO LOCAL UNITS OF GOVERNMENT; AMENDING CHAPTER 4, TITLE 40, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 40-405B, IDAHO CODE, TO PROVIDE FOR THE CREATION OF A LOCAL BRIDGE INSPECTION ACCOUNT AND FOR ADMINISTRATION OF THE ACCOUNT; AMENDING SECTION 40-2210, IDAHO CODE, TO STRIKE PROVISIONS FOR THE DISTRIBUTION OF MONEYS RELATING TO OPERATOR AND CHAUFFEUR LICENSES AND INSTRUCTION PERMITS AND CERTAIN HIGHWAY USER FEES; AMENDING SECTION 49-104, IDAHO CODE, TO PROVIDE FOR A

CHANGE IN WHERE CERTAIN FEES ARE TO BE PAID; AMENDING SECTION 49-107, IDAHO CODE, TO CORRECT A REFERENCE; AMENDING SECTION 49-113, IDAHO CODE, TO STRIKE UNNECESSARY LANGUAGE AND ADD LANGUAGE FROM REPEALED SECTIONS; AMENDING SECTION 49-117, IDAHO CODE, TO CORRECT REFERENCES; AMENDING SECTIONS 49-120 AND 49-125A, IDAHO CODE, TO STRIKE REFERENCES TO THE STATE HIGHWAY ACCOUNT; AMENDING CHAPTER 1, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-126, IDAHO CODE, TO PROVIDE FOR MOTOR VEHICLE OPERATING FEES; AMENDING CHAPTER 1, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-127, IDAHO CODE, TO PROVIDE FOR OPERATING FEES; AMENDING SECTION 49-127B, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES; AMENDING SECTION 49-128, IDAHO CODE, TO STRIKE OBSOLETE PROVISIONS AND REFERENCES; AMENDING SECTION 49-149, IDAHO CODE, TO CHANGE THE ACCOUNT TO WHICH FINES AND FORFEITURES ARE TO BE PAID; AMENDING SECTION 49-155, IDAHO CODE, TO CHANGE THE ACCOUNT TO WHICH A PORTION OF THE FEES ARE TO BE PAID; AMENDING SECTION 49-157, IDAHO CODE, TO STRIKE REFERENCE TO THE STATE HIGHWAY ACCOUNT; AMENDING SECTION 49-159, IDAHO CODE, TO STRIKE PROVISIONS FOR AN ADMINISTRATIVE FEE; AMENDING SECTIONS 49-216, 49-217 AND 49-231, IDAHO CODE, TO STRIKE REFERENCE TO THE STATE HIGHWAY ACCOUNT; AMENDING SECTION 49-331A, IDAHO CODE, TO STRIKE REFERENCE TO AN ACCOUNT TO WHICH FEES ARE TO BE PAID AND STRIKE AN EXCLUSION FOR THE FUNDS FROM THE DISTRIBUTION FORMULA; AMENDING SECTION 49-346, IDAHO CODE, TO STRIKE REFERENCE TO THE TRANSPORTATION DEPARTMENT; AMENDING SECTION 49-349, IDAHO CODE, TO CHANGE THE ACCOUNT TO WHICH A PORTION OF THE FEES ARE TO BE PAID; AMENDING SECTION 49-434, IDAHO CODE, TO CHANGE THE ACCOUNT TO WHICH FEES ARE TO BE PAID; AMENDING SECTION 49-1301, IDAHO CODE, TO CHANGE THE SOURCE OF FUNDS TO THE ACCOUNT; AMENDING SECTION 49-2706, IDAHO CODE, TO PROVIDE A CHANGE IN A FUND NAME; AMENDING SECTIONS 49-2805, 49-3003, 49-3209, AND 49-3210, IDAHO CODE, TO PROVIDE A CHANGE IN THE ACCOUNT AND FUND TO WHICH FEES ARE TO BE PAID; AMENDING SECTION 63-2405, IDAHO CODE, TO STRIKE A PROVISION FOR ONE CENT OF GASOLINE TAX TO GO TO LOCAL UNITS OF GOVERNMENT; AMENDING SECTION 63-2412, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF GASOLINE DISTRIBUTORS' FEES AND TO CHANGE THE ACCOUNT TO WHICH TAXES ARE TO BE PAID; AMENDING SECTION 63-2418, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF CERTAIN PERMIT FEES AND TO CHANGE THE ACCOUNT TO WHICH TAXES ARE TO BE PAID; AND AMENDING SECTION 63-3622, IDAHO CODE, TO STRIKE OBSOLETE REFERENCES.

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

SECTION 1. That Sections 40-405, 40-405A, 40-405B, 40-405C, 49-126, 49-127, 49-127A, and 49-1806, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Section 19-4705, Idaho Code, be, and the same is hereby amended to read as follows:

19-4705. PAYMENT OF FINES AND FORFEITURES -- SATISFACTION OF

JUDGMENT -- DISPOSITION -- APPORTIONMENT. (a) All fines and forfeitures collected pursuant to the judgment of any court of the state shall be remitted to the court in which ~~such~~ the judgment was rendered. ~~Such~~ The judgment shall then be satisfied by entry in the docket of the court. The clerk of the court shall daily remit all fines and forfeitures to the county auditor who shall at the end of each month apportion the proceeds according to the provisions of this act. Every other existing law regarding the disposition of fines and forfeitures is hereby repealed to the extent such law is inconsistent with the provisions of this act.

(b) Fines and forfeitures remitted for violations of fish and game laws shall be apportioned five per cent (5%) to the state treasurer for deposit in the state general account, five per cent (5%) to the search and rescue account, twenty-two and one-half per cent (22 1/2%) to the district court fund and sixty-seven and one-half per cent (67 1/2%) to the public school income fund.

(c) Fines and forfeitures remitted for violation of state motor vehicle laws shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account, forty-five per cent (45%) to the state treasurer for deposit in the ~~state~~ highway distribution account, twenty-two and one-half per cent (22 1/2%) to the district court fund and twenty-two and one-half per cent (22 1/2%) to the state treasurer for deposit in the public school income fund; provided, however, that fines and forfeitures remitted for violation of state motor vehicle laws, where an arrest is made or a citation is issued by a city law enforcement official, shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the city whose officer made the arrest or issued the citation.

(d) Fines and forfeitures remitted for violation of any state law not involving fish and game or motor vehicles laws shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county in which the violation occurred.

(e) Fines and forfeitures remitted for violation of county ordinances shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county whose ordinance was violated.

(f) Fines and forfeitures remitted for violation of city ordinances shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the city whose ordinance was violated.

(g) Fines and forfeitures remitted for violations not specified in this act shall be apportioned ten per cent (10%) to the state treasurer for deposit in the state general account and ninety per cent (90%) to the district court fund of the county in which the violation occurred except in cases where a duly designated officer of any city police department shall have made the arrest for any such violation, in which case ninety per cent (90%) shall be apportioned to the city whose officer made the arrest.

(h) Fines and forfeitures remitted for violations involving

registrations of motorcycles or motor-driven cycles used off highways, snowmobiles, or use of winter recreation parking areas shall be apportioned ten per cent (10%) to the state treasurer for deposit to the state general account and ninety per cent (90%) to the general account of the county or city whose officer issued the citation.

SECTION 3. That Chapter 4, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-405, Idaho Code, and to read as follows:

40-405. HIGHWAY DISTRIBUTION ACCOUNT -- APPORTIONMENT. (1) There is hereby created in the dedicated fund of the state treasury an account known as the "Highway Distribution Account," to which shall be credited:

(a) Moneys as provided by sections 63-2412(1)(e)3 and 63-2418(3), Idaho Code;

(b) All moneys collected by the Idaho transportation department, their agents and vendors, and county assessors and sheriffs, under the provisions of title 49, Idaho Code, except as otherwise specifically provided for; and

(c) All other moneys as may be provided by law.

(2) Moneys in the highway distribution account shall be apportioned thirty-two and one-third per cent (32 1/3%) to the local units of government, sixty-one and two-thirds per cent (61 2/3%) to the state highway account, created in section 40-2210, Idaho Code, and six per cent (6%) to the law enforcement account, created in section 49-1301, Idaho Code. The state auditor shall remit the moneys apportioned to local units of government not later than January 25, April 25, July 25, and October 25 of each year, and to the state highway account and the law enforcement account as the moneys become available in the highway distribution account.

SECTION 4. That Chapter 4, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-405A, Idaho Code, and to read as follows:

40-405A. APPORTIONMENT OF FUNDS FROM HIGHWAY DISTRIBUTION ACCOUNT TO LOCAL UNITS OF GOVERNMENT. From the moneys appropriated from the highway distribution account to local units of government as provided in section 40-405, Idaho Code, the appropriation shall be distributed as follows:

(1) Thirty per cent (30%) shall be apportioned among incorporated and specially chartered cities, in the same proportion as the population of the incorporated or specially chartered city bears to the total population of all the incorporated or specially chartered cities as shown by the last regular or special federal census.

(2) The remainder shall be apportioned:

(a) Ten per cent (10%) shall be divided equally among all counties of the state.

(b) Forty-five per cent (45%) shall be divided among the counties of the state in the proportion that the amount collected from motor vehicle registrations in each county during the last calendar year bears to the total amount of such collections in all counties in the state.

(c) Forty-five per cent (45%) shall be divided among the counties of the state in the proportion that the number of miles of improved roads in the county road system of each county bears to the total number of miles of improved roads in the county road systems of all counties in the state. The director of the Idaho transportation department is directed to certify to the state auditor, on or before January 1 of each year, the number of miles of improved roads in each county. An improved road shall be a graded and drained earth road or better, and a graded and drained earth road shall be a traveled way of natural earth, aligned and graded to permit reasonable convenient use by a motor vehicle, and drained by longitudinal and transverse systems, natural or artificial, sufficiently to prevent serious impairment of the roadway by surface water.

(3) The state auditor shall ascertain the sums set for the apportionment and remit to the local governments their share of the amount computed. The apportionment hereby made shall be remitted to the local governments not later than January 25, April 25, July 25, and October 25 of each year.

(4) Moneys paid to incorporated or specially chartered cities shall be expended by the governing bodies of those cities solely in the construction and maintenance of roads and streets within their corporate limits.

(5) Moneys paid to the counties shall be placed by each county in a fund to be known as the county road fund and the county shall apportion the same as follows: To the interest and sinking fund of the county an amount as may be necessary to meet the interest and sinking fund requirements for the current year on any unpaid bonds issued by the county for road and bridge purposes, or refunding bonds issued to take up those bonds. The county shall pay over to each highway and good roads district within the county the portion of the balance of the county road fund as the following apportion shall apply:

(a) Ten per cent (10%) shall be divided equally among the county, if the county maintains any roads, the highway districts and good roads districts;

(b) Forty-five per cent (45%) shall be divided among the county, if the county maintains any roads, the highway districts and the good roads districts of the county in the proportion that the amount collected from motor vehicle registrations in each area designated herein during the last calendar year bears to the total amount of those collections in the entire county;

(c) Forty-five per cent (45%) shall be divided among the county, if the county maintains any roads, the highway districts and good roads districts in the proportion that the number of miles of improved roads in the county road, highway or good roads district bears to the total number of miles of improved roads in the entire

county road system as defined in subsection (2)(c) of this section, and the county shall apportion as and when needed for disbursement for current expenses for the construction and maintenance of highways any further balance of the county road fund to the road and bridge fund of the county, and the county may expend all or any portion of the road and bridge fund in the construction and maintenance of state highways within the county.

(6) Each highway and good roads district receiving an apportionment from the county road fund shall apportion those funds as follows: To the interest and sinking fund of the district, an amount as may be necessary to meet the interest and sinking fund requirements for that year on any unpaid bonds issued by that district, and any balance of those funds shall be used for road and bridge maintenance and construction. Each district may expend all or any portion of the balance of those funds in the construction and maintenance of state highways within the district.

(7) No part of the county road fund or any apportionment from it shall ever be used for any purposes other than those provided in this section, except as specifically otherwise provided, and if, at the end of any fiscal year there shall remain an unexpended balance of those funds in the hands of the treasurer of any highway district or good roads district, that balance shall be carried forward and retained and thereafter applied to the maintenance and construction of highways or the payment of bond interest and principal and sinking fund requirements.

SECTION 5. That Chapter 4, Title 40, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 40-405B, Idaho Code, and to read as follows:

40-405B. CREATION OF LOCAL BRIDGE INSPECTION ACCOUNT -- ADMINISTRATION. In order to promote public safety at bridges on local public roads and streets, and to provide for the payment of the local matching share of federal funds available for periodic inspection of these bridges to comply with federal laws, there is hereby created in the dedicated fund of the state treasury an account known as the "local bridge inspection account." The Idaho transportation department is charged with the sole and exclusive administration of this account, and shall follow federal guidelines in making bridge inspections which are to be funded in part with federal funds.

SECTION 6. That Section 40-2210, Idaho Code, be, and the same is hereby amended to read as follows:

40-2210. STATE HIGHWAY ACCOUNT -- CREATION. For the purpose of carrying out the provisions of this chapter, there is hereby created in the office of the state treasurer a separate account to be known as the state highway account, which account shall include:

1. All moneys received by the state treasurer for deposit to the state highway account~~,-which-amount-shall-include-one-dollar-($1.00)~~

~~for each instruction permit issued, one dollar and ninety five cents ($1.95) for each operator's license issued, three dollars and ninety five cents ($3.95) for each chauffeur's license issued, and two thirds (2/3) of all moneys collected for licenses issued by the Idaho transportation department for motor vehicles in conformance with the provisions of chapter 1, title 49, Idaho Code.~~

2. All fines, penalties and forfeitures incurred and collected for violations of the provisions of this chapter~~, as hereinafter provided~~.

3. All donations to the state from any source for the construction and improvement of highways.

4. All funds received from local boards under joint contracts for the construction of state highways, as hereinbefore in this chapter provided; and,

5. Other funds which ~~have heretofore or~~ may ~~hereafter~~ be provided by law for the construction and improvement of state highways.

SECTION 7. That Section 49-104, Idaho Code, be, and the same is hereby amended to read as follows:

49-104. RECORDS OF DEPARTMENT -- FEES FOR SERVICES BY BOARD -- PORTION OF FEES TO COUNTY. a. All registration and license records in the office of the department shall be public records and open to inspection by the public during business hours.

b. In addition to all other fees required by law to be collected by the board, the board shall collect for the following services the following fees:

1. For certifying a copy of any record pertaining to any motor vehicles license, any certificate of title, or any operator's or chauffeur's license $3.00
2. For recording the transfer of any interest upon a certificate of title $3.00
3. For issuance of every certificate of title on a new motor vehicle sold by a registered dealer to a purchaser $3.00
4. For issuance or transfer of every certificate of title on a new or used motor vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section $15.00
5. For furnishing a duplicate copy of any certificate of title or receipt of registration $3.00
6. For issuing an Idaho certificate of title, or an interstate letter in lieu of the Idaho certificate of title on any motor vehicle that has previously been licensed in another state . $3.00
7. For answering inquiries as to registration or ownership of motor vehicles or driver's license records, per vehicle registration, title or per driver's license record $2.00
8. For services in furnishing copies of files of motor vehicle or other registrations, motor vehicle titles, driver's licenses or chauffeur's licenses, per hour $10.00
9. Placing "stop" cards in motor vehicle registration or title files, each $2.00

10. For issuance of an assigned or replacement vehicle identification number (VIN) $10.00

11. For a vehicle identification number (VIN) inspection conducted by any city or county peace officer as defined in section 19-5101(d), Idaho Code, or any other peace officer or designated agent of the ~~motor--vehicle---division,~~ department ~~of---law enforcement~~, per inspection $3.00

12. For all duplicate registration stickers, each ..... $.50

c. The fees required by this section shall not apply when the service is furnished to any federal, state, county or city peace officer as defined in section 19-5101(d), Idaho Code, when such service is required in the performance of their duties as peace officers.

d. The board shall pay one dollar ($1.00) of the fee collected by a county assessor or other agent of the department under subsections b 1,2,3,4,5 and 6 of this section to the county assessor of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county ~~general~~ current expense fund; the remainder of the fees collected under this section shall be paid by the board to the state treasurer and placed in the state highway account. The fee collected under subsection b. 11. of this section shall be placed in the city general fund if collected by a city peace officer, in the county current expense fund if collected by a county peace officer ~~or-agent-of-the-department-employed--by--the--county~~ or paid to the state treasurer and placed in the ~~motor-vehicle~~ state highway account if collected by the board.

SECTION 8. That Section 49-107, Idaho Code, be, and the same is hereby amended to read as follows:

49-107. OWNER TO SECURE REGISTRATION IN COUNTY OF RESIDENCE OR FROM BOARD. a. Every owner of a motor vehicle, trailer or semi-trailer who intends to operate the same upon any highway in this state shall before the same is so operated, apply to the assessor of the county in which he resides and obtain the registration thereof, except the owner of any vehicle which is exempted by section 49-108, Idaho Code, and excepting, also, when an owner is permitted to operate a vehicle under the special provisions relating to lien holders, manufacturers, dealers, and vehicles registered in a foreign country, state, territory, or federal district, contained in sections 49-117(c), 49-118, 49-120 and 49-206--49-211, Idaho Code, provided that the registration for commercial vehicles or commercial combinations having a maximum gross weight in excess of sixteen thousand (16,000) pounds and noncommercial vehicles or noncommercial combinations having a maximum gross weight in excess of sixteen thousand (16,000) pounds shall be procured from, and the registration and use tax fees therefor paid to, the board, except as hereinafter provided.

b. The following motor vehicles shall be registered for the appropriate gross weight scale with the county assessor of the county in which the owner resides:

(1) Motor vehicles equipped primarily to haul passengers on a commercial basis, doing strictly an intrastate business, and hav-

ing gross weights of twenty-four thousand (24,000) pounds or less.

(2) Any farm vehicle or combination of vehicles where each vehicle or combination of vehicles shall not exceed a gross weight of sixty thousand (60,000) pounds, and utility farm trailers for the gross weight as shown in section 49-127~~(f)~~6(5), Idaho Code.

c. Nonresident vehicles or combination of vehicles owned by transient labor used in hauling unprocessed agricultural products for hire and not exceeding sixty thousand (60,000) pounds gross weight shall register their vehicle for the appropriate gross weight scale for the annual fee if registered on or before June 30, and for one-half (1/2) the annual fee if not registered until on or after July 1 of any year, with the county assessor of the county in which the owner resides.

SECTION 9. That Section 49-113, Idaho Code, be, and the same is hereby amended to read as follows:

49-113. NUMBER PLATES TO BE FURNISHED BY DEPARTMENT -- FORM AND CONTENTS. a. The assessor shall ~~also~~ furnish to every owner whose vehicle shall be registered by that office one (1) number plate for a motorcycle, trailer, truck-tractor, or semi-trailer and two (2) number plates for every other motor vehicle. The department may extend the life of the current series of license number plates outstanding since January 1973 and each subsequent year and may hereafter issue a new series of semi-permanent license number plates for an indefinite period of time, but in no event for a period less than five (5) years. Any ~~such~~ series of license number plates may be replaced or canceled by the board anytime after five (5) years from the year of issuance of such series.

During intervening years in which license number plates are not issued, replaced, or canceled, license number plates shall be retained by the owner until lost, stolen, mutilated, or illegible~~--At such~~, at which time ~~and--under such circumstances,~~ the owner shall then apply for a duplicate or substitute therefor as provided in section 49-121, Idaho Code. In any year during which number plates are not furnished, the assessor shall furnish for each registration, and to validate the number plate, a pressure-sensitive registration sticker. This registration sticker shall be serially numbered. ~~Providing that n~~Number plates issued for state, county and city motor vehicles shall be permanent and remain on the vehicle for which issued from year to year, and need no renewal or validation sticker.

Number plates issued to vehicles required to register in accordance with section 49-126, Idaho Code, shall be issued registration validation stickers showing the year of registration only ~~and the last digit of the number plate will designate the registration period to fulfill the purpose of the monthly series registration system in that particular year. Number plates ending in 1 through 0 shall be the registration periods January through October and the registration period shall expire midnight on the last day of the registration period in the year designated by the registration sticker. All vehicles required by any other section (other than 49-126) of this chapter to be registered shall be issued number plates and/or validation~~

~~stickers-for-a-calendar-year-and-shall-expire-midnight-December-31.~~

b. Every number plate shall have displayed upon it the registration number assigned to the vehicle and ~~to-the~~ its owner ~~thereof~~, also the name of this state which may be abbreviated and the year number for which it is issued whenever replacement plates or a series of replacement plates are issued. In years that validation stickers are issued, the year number need not be shown on the number plate. ~~Such~~ The plate and the required letters and numerals ~~thereon~~, except the year number for which issued, shall be of sufficient size to be plainly readable from a distance of one hundred (100) feet during daylight, and each number plate and each registration sticker shall be treated with a fully reflectorized material according to specifications prescribed by the board and the plates shall have green numerals and letters on a white background. Each passenger number plate must bear upon its face the inscription "Famous Potatoes."

c. The board ~~shall-furnish-to-every-owner-whose-vehicle-shall-be registered,-number-plates-and-registration-stickers--the--same--as--if such--vehicle-had-been-registered-by-a-county-assessor-and-in-addition thereto~~ shall furnish to every owner whose vehicle is subject to the payment of the use fee provided by subdivision (e) of section 49-127, Idaho Code, a use fee number plate. ~~Said~~ The use fee number plate shall be similar in form to the registration plate and shall contain ~~such~~ information as the board may by rule or regulation provide.

d. The board shall have authority to require the return to the department of all number plates and registration stickers upon termination of the lawful use ~~thereof~~ of them by the owner~~,--under--this chapter~~.

e. The fee for all duplicate plates shall be two dollars ($2.00) for one (1) plate or two dollars and fifty cents ($2.50) per set of plates.

f. Whenever a vehicle is completely destroyed by fire or accident and the operator submits satisfactory proof of that destruction to the department, the registration use increment and fees shall be transferred to the replacement vehicle for a service transfer fee of five dollars ($5.00). None of the original fees shall be subject to refund.

SECTION 10. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

49-117. ASSIGNMENT OR TRANSFER OF INTEREST -- PROCEDURE. a. Whenever the owner of a motor vehicle registered under the provisions of section 49-126 ~~and--subsections--(a),-(b)-and-(c)-of-section-49-127,~~ Idaho Code, transfers or assigns his title or interest thereto, the registration card and registration plates shall remain with and in the possession of the transferor, and before ~~such~~ the registration plates shall be displayed upon another motor vehicle owned by the transferor, the transferor shall have ~~such~~ that motor vehicle registered as provided for in section 49-107, Idaho Code. For ~~such-registration,-all~~ vehicles registered under section 49-126(1), Idaho Code, the transferor shall pay the registration fee required by section 49-126(1), Idaho Code, less the registration fee already paid, plus a transfer fee of

two dollars ($2.00), or if the transferor shall have an older ~~car~~ vehicle to be registered, the transferor shall pay a transfer fee of two dollars ($2.00)~~;-for~~. For vehicles registered in accordance with subsections ~~(a),-(b)-and-(c)-of-section--49-127~~ (2) through (5) of section 49-126, Idaho Code, the registration fee shall be the fee provided by subsection (b), (c) or (d) of section 49-129, Idaho Code, plus a transfer fee of two dollars ($2.00). The transfer fee of two dollars ($2.00) collected under this subsection shall be paid to the county treasurer where the vehicle is registered and ~~such~~ the transfer fee shall be placed in the county ~~general~~ current expense fund.

b. The registration and use fee plates originally assigned to a motor vehicle registered under the provisions of section 49-127, ~~except-subsections-(a),-(b)-and-(c)-thereof~~ Idaho Code, must remain attached thereto until the end of the current registration year, provided, however, that upon a change of registered ownership of any motor vehicle upon which the registration and use fee plates have been computed according to ~~subsection-(d)-of~~ section 49-127, Idaho Code, the registration and use fee plates shall be returned to the department.

c. In the event of a transfer by operation of law of the title or interest of an owner in and to a motor vehicle registered under the provisions of sections 49-126 and 49-127, Idaho Code, as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performing the terms of a lease or executory sales contract, or otherwise, the registration thereof shall expire and the registration card and plates and use fee plates shall be ~~forthwith~~ immediately surrendered to the department and ~~such~~ the motor vehicle shall not be operated upon the highways of the state of Idaho until and unless the person entitled ~~thereto~~ to do so shall apply for and obtain a new registration card and plates and use fee plates to himself in accordance with the provisions of section 49-107, Idaho Code, except that an administrator, executor, trustee or other representative of the owner, or a sheriff or other officer, or any person repossessing the motor vehicle under the terms of a conditional sales contract, lease, chattel mortgage or other security agreement or the assignee or legal representative of any such person may operate or cause to be operated any motor vehicle upon the highway from the place of repossession or place where formerly kept by the owner to a garage, warehouse or other place of keeping or storage, provided the place of repossession and place of destination are both located within the state of Idaho, upon obtaining a written permit from the department of the local police authorities having jurisdiction of ~~such~~ the highways and upon displaying in plain sight upon ~~such~~ the motor vehicle a placard bearing the name and address of the person authorizing and directing such movement, and plainly readable from a distance of one hundred (100) feet during daylight. During pendency of any probate proceedings, a ~~probate~~ court is hereby authorized to permit a motor vehicle subject to the conditions of this subsection to be used and driven by the person or persons applying therefor for the time and in the manner provided by the order of ~~such~~ that court; and the right thus conferred shall be indicated by a placard bearing the name of the court issuing

the order and the name and address of the person authorized to use ~~such~~ the motor vehicle.

SECTION 11. That Section 49-120, Idaho Code, be, and the same is hereby amended to read as follows:

49-120. REGISTRATION BY NONRESIDENTS -- FEES. All motor vehicles, or combination of vehicles owned by nonresidents and operated in this state shall be subject to the same fees as are required with respect to like vehicles operated by residents of this state; provided, that such vehicles may be operated without the payment of any license, use or registration fees to the extent that exemption therefrom is provided in agreements or regulations for reciprocal privileges issued under and pursuant to the Idaho motor vehicle reciprocity act~~;--provided--further;--that--if~~. If the nonresident vehicles' state of residence grants temporary trip permit privilege in that state to like vehicles from the state of Idaho, the nonresident operator of any such vehicle may in lieu of full licensing and registration under the laws of this state obtain a temporary trip permit from the department authorizing operation of ~~such~~ the vehicle in the state for a period not to exceed ninety-six (96) hours and shall pay a base issuance fee of twelve dollars ($12.00) per trip permit on any vehicle or combination of vehicles over eight thousand (8,000) pounds gross weight in addition to the following fees which shall be paid on the maximum gross weight of the vehicle or combination of vehicles:

Maximum Gross Weight of Vehicle or Combination of Vehicles	Fee Schedule Mills Per Mile
8,001- 16,000	10.00
16,001- 26,000	21.65
26,001- 40,000	31.75
40,001- 50,000	39.70
50,001- 60,000	49.00
60,001- 80,000	71.85
80,001-105,500	108.90

A temporary trip permit shall contain such information, and be in a form, and shall be issued under rules and regulations as may be prescribed by the department, and shall be displayed at all times while the vehicle is being operated on the highways of this state by posting ~~the same~~ it upon the windshield of each vehicle or in another prominent place ~~thereon~~, where it may be readily legible.

The department may select vendors to serve as agents on state highways for the purpose of selling trip permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of two dollars ($2.00) per permit sold, and he shall collect the fees ~~herein~~ provided by this section, and pay the ~~same~~ fees to the department. The vendor shall guarantee payment by giving a bond to the state of Idaho in a sum as shall be fixed by the board, the premium on the bond to be paid by the

department.

The board may, by reasonable rules, permit nonresident owners and/or operators of vehicles in lieu of obtaining permits for each individual trip, to make monthly reports to the department, by the 20th day of the month, showing all movements of such vehicles within the state during the previous month and, at time of making the report, pay the required fees. Owners and/or operators shall be required to furnish a bond to the state of Idaho in a sum as the board may determine, to insure payment of fees; and the owner or operator shall pay the cost of auditing the reports by the board at least once a year.

~~All--fees--received--for--the--permits--herein--mentioned-shall-be remitted-by-the-department-to-the-state-treasurer-and-by-him-placed-in the-state-highway-account.~~

SECTION 12. That Section 49-125A, Idaho Code, be, and the same is hereby amended to read as follows:

49-125A. SINGLE TRIP PERMITS -- FEE. When any vehicle subject to license or registration is to be moved upon the public highways of the state of Idaho, from one point to another, the department may issue a special permit, in lieu of license or registration upon the payment of a fee of twelve dollars ($12.00). The permit shall be for the unladen single trip movement or transit of the vehicle only between the points of origin and destination as set forth on the permit.

~~All-fees-collected-by-the-department-under-this-act-shall-be--paid to-the-state-treasurer-and-placed-in-the-state-highway-account.~~

SECTION 13. That Chapter 1, Title 49, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION to be known and designated as Section 49-126, Idaho Code, and to read as follows:

49-126. OPERATING FEES. (1) The annual fee for operating each pickup truck and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds, designed for the purpose of carrying passengers, and not used for hire shall be:

Vehicles one (1) and two (2) years old $36.00
Vehicles three (3) and four (4) years old 33.00
Vehicles five (5) and six (6) years old 25.80
Vehicles seven (7) and eight (8) years old 22.20
Vehicles over eight (8) years old 15.60

For the purpose of this subsection, the age of a motor vehicle shall be determined by subtracting the manufacturer's year designation of the vehicle from the year in which the fee designated is paid. If the vehicle has the same manufacturer's year designation as the year in which the fee is paid, or if a vehicle has a manufacturer's year designation later than the year in which the fee is paid, the vehicles shall be deemed to be one (1) year old for the purposes of this subsection. The term "manufacturer's year designation" shall mean the model year designated by the motor vehicle manufacturer, and not the year in which the vehicle is in fact manufactured.

There shall be ten (10) registration periods, starting in January for holders of license plates ending in 1, and proceeding consecutively through October for holders of license plates ending in 0, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the date of beginning. The months of November and December are excluded from the monthly series registration system. Registration periods shall expire midnight on the last day of the registration period in the year designated by the registration sticker or year embossed on the plate. The last numeral digit on the number plate or plates shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all motor vehicles, trailers and semitrailers equipped to carry passengers and operated primarily for hire exclusively within the limits of an incorporated city and adjacent thereto, when the service outside the city is a part of a regular service rendered inside the city, and for school buses operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twelve dollars ($12.00).

(3) For all hearses, ambulances and wreckers the annual fee shall be twenty-nine dollars ($29.00), and these vehicles shall bear passenger car plates. No operator of a hearse, ambulance, or wrecker shall be entitled to operate them by virtue of any dealer's license that may have been issued under the provisions of this chapter.

(4) For all motorcycles the annual fee shall be six dollars ($6.00).

(5) The registration fees for utility trailers and rental utility trailers shall be:

Maximum Laden or Gross Weight (Pounds)	Annual Registration Fee Utility Trailers	Rental Utility Trailers
Up to 2,000	$ 3.00	$ 6.00
2,001-5,000	6.00	12.00
5,001-8,000	10.00	18.00

(6) All vehicles required by subsections (2) through (5) of this section to be registered shall be issued number plates and/or validation stickers for a calendar year and shall expire midnight December 31.

SECTION 14. That Chapter 1, Title 49, be, and the same is hereby amended by the addition thereto of a NEW SECTION to be known and

designated as Section 49-127, Idaho Code, and to read as follows:

49-127. OPERATING FEES. (a) For the purpose of this section, the following definitions shall be applicable:

1. A commercial vehicle means a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 9, title 49, Idaho Code, and shall include drilling rigs, construction, drilling and wrecker cranes, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to section 49-126, Idaho Code, or exempted by section 49-108, Idaho Code.

2. A farm vehicle means a vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of that vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to section 49-126, Idaho Code.

3. A noncommercial vehicle shall not include those vehicles required to be registered under section 49-126, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles as defined in this section. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

4. When a vehicle against which the registration or use fee is assessed is a combination of vehicles, the term maximum gross weight means the combined maximum gross weights of all vehicles in the combination.

(b) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule. Upon payment of the registration fee, the department shall issue an identification plate, to be attached to individual self-propelled motor vehicles, and to the self-propelled motor vehicle in any combination of vehicles.

Maximum Gross Weight (Pounds)	Annual Registration Fee Noncommercial and Farm Vehicles	Commercial Vehicles
8,001-16,000 inc.	$ 30.60	$ 30.60
16,001-26,000 inc.	60.60	143.40
26,001-30,000 inc.	91.20	223.80
30,001-40,000 inc.	129.60	291.90
40,001-50,000 inc.	187.80	360.00
50,001-60,000 inc.	311.40	515.40

(c) There shall be paid on all commercial vehicles, irrespective of body type, and on all noncommercial vehicles, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount of one hundred twenty dollars ($120). Upon payment of the registration fee, the department shall issue an identification plate, to be attached to individual self-propelled motor vehicles, and to the self-propelled motor vehicle in any combination of vehicles.

In addition, an annual license fee shall be required for each trailer or semitrailer in a combination of vehicles in the amount of fifteen dollars ($15.00). Upon payment of the license fees, the department shall issue license plates for the appropriate year.

(d) In addition to the registration and license fees provided by subsections (b) and (c), there shall be paid on all commercial vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee in accordance with the following schedule. The use fees shall be based on mills per mile of operation, subject to the provisions of subsection (g) of this section.

Maximum Gross Weight of Vehicle (Pounds)	Mills per Mile
60,001-62,000	30.05
62,001-64,000	31.35
64,001-66,000	32.60
66,001-68,000	33.90
68,001-70,000	35.15
70,001-72,000	36.40
72,001-74,000	38.55
74,001-76,000	40.65
76,001-78,000	42.75
78,001-80,000	44.90

(e) In addition to the registration and license fees of this section, there shall be paid on all noncommercial vehicles, farm vehicles, and any commercial vehicle exclusively engaged in the transportation of logs, pulp wood, stull, poles, piling, rough lumber, ores, ore concentrates, sand and gravel aggregates in bulk, livestock and vehicles domiciled in Idaho used for the sole purpose of transporting milk from the farm to processing plant, having a maximum gross weight in excess of sixty thousand (60,000) pounds, a use fee of 22.45 mills per mile.

(f) If any motor vehicle, trailer or semitrailer, or combinations thereof, is authorized under the provisions of section 49-916, Idaho

Code, to move on the highways of the state, and the vehicle exceeds the maximum gross weight of eighty thousand (80,000) pounds, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the permitted excess weight.

(g) An applicant for registration of a commercial vehicle, a non-commercial vehicle or a farm vehicle shall set forth the maximum gross weight of the vehicle or combination of vehicles and the applicant shall pay any annual registration fees and any annual license fees on trailers and semitrailers required at the time he makes application for registration subject to the provisions of subsections (b) and (c). No part of the registration or license fees shall be subject to refund. The use fee payment required shall be computed according to the schedule in either subsection (d) or (e) on the mileage operated over the highways of the state of Idaho and the owner of any vehicle against which a use fee is assessed, shall at the time of making his next quarterly report pay the use fee, if any, for the three (3) calendar months immediately prior. In determining the mileage subject to the use fee, there shall be deducted the miles traveled on roadways maintained with private funds by agreement with the public agency or agencies having jurisdiction over them. In no event shall the total money credited to the owner for the mileage exceed the actual cost of maintenance expended by him.

(h) The license, registration and use fees of this section shall not be applicable to trailers registered pursuant to section 49-126, Idaho Code.

SECTION 15. That Section 49-127B, Idaho Code, be, and the same is hereby amended to read as follows:

49-127B. PROPORTIONAL REGISTRATION OF COMMERCIAL VEHICLES. (a) As used in this section: "Commercial vehicle" means any vehicle which is operated in more than one state and used for the transportation of persons for hire, compensation or benefit, or designed or used primarily for the transportation of property;

"Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country and a state or province of a foreign country;

"Fleet" means three (3) or more commercial vehicles at least two (2) of which are motor vehicles;

"Preceding year" means a period of twelve (12) consecutive months fixed by the department which period shall be within the eighteen (18) months immediately preceding the commencement of the registration or license year for which proportional registration is sought; and the department in fixing such period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(b) Any owner engaged in operating one or more fleets may, in lieu of the registration fees imposed by section 49-127 ~~(parts 4 and~~

5), Idaho Code, register each fleet for operation in this state by filing an application with the department which shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(1) Total fleet miles. This shall be the total number of miles operated in all jurisdictions during the preceding year by the motor vehicles in such a fleet during said the year.

(2) In-state miles. This shall be the total number of miles operated in this state during the preceding year by such motor vehicles in such the fleets during said the year.

(3) A description and identification of each vehicle of such the fleet which is to be operated in this state during the registration year for which proportional fleet registration is requested, and, as determined by the department, the vehicle unit number of each fleet vehicle as assigned by the owner.

(c) The application for each fleet shall, at the time and in the manner required by the department, be supported by a fee payment computed as follows:

(1) Divide in-state miles by total fleet miles.

(2) Determine the total amount necessary to register each and every vehicle in the fleet for which registration is required based on the regular annual fees prescribed by section 49-127 (parts 4 and 5), Idaho Code.

(3) Multiply the sum obtained under subsection 49-127B(c)(2) hereof, Idaho Code, by the quotient obtained under subsection 49-127B(c)(1) hereof, Idaho Code.

(d) The applicant for proportional registration of any fleet, the motor vehicles of which are operated by him in jurisdictions in addition to those in which the applicant's fleet motor vehicles are operated, may state such those motor vehicles separately in his application and compute and pay the fees therefor in accordance with such the separate statement, as to which "total miles" shall be the total miles of highway operation determined from miles of power units, whether prorated or not, operated in combination with prorated trailers in all jurisdictions during the preceding year.

(e) The department shall register the vehicle so described and identified and may issue a license plate or plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsection (c) and an additional identification charge of two dollars ($2.00) per vehicle. A registration card shall be issued for each proportionally registered vehicle appropriately identifying the--same it which shall be carried in or upon the vehicle identified at all times but which, in the case of vehicle combinations, may be carried in the vehicle supplying the motive power.

Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, no such vehicle shall be operated in intrastate commerce in this state unless the owner thereof has been granted intrastate authority or rights by

the public utilities commission and unless said the vehicle is being operated in conformity with such authority or rights.

(f) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this act section, or by any contract, agreement, arrangement or declaration made under the authority of this act section, shall be subject to the condition that each fleet vehicle proportionally registered under the authority of this act section also shall be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which it is proportionally registered in this state.

(g) Vehicles acquired by the owner after the commencement of the registration year and subsequently added to a proportionally registered fleet shall be proportionally registered by applying the mileage percentage used in the original application for such the fleet for such that registration period to the annual registration fees due with respect to such those vehicles for the remainder of the registration year.

(h) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under the provisions of this act section, the owner of such the fleet shall so notify the department on appropriate forms to be prescribed by the department. The department may require the owner to surrender proportional registration cards and such other identification devices which have been issued with respect to such the vehicle as the department may deem advisable.

(i) The initial application for proportional registration of a fleet shall state the mileage data with respect to such the fleet for the preceding year in this and other jurisdictions. If no operations were conducted with such the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in this state and other jurisdictions. The department shall determine the in-state and total fleet miles to be used in computing the fee payment for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to the correctness thereof.

(j) The department may refuse to accept proportional registration applications for the registration of vehicles based in another jurisdiction if the department it shall find that such the other jurisdiction does not grant similar registration privileges to fleet vehicles based in or owned by residents of this state.

(k) Any owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of four (4) years following the year or period upon which said the application is based. Upon request of the department, the owner agrees to make such his records accessible to the department for audit as to accuracy of computations and payments and assessments of deficiencies or allowances for credit. The department may make arrangements with agencies of other jurisdictions administering motor vehicle registration laws for joint audits of any such owner or exchange of audit information. No assessment for deficiency or claim for credit may be made for any period for which records are no longer

required. Any sums found to be due and owing upon audit shall bear interest of six per cent (6%) from the date when they should have been paid until the date of actual payment. If the audit discloses a deliberate and willful intent to evade the requirements of appropriate payment under subsection (c)(2), a penalty of ten per cent (10%) shall also be assessed.

(l) Nothing contained in this ~~act~~ section relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including, but not by way of limitation, regular registration or temporary trip permit.

(m) The department may enter into agreements with other states on behalf of the state of Idaho for proportional registration of commercial vehicles in the manner provided for in this section for the purpose of facilitating ~~the~~ administration ~~thereof~~. In addition it may conclude arrangement or agreements with other states for the exchange of information for audit and enforcement activities in connection with ~~such~~ proportional registration. The department may adopt and promulgate ~~such~~ rules and regulations as it shall deem necessary to effectuate and administer the provisions of this section and the registration of fleet vehicles under this section shall be subject to the rights, terms and conditions granted or contained in any applicable agreement made by the department under the authority of this section.

(n) This ~~act~~ section shall be, and construed as, a part of and supplemental to the motor vehicle registration law of this state.

(o) If any ~~phrase,-clause,-subsection-or~~ part of this section ~~of this-act~~ shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this ~~act~~ section without the phrase, clause, or subsection ~~or-section~~ so held unconstitutional or invalid and the remainder of the ~~act~~ section shall not be affected as a result of ~~said~~ the part being held unconstitutional or invalid.

SECTION 16. That Section 49-128, Idaho Code, be, and the same is hereby amended to read as follows:

49-128. QUARTERLY REPORTS -- MAINTAINING RECORDS -- PENALTIES -- DEPOSIT ON BOND TO SECURE PAYMENT OF FEES -- APPEAL. (a) Not later than the 25th day of April, ~~1957,~~ and on the same day of each third calendar month thereafter, each owner of a commercial motor vehicle, trailer or semitrailer having a maximum combined gross weight in excess of ~~sixteen-thousand-(16,000)-pounds-and-powered-by-a-motor-fuel other-than-gasoline-and-each-owner-of-a-motor-vehicle-having-a-maximum combined-gross-weight-in-excess-of~~ sixty thousand (60,000) pounds must file with the department a statement of the gross miles each such motor vehicle has traveled over the highways of the state of Idaho for the preceding calendar months of the year for which ~~such~~ that report is made. Each ~~such~~ report shall be cumulative of all miles traveled during all calendar months in ~~said~~ that year for which ~~such~~ the report is made.

(b) Every owner whose use fees are computed under section 49-127, Idaho Code, shall maintain records and purchase documents to substantiate and justify the use of such schedule and shall permit the department or a duly authorized representative to inspect the same upon demand. When ~~such~~ records are maintained outside this state by owners engaged in transportation in this state, the owner shall reimburse the department for reasonable expenses incurred by the department in making audits of ~~such~~ records and accounts at the out-of-state location. The owner or the department may request that the records be presented at a place within the state designated by the department. ~~Such~~ The records must be presented by a representative of the owner familiar with the records and who is responsible for the safekeeping of the records. An owner who wilfully fails to maintain records and purchase documents to substantiate and justify the mileage reported shall have the registration of all vehicles registered under sections 49-127 and 49-127B, Idaho Code, cancelled until such time as adequate records are provided. An owner found to be in violation of the registration cancellation shall be guilty of a misdemeanor as provided in section 49-147, Idaho Code.

(c) An owner failing to file a report or pay any fee due within the time required pursuant to this ~~act~~ chapter shall in addition to the amount of the fee pay a penalty of fifteen percent (15%) of the amount of fee determined to be due plus one percent (1%) of ~~such~~ the amount for each month or fraction thereof after ~~such~~ the report was required to be filed or ~~such~~ the fee became due, but the department if satisfied that the delay was excusable may remit all or any part of ~~said~~ the penalty.

(d) 1. If the department finds it necessary in order to insure the collection of any fees or penalties imposed upon an owner of a commercial motor vehicle having a maximum combined gross weight in excess of ~~sixteen--thousand--(16,000)--pounds--pursuant--to-this chapter-powered-by-a-motor-fuel-other-than-gasoline-and-each-owner of-a-motor-vehicle-having--a--maximum--combined--gross--weight--in excess--of~~ sixty thousand (60,000) pounds, it may at the time and as a condition of granting a registration or as a condition of continuing a registration require an owner to deposit and keep on deposit with the department a sum equal to the estimated fees computed under ~~schedule--"A"--or--"B"--as--appropriate,--of~~ section 49-127(c), Idaho Code, for a period of not to exceed three (3) months. In determining the necessity for an applicant or owner to maintain a deposit the department shall consider the applicant or owner's financial capability and responsibility and prior experience, if any, in collecting fees or penalties from the applicant, owner or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the registration.

2. The department may accept in lieu of ~~such~~ a deposit a bond to secure payment of sums payable by the owner. The total amount of the deposit or bond shall be determined by the department in ~~such~~ a manner as it shall deem proper, taking into account the nature and scope of the owner's operations and the amount may be

increased or reduced at any time.

3. If an owner ceases to be registered under this chapter, the department, upon receipt of all payments due, shall refund to the owner all deposits remaining to the owner's credit and shall release the surety on any bond given under this section.

4. Any applicant or owner required under this section to make a deposit to secure the payment of fees or penalties may by proper petition demand a hearing on the necessity of ~~such~~ a deposit or the reasonableness of the amount required. A hearing shall be granted and held within ten (10) days after the demand ~~therefor~~ hearing. The decision of the director shall become final ten (10) days after service of the order upon the applicant or owner concerned. Notice shall be served personally or by certified mail addressed to the applicant or owner at his address as it appears in the records of the director. An appeal may be taken from any decision of the department as from the decision of the magistrate's division to the district court.

SECTION 17. That Section 49-149, Idaho Code, be, and the same is hereby amended to read as follows:

49-149. DISPOSITION OF FINES. All fines and forfeitures collected for violations of any of the provisions of this chapter shall be remitted to the ~~department-of-the-state-of-Idaho~~ state treasurer and placed in the ~~state~~ highway ~~fund~~ distribution account.

SECTION 18. That Section 49-155, Idaho Code, be, and the same is hereby amended to read as follows:

49-155. REGISTRATION FEES -- TRAILER HOUSES -- TRAILER HOUSES DEFINED -- GENERAL PROPERTY TAX PREREQUISITE TO LICENSING. The fees for licensing trailers as ~~hereinbefore--set-forth~~ provided in this chapter shall not be applicable to trailer houses herein defined as mobile houses, recreational vehicles or habitable vehicles and the fee for licensing ~~such~~ trailer houses in lieu of those ~~hereinbefore~~ otherwise set forth shall be four dollars ($4.00). In addition to the four dollars ($4.00) license fee, and as a prerequisite to licensing, there shall be an assessment levied on each trailer house, except recreational vehicles, for ad valorem tax as provided under section 63-102 and section 63-1203, Idaho Code. An applicant for a trailer house license, but not an applicant for a recreational vehicle license, shall be required to exhibit the general property tax receipt for the year of registration, before a license may be issued. It shall be illegal for any trailer house to be moved on any highway in Idaho without first being licensed, and any person moving an unlicensed trailer house shall be guilty of a misdemeanor~~;-and-the~~. The license fees collected under this section shall be paid to the county assessor wherein ~~said~~ the license is purchased. Fifty per cent (50%) of ~~such~~ the license fees shall be placed in the county ~~general~~ current expense fund and the balance of ~~such~~ the fees shall be paid to the state treasurer who shall place all ~~such~~ the fees in the ~~state~~ highway

distribution account.

SECTION 19. That Section 49-157, Idaho Code, be, and the same is hereby amended to read as follows:

49-157. ADDITIONAL FEE FOR EACH PLATE ISSUED. Whenever any plate or plates are issued for vehicle registration, there shall be charged a fee of one dollar and ten cents ($1.10) per plate, which shall be in addition to the vehicle registration fee provided in this chapter. ~~All moneys-collected-under-the-provisions-of-this-section--shall--be--paid into--the--state--highway-distribution-account,-any-other-provision-of law-notwithstanding.~~

SECTION 20. That Section 49-159, Idaho Code, be, and the same is hereby amended to read as follows:

49-159. EMERGENCY MEDICAL SERVICES FEE. An emergency medical services fee of fifty cents ($.50) shall be collected in addition to each motor vehicle registration tax or fee amount collected under the provisions of sections 49-126 and 49-127, Idaho Code, with the exception of those vehicles proportionally registered under section 49-127B, Idaho Code. All collections shall be transmitted to the state treasurer for deposit in the emergency medical services account created by section 39-146, Idaho Code~~,-less-an-administrative-fee-to be-retained-by-the-department,-not-to-exceed-five-percent-(5%)~~.

SECTION 21. That Section 49-216, Idaho Code, be, and the same is hereby amended to read as follows:

49-216. SPECIAL FEE REQUIRED. To defray the costs of making the special number plates the applicant shall pay an initial fee of five dollars ($5.00) per set of special number plates over and above the regular fee for the same class of vehicle, regardless of the time of issue. A fee of three dollars ($3.00) per set of special number plates, over and above the regular fee for the same class of vehicle, will be charged each year thereafter. This fee must accompany the application for license, and is not refundable~~,-and-shall-be-deposited in-the-state-highway-account~~.

SECTION 22. That Section 49-217, Idaho Code, be, and the same is hereby amended to read as follows:

49-217. STREET ROD PLATES. (1) Any modernized motor vehicle manufactured prior to the year 1949, or designed and manufactured to resemble such a vehicle and which has been certified as a street rod by an inspector of the United Street Rods of Idaho, may be registered as a street rod under the provisions of this section.

(2) Any street rod shall have all equipment in operating condition which was specifically required by law as a condition for its first sale after manufacture. No law requiring any particular equipment or specifying any standards to be met by motor vehicles shall

apply to street rods unless it so specifically states.

(3) Upon receipt of an application on a form prescribed by the department for special street rod automobile plates, accompanied by other documentation required by this section, the department shall issue to the applicant special street rod automobile plates. The registration certificate need not specify the weight of the street rod, and the plates issued shall bear no date but shall bear the inscription "Street Rod," "Idaho," a picture of a 1929 highboy roadster, and the registration number issued for the street rod, and the plates shall be valid upon yearly renewal as long as the vehicle is in existence. The plates will be issued for the applicant's use only for the particular vehicle, and in the event of a transfer of title, the transferor must surrender the plates for the transfer.

(4) In addition to the annual registration fees levied in sections 49-126 and 49-127, Idaho Code, a one (1) time fee for the plates shall be ten dollars ($10.00)~~;-which-ten--dollars--($10.00)--shall--be paid-into-the-state-highway-account~~.

(5) Applicants shall, along with the application for annual registration, provide satisfactory proof that the street rod and its owner are registered in the United Street Rods of Idaho, and satisfactory proof of passage of a safety inspection for the vehicle and possession of a valid national street rod association safety inspection sticker to be applied in the lower right-hand corner of the windshield of the vehicle upon which the special plates are to be displayed. The inspection may be accomplished in accordance with a safety inspection form supplied by the national street rod association, by designated national street rod association inspectors.

(6) The department has the power to revoke any registration issued under this section for cause shown for failure of the applicant to comply with the provisions of this section. A violation of the registration provisions of this section shall be a misdemeanor and punishable as provided in section 18-113, Idaho Code.

SECTION 23. That Section 49-231, Idaho Code, be, and the same is hereby amended to read as follows:

49-231. PERSONALIZED LICENSE PLATES. Any person who is the registered owner of a motor vehicle may apply for personalized license plates in lieu of regular numbered plates. In addition to the regular registration fee, the applicant shall be charged a fee of twenty-five dollars ($25) for the initial issuance of such plates, and twenty-five dollars ($25) upon each succeeding annual registration of the vehicle. The personalized license plates shall be of the same color and design as other license plates, and shall consist of numbers or letters, or any combination thereof, not exceeding six (6) positions. No more than one (1) particular combination of letters and numbers shall be in existence at any one (1) time. The form for application of ~~such~~ personalized plates will be as prescribed by the department, and the department may refuse to issue such plates in ~~his~~ its discretion. ~~The additional--fee--prescribed--by-this-section-shall-be-deposited-to-the credit-of-the-highway-fund-of-the-state-treasury.~~

When personalized license plates are issued for a motor vehicle, regular numbered plates on ~~such~~ the vehicle must be surrendered to the department. Personalized license plates must also be surrendered upon failure to pay the annual fee for personalized license plates.

SECTION 24. That Section 49-331A, Idaho Code, be, and the same is hereby amended to read as follows:

49-331A. REINSTATEMENT OF REVOKED OR SUSPENDED LICENSE -- FEE. When the period of revocation or suspension of a license has expired, or the reason for the revocation or suspension no longer exists, the department shall reinstate such license on application of the driver. The application shall be in the form prescribed by the department and accompanied by a reinstatement fee of fifteen dollars ($15.00). ~~The department--shall--remit-all-reinstatement-fees-collected-to-the-state treasurer-for-deposit-in-the-state-highway-account-to--administer--the driver's--license--suspension-program.--Funds-so-deposited-shall-not-be subject-to-the-provisions-of-section-40-405,-Idaho-Code.~~

SECTION 25. That Section 49-346, Idaho Code, be, and the same is hereby amended to read as follows:

49-346. DRIVER TRAINING ACCOUNT ESTABLISHED -- DEPOSIT OF FEES. The driver training account is hereby established in the office of the state treasury, which account is continuously appropriated for the purposes of driver training. Four dollars ($4.00) for each operator's license, three dollars ($3.00) for each instruction permit and four dollars ($4.00) for each chauffeur's license issued, and all of the additional driver training course fees paid shall be deposited ~~by--the department~~ with the treasurer of the state of Idaho in the driver training account. All disbursements for driver training purposes made under certificate of the state board of education shall be made from the driver training account.

SECTION 26. That Section 49-349, Idaho Code, be, and the same is hereby amended to read as follows:

49-349. REMITTANCE OF FEES. All moneys or fees which shall be paid to or collected by the sheriff of any county of the state of Idaho for receiving applications for or renewals of motor vehicle operators' licenses and motor vehicle chauffeurs' licenses shall, not later than the end of each and every month, be paid to the county treasurer wherein ~~said~~ the fees were collected and the county treasurer shall deposit one dollar and five cents ($1.05) from each of ~~said~~ the fees and one dollar and fifty cents ($1.50) from the fees charged for applications for duplicates of each license to the credit of the current expense fund and shall, at least monthly, remit the remainder of all of ~~said~~ the fees to the ~~department-for-deposit-with--the~~ state treasurer ~~to--the--law--enforcement--account--as--provided-by-section 49-1301,-Idaho-Code,~~ for deposit to the driver training account as provided by section 49-346, Idaho Code, and to the ~~state~~ highway

distribution account as provided by section 40-~~2210~~405, Idaho Code.

SECTION 27. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. PROCEDURE WHEN DEPARTMENT UNSATISFIED AS TO OWNERSHIP OR SECURITY INTERESTS -- TEMPORARY REGISTRATION PROCEDURE. (1) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle but shall either:

(a) Withhold issuance of a certificate of ownership until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

(b) As a condition of issuing a certificate of ownership, require the applicant to file with the department all documents held as to the applicant's ownership of the vehicle, together with a bond in the form prescribed by the department and executed by the applicant, or in lieu thereof, a deposit of cash in like amount. The bond shall be in an amount equal to one and one-half (1 1/2) times the value of the vehicle, as determined by the department, and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle or on account of any defect in or disclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any ~~such~~ interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit, shall be returned at the end of three (3) years, or prior ~~thereto~~ to that time if the vehicle is no longer registered in this state and the currently valid certificate of ownership is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

(2) Every dealer desiring the privilege of issuing temporary registration permits for the operation of motor vehicles shall make application to the motor vehicle division. If ~~such~~ the privilege is granted, the dealer will receive a series of permits, consecutively numbered by the motor vehicle division, secured by the dealer at a fee of five dollars ($5.00) for each permit. A permit subsequently issued by a dealer to a purchaser shall be valid for a period not to exceed thirty (30) days.

The dealer shall issue temporary registration permits in numerical sequence, one (1) only for each motor vehicle sold to a bona fide purchaser. Each permit, and the stub attached ~~thereto~~, shall be completed in duplicate, in ink or by typewriter at the time of issuance. The expiration date on the original permit shall be filled in by rubber stamp or broad-tipped marking pen, and the print shall be at least

three-fourths (3/4) inch high and one-eighth (1/8) inch wide. The original permit shall be displayed in the rear window of the motor vehicle for which it is issued, except when issued for a convertible, station wagon, motorcycle, or other motor vehicle for which this would not be practical. ~~And,-in~~ In these exceptional cases, the permit should be conspicuously displayed in a place where the number of the permit and the expiration date may be easily read and where protected from exposure to weather conditions which would render it illegible. The duplicate stub shall be returned to the motor vehicle division within thirty-one (31) days from the date of issue.

(3) The dealer shall keep a written record of every temporary registration permit issued. This record shall include the name and address of the person or firm to whom the permit is issued, a description of the motor vehicle for which it is issued, including year, make, model, identification number, and the date of issue. This record shall list all permits in numerical sequence and shall be open to inspection by any officer or employee of the department or any peace officer.

(4) The fees collected from dealers by the department under the provisions of this section shall be transmitted by the department to the state treasurer for deposit in the ~~motor--vehicle~~ highway distribution account.

(5) Upon application for title and for registration of a vehicle for which temporary registration has been issued under this section, the county assessor shall collect and fees shall be deemed due from the date of issuance of the temporary registration permit rather than from date of application for title or registration.

(~~a~~6) The department or a county assessor may issue temporary motor vehicle registration permits in an emergency situation. The fee for a temporary registration shall be five dollars ($5.00). The temporary registration shall be valid for a period of thirty (30) days. The temporary fees collected by the department shall be transmitted to the state treasurer for deposit in the ~~motor-vehicle~~ highway distribution account. The temporary fee collected by an assessor shall be distributed as follows: three dollars ($3.00) shall be deposited in the county current expense fund and two dollars ($2.00) shall be transmitted ~~to--the--department~~ for deposit ~~through-the-state-treasurer~~ in the ~~motor-vehicle~~ highway distribution account.

SECTION 28. That Section 49-1301, Idaho Code, be, and the same is hereby amended to read as follows:

49-1301. IDAHO LAW ENFORCEMENT ACCOUNT CREATED. For the purposes of the department of law enforcement, there is hereby created in the dedicated fund of the state of Idaho the Idaho law enforcement account, to which shall be deposited ~~three-dollars-($3.00)-from-each operator's-license-issued,-three-dollars-($3.00)-from-each-chauffeur's license-issued,-and--one-third--(1/3)--of--all--moneys--collected--for licenses-issued-by-the-Idaho-transportation-department-for-motor-vehicles--in-conformance-with-the-provisions-of-chapter-1,-title-49,-Idaho Code.-From-the-one-third-(1/3)-paid--into--and--credited--to--the--law~~

~~enforcement--account;--one-fourth--(1/4)--of-all-moneys-will-be-transferred-monthly-by-the-state-auditor's--office--to--the--state--highway account.--This--transfer--will-not-be-subject-to-provisions-of-section 40-405,-Idaho-Code,-and-acts-amendatory-thereof.--The--said--one-third (1/3)--of-moneys-derived-from-the-licensing-of-motor-vehicles-shall-be of-the-total-moneys-collected,-and-the-division-of-the-remaining--two-thirds--(2/3)--of-said-moneys-shall-be-made-pursuant-to-the-provisions of-section-40-2211,-Idaho-Code,-and-acts-amendatory-thereof~~ funds as provided by section 40-405(2), Idaho Code.

SECTION 29. That Section 49-2706, Idaho Code, be, and the same is hereby amended to read as follows:

49-2706. CREATION OF ACCOUNT -- DISTRIBUTION OF FEES. There is hereby created in the state treasurer's office an account to be known and designated as the "motorbike recreation account." The three dollar ($3.00) fee collected for registration stickers shall be allocated as follows:

1. Twenty-five cents (25¢) shall be retained by the county and deposited in the county ~~general~~ current expense fund;

2. Forty cents (40¢) shall be allotted to the Idaho transportation department for the production of registration stickers, which moneys shall be placed in the state highway account; and

3. The remaining two dollars and thirty-five cents ($2.35) shall be transmitted to the state treasurer's office for deposit to the credit of the motorbike recreation account, all such moneys to be transmitted to the state treasurer on or before the 10th day of each month.

SECTION 30. That Section 49-2805, Idaho Code, be, and the same is hereby amended to read as follows:

49-2805. DISPOSITION OF LICENSE FEES. (1) The revenues received from the fees imposed by this chapter shall be paid over monthly to the county treasurer, to be distributed as follows:

(a) One dollar and fifty cents ($1.50) from each recreational vehicle license sold shall be apportioned to the county current expense fund, which shall be deemed necessary costs of collection and administration;

(b) From the balance remaining, one-half (1/2) shall be placed in the county road fund to be apportioned as provided in section 40-405A, Idaho Code, and one-half (1/2) shall be ~~paid~~ transmitted to the state treasurer for deposit in the ~~state~~ highway distribution account, as created in section 40-~~2210~~405, Idaho Code.

SECTION 31. That Section 49-3003, Idaho Code, be, and the same is hereby amended to read as follows:

49-3003. CARD ISSUED. The Idaho transportation department shall issue an identification card which shall set forth the information contained in the application, in ~~such~~ a form as prescribed by the

department. Each card shall be issued a distinguishing number and shall bear ~~thereon~~ a color photograph of the applicant which shall be taken by the examiner at the time of application. The fee for ~~such~~ an identification card shall be five dollars ($5.00), one-half (1/2) of which shall be retained by the county and credited to the current expense fund, and the other one-half (1/2) of which shall be deposited in the state treasury to the credit of the ~~state~~ highway distribution account.

SECTION 32. That Section 49-3209, Idaho Code, be, and the same is hereby amended to read as follows:

49-3209. REMITTANCE OF FEES. All moneys or fees collected by the assessor for certificates of registration shall be deposited with the county treasurer not later than the fifteenth day of the month following the calendar month in which ~~such~~ the fees were collected. Fifty percent (50%) of all fees shall be credited to the county ~~general~~ current expense fund and fifty percent (50%) of ~~said~~ the fees shall be transmitted to the treasurer of the state of Idaho and be deposited in the ~~state~~ highway distribution account.

SECTION 33. That Section 49-3210, Idaho Code, be, and the same is hereby amended to read as follows:

49-3210. ANNUAL USE PERMIT -- EXPIRATION -- FEES -- COLLECTION EXEMPTIONS -- WATERWAYS COMMITTEE. (1) It shall be unlawful and punishable as ~~hereinafter~~ provided in this chapter for any person to operate or permit the operation of any vessel on the waters of the state of Idaho unless ~~said~~ the vessel shall have and display an annual use permit.

(2) Every owner of a vessel operated on the waters of the state of Idaho shall, each year before the vessel is ~~so~~ operated, apply to and obtain from the assessor of the county in which ~~said~~ the vessel is to be operated, or from the assessor of the county in which the owner resides, or if the owner be a nonresident of the state of Idaho, from the assessor of any county in the state of Idaho, an annual permit, as in this chapter provided, which permit shall cover the vessel and motor described in the application.

(3) An owner who is a nonresident of the state of Idaho and has a current license or permit or an owner who is a resident of another state which does not require the vessel to be licensed annually for a vessel and motor issued by his resident state shall obtain from the assessor of the county in which ~~said~~ the vessel is to be operated a temporary permit which shall be valid for a maximum period of fifteen (15) consecutive days. The fee for ~~such~~ a temporary permit shall be fifty cents ($.50) per day or a minimum charge of two dollars and fifty cents ($2.50). Upon receipt of the nonresident fee, the county assessor shall issue a sticker which shall denote the dates it is valid which shall be displayed in a conspicuous place on the nonresident's vessel while being operated on the waters of this state. When the nonresident permit expires, the owner of ~~said~~ the vessel

shall either purchase an annual permit or not operate ~~the same~~ it on the waters of the state of Idaho.

(4) Application for a sticker of a vessel required to have an annual permit ~~hereunder~~ shall be made to the assessor by the owner ~~thereof~~ upon an appropriate form furnished by the assessor. Every application shall be signed by the owner and contain his residence address and a brief description of the vessel to be licensed, including the engine and serial numbers, horsepower, length, age, the last license or sticker number, if any, and the county in which any previous license or sticker number was issued and in the case of the registration of a new vessel, the date of sale by which the manufacturer or dealer transferred the vessel to the person first operating ~~the--said--vessel.---Such~~ it. The application may contain ~~such~~ other information as may be required by the assessor.

(5) The assessor shall ~~thereupon~~ issue to the applicant a receipt for any fee paid and deliver to ~~said~~ the applicant as soon ~~thereafter~~ as possible, a pressure-sensitive sticker for ~~said~~ the vessel. The sticker shall be affixed to the transom of the vessel and be clearly visible above the waterline on the portside or in the case of a vessel not having a transom, on the port quarter at the stern.

(6) The annual fees for licensing vessels shall be determined as follows:

(a) Vessels 0-12 feet in length $5.00

(b) Vessels over 12 feet in length ..... $2.00 per foot for each full additional foot in excess of 12 feet.

(c) The annual license fees for new or used vessels which have not previously been licensed in Idaho shall be:

(i) For vessels acquired or brought into the state between January 1 and March 31, the full amount of the regular fees;

(ii) For vessels acquired or brought into the state between April 1 and June 30, seventy-five percent (75%) of the regular fees;

(iii) For vessels acquired or brought into the state between July 1 and September 30, fifty percent (50%) of the regular fees;

(iv) For vessels acquired or brought into the state after October 1, twenty-five percent (25%) of the regular fees.

(7) Each county assessor shall presume that any vessel is subject to the regular annual fees, unless the applicant can successfully show reasonable proof that the vessel has not previously been licensed in Idaho.

(8) It shall be the duty of the assessor within the county in which ~~such~~ vessels are operated to collect ~~said~~ fees and issue permit stickers for ~~said~~ vessels as provided in this chapter. He shall record and maintain a file containing the names of all owners of vessels who make application for license ~~thereon~~, together with the amounts of the fees paid by ~~such~~ the owners. He shall transmit ~~said~~ the license fees collected by him to the county treasurer on or before the 10th day of each month following the date of collection ~~of--the same~~. Twenty-five percent (25%) of ~~said~~ the funds shall be placed in and be credited to the ~~general~~ current expense fund of the county and

the remaining seventy-five percent (75%) shall be placed in and credited to ~~an account~~ fund which shall be known and designated as the "county vessel ~~account~~ fund," which ~~special~~ fund shall be used and expended by the board of county commissioners of ~~said~~ the county for the exclusive purpose of maintaining and improving the public waters of the state which are within the county and for law enforcement activities related to the enforcement of this chapter. The board of county commissioners is ~~hereby~~ authorized to use and expend funds from ~~said special account~~ the fund outside the county when they deem it advisable and in the public good.

(9) The county commissioners of any county may appoint a waterways committee to serve without salary or wage in an advisory capacity relating to maintenance and improvement of waterways and expenditure of moneys deposited in the county vessel fund. Members of this committee shall hold office at the pleasure of the board of county commissioners.

(10) The provisions of this ~~act~~ chapter with respect to payment of use fees shall not apply to rowboats without motors or vessels owned by any charitable or religious organization, scout organization or any organization similar ~~thereto~~ not used and operated for profit~~; provided--however,-that-all~~. All vessels not required to be or not licensed ~~hereunder~~ under the provisions of this chapter shall be assessed and taxed as personal property in the same manner as other personal property is taxed in the state of Idaho.

SECTION 34. That Section 63-2405, Idaho Code, be, and the same is hereby amended to read as follows:

63-2405. IMPOSITION OF TAX. An excise tax is hereby imposed on all gasoline and/or aircraft engine fuel received. The tax is to be paid by the licensed distributor, and measured by the total number of gallons received by him, at the rate of fourteen and one-half cents (14 1/2¢) per gallon~~,-one-cent-(1¢)-of-which-shall--be--put--into--the account--for--local--units-of-government-to-be-used-in-the-maintenance and-construction-of-local-roads-and-streets~~. From May 1, 1981, to April 30, 1986, the rate of the excise tax to be imposed on gasohol, shall be four cents (4¢) per gallon less than the amount of the excise tax that is imposed on gasoline and/or aircraft engine fuel by this section. On and after May 1, 1986, the same amount of excise tax shall be imposed on gasohol as is imposed on gasoline and/or aircraft engine fuels. That tax, together with any penalty and/or interest due, shall be remitted with the monthly distributor's report required in section 63-2406, Idaho Code.

SECTION 35. That Section 63-2412, Idaho Code, be, and the same is hereby amended to read as follows:

63-2412. DISTRIBUTION OF TAX REVENUES. (1) The revenues received from the taxes imposed by sections 63-2402 and 63-2405, Idaho Code, and any penalties, interest, or deficiency additions, or from the fees imposed by section 63-2409, Idaho Code, shall be paid over to the

state treasurer by the commission, to be distributed as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission, as determined by the commission and certified quarterly to the state auditor, shall be transferred back to the commission. The amount transferred back to the commission shall not exceed the amount authorized to be expended by appropriation by the legislature.

(b) An amount of money shall be transferred to the gasoline refund account, which is hereby created in the dedicated fund, sufficient to pay current refund claims. All refunds authorized to be paid shall be paid from the gasoline refund account and sufficient amounts to pay those refunds are hereby continuously appropriated for that purpose.

(c) At the beginning of each fiscal year, the sum of one hundred thousand dollars ($100,000) shall be transferred to the railroad grade crossing protection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 62-304C, Idaho Code.

(d) At the beginning of each fiscal year, the sum of fifty thousand dollars ($50,000) shall be transferred to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-405A<u>B</u>, Idaho Code.

(e) From the balance remaining with the state treasurer after transferring the amounts in paragraphs (a), (b), (c) and (d) of subsection (1) of this section:

1. One per cent (1%) shall be transferred to the waterways improvement account, as created in chapter 15, title 57, Idaho Code;

2. One per cent (1%) shall be transferred to the off-road motor vehicle account as created in section 57-1901, Idaho Code; and

3. Ninety-eight per cent (98%) shall be transferred to the ~~state~~ highway <u>distribution</u> account, created in section 40-~~2210~~<u>405</u>, Idaho Code.

(2) The revenues received from the taxes imposed by section 63-2408, Idaho Code, and any penalties, interest, and deficiency amounts, shall be distributed as follows:

(a) An amount of money shall be transferred to the aircraft engine fuel tax refund account, which is hereby created in the dedicated fund, sufficient to pay current refund claims. All refunds authorized to be paid shall be paid from the aircraft engine fuel tax refund account, and sufficient amounts to pay those refunds are hereby continuously appropriated for that purpose.

(b) The balance remaining of all the taxes collected shall be paid over to the state treasurer by the commission to be deposited in the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 36. That Section 63-2418, Idaho Code, be, and the same is hereby amended to read as follows:

63-2418. DISTRIBUTION OF TAX REVENUES. The revenues received from the tax imposed by sections 63-2416 and 63-2417, Idaho Code, and any penalties, interest, or deficiency additions, or from the fees imposed by section 63-2438, Idaho Code, shall be paid to the state treasurer by the commission, to be distributed as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fuels tax provisions by the commission, as determined by it and certified quarterly to the state auditor, shall be transferred back to the commission. The amount transferred back shall not exceed the amount authorized to be expended by appropriation by the legislature.

(2) An amount of money shall be transferred to the special fuels refund account, which is hereby created in the dedicated fund, sufficient to pay current refund claims. All refunds of special fuels taxes authorized to be paid by this chapter shall be paid from the special fuels refund account, the money being hereby continuously appropriated for that purpose.

(3) The balance remaining with the state treasurer after transferring the amounts specified in subsections (1) and (2) of this section shall be transferred to the ~~state~~ highway distribution account, created in section 40-~~2210~~405, Idaho Code.

SECTION 37. That Section 63-3622, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622. EXEMPTIONS. There are exempted from the taxes imposed by this act the following:

(a) The sale at retail, storage, use, or other consumption of tangible personal property which this state is prohibited from taxing under the Constitution of the United States.

(b) The sale of tangible personal property to resident contractors for subsequent incorporation into real property outside this state in the performance of a contract to improve the out-of-state realty unless this provision would result in subjection of said contractor to a use or similar excise tax in another state.

(c) Purchases which are subject to ~~the motor fuels tax imposed by chapter 12, title 49, Idaho Code, motor fuels subject to tax under section 49-127(d), Idaho Code, and~~ the motor fuels tax imposed by chapter 24, title 63, Idaho Code.

(d) Receipts from the sale, storage, use or other consumption in this state of tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for ultimate sale at retail within or without this state, and tangible personal property primarily and directly used or consumed in or during such manufacturing, processing, mining, farming, or fabricating operations by a business or segment of a business which is primarily devoted to such operation or operations, provided that the use or consumption of

such tangible personal property is necessary or essential to the performance of such operation. Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change or for removing impurities or otherwise placing a product in a more marketable condition are included within this exemption, as are other articles of tangible personal property used in the actual manufacturing, processing, mining, farming or fabricating operations. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies, and hand tools with a unit purchase price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles licensed or required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put; nor shall this exemption include tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from this act by subsections (h), (k), (l) and (p) of this section.

(e) The sale, use or purchase of tangible personal property, which property is pollution control equipment required in order to meet air and water quality standards of a state or federal agency having authority to regulate and set air and water quality emission standards. This exemption does not include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put.

(f) All sales of irrigation equipment and supplies, except hand tools as defined in subsection (d) of this section, to be used for agricultural production purposes, whether or not such equipment and supplies are to become a part of real estate and whether or not installed by the farmer, a contractor or subcontractor.

(g) The sale or purchase of containers in the following categories:

1. Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

2. Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this act.

3. Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for filling.

(h) The sale or purchase of gas, electricity, and water when delivered to consumers.

(i) The sale or purchase of any matter used to produce heat by burning, including wood, coal, petroleum and gas.

(j) The sale or purchase of tangible personal property at home

yard sales; provided, however, that no more than two (2) such home yard sales per individual per calendar year shall be exempt.

(k) The sale or purchase of tangible personal property used for the performance of a written contract entered into prior to the passage and approval of this act, but such exemption shall extend only until July 1, 1967.

(l) The sale or purchase, or the storage, use or other consumption of religious literature, pamphlets, periodicals, tracts and books published and sold by a bona fide church or religious denomination, no part of the net earnings of which inures to the benefit of any private individual or shareholder.

(m) The sale of meals by public or private schools under the federal school lunch program or under programs that provide nutritional meals for the aging (Title VII of the Older Americans Act, PL93-29), and the sale of meals by a church to its members at a church function.

(n) Occasional sales of tangible personal property, including sales of animals by any 4-H Club or FFA Club held in conjunction with a fair or the western Idaho spring lamb sale; providing, however, that this exemption shall not apply to the sale, purchase, or use of self-propelled motor vehicles unless they are transferred in a transaction falling within the scope of section 63-3612A(b), Idaho Code, a change in the form of doing business, or section 63-3612A(c), Idaho Code, the sale of a going business, or section 63-3612A(f), Idaho Code, the sale of motor vehicles between family members.

(o) The sale of articles through a coin-operated vending machine for a total consideration of fifteen cents ($.15) or less and individual transactions involving a total sales price of less than fifteen cents ($.15).

(p) Sales of liquor by the state liquor dispensary to a person licensed under the provisions of chapter 9, title 23, Idaho Code.

(q) Sales of prescription drugs and the sale of oxygen, all upon the prescription of a practitioner licensed to prescribe drugs to human beings in the course of his professional practice, the sale of artificial limbs, prescription braces, wheelchairs, hearing aids, crutches and other prosthetic devices except eyeglasses and dental bridgework.

(r) Sales to the Boy Scouts of America of supplies and materials for national and international encampments within the state of Idaho and sales by the Boy Scouts of America to participants in national and international encampments within the state of Idaho if such sales are made within the confines of Farragut State Park.

(s) Sales to and purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

1. Educational institution shall mean resident nonprofit colleges, universities, 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, exer-

cise 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.

2. Hospital as used herein shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions or organizations.

3. Health-related entities as used herein shall mean the Idaho Cystic Fibrosis Foundation, March of Dimes, American Cancer Society, Mental Health Association, Idaho Association of Retarded Citizens, Idaho Heart Association, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, and Easter Seals, together with said entities' local or regional chapters or divisions.

4. Canal companies as used herein 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.

5. Forest protective associations as used herein 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.

(t) The sale or purchase of tangible personal property shipped by the seller via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state if the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(u) The sale or purchase of tangible personal property which is shipped to a point outside this state for use outside this state pursuant to a contract of sale by delivery by the vendor to such point by means of (1) facilities operated by the vendor, (2) delivery by the vendor to a carrier for shipment to a consignee at such point, or (3) delivery by the vendor to a customs broker or forwarding agent for shipment outside this state.

(v) Sales of motor vehicles and trailers for use outside of this state, even though delivery be made within this state, but only when (1) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state and (2) said motor vehicles and trailers will be titled and licensed immediately under the laws of another state, will not be used in this state more than twenty-five percent (25%) of the mileage in any calendar year, and will not be required to be titled under the laws of this state; the sale of motor vehicles and motor equipment not required to be licensed and used as log jammers, log loaders, farm tractors and implements of husbandry; and the sale of used mobile homes, whether or not

such used mobile homes are sold for use outside this state, and whether or not such used mobile homes are sold by a dealer. Every mobile home sale after its sale as a "new mobile home," as defined in section 63-3606, Idaho Code, is a sale as a used mobile home.

(w) Receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production and broadcasting of radio and television programs when the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production and broadcasting, provided, that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production and broadcasting operation, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than actual production and broadcasting operation such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put.

(x) Receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production of publications in a newspaper format which are distributed to the public at large and which rely on advertising revenue as their primary source of income; provided, that the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production of said publications; provided, further, that the use or consumption of such tangible personal property is necessary or essential to the performance of such publication business. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production of said publications, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual production of the publication and shall not include property such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state without regard to the use to which such motor vehicles are put.

Provided, further, that this exemption shall apply when the publication referred to herein is distributed to the public free of charge.

Provided, further, that in order for the exemption to be applicable, at least ten percent (10%) of the total publication, computed on an average annual column inch basis, must be devoted to the publication of nonincome producing informative material.

(y) The sale of tangible personal property relating to funeral services by a licensed funeral establishment.

(z) The sale of precious metal bullion or the sale of monetized bullion. For purposes of this section, "precious metal bullion" means any elementary precious metal which has been put through a process of smelting or refining including, but not limited to, gold, silver, platinum, rhodium, and chromium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but shall not include coins or money sold to be manufactured into jewelry or works of art.

(aa) To prevent evasion of the sales and use tax, it shall be presumed that all articles are subject to the taxes imposed by this act and the retailer shall have the burden of establishing the facts giving rise to such exemption by clear and convincing evidence unless the purchaser delivers to the retailer an exemption certificate in such form as the tax commission may prescribe, signed by the purchaser and setting forth the reason for the claimed exemption.

(bb) Any person who gives an exemption certificate with the intention of evading payment of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000) or imprisonment for not more than one (1) year or by both such fine and imprisonment.

Approved April 3, 1984.

CHAPTER 196
(H.B. No. 592)

AN ACT

RELATING TO DUTIES OF THE SUPERINTENDENT OF THE IDAHO STATE POLICE; AMENDING SECTION 19-4803, IDAHO CODE, TO PROVIDE THAT TERM LIFE INSURANCE FOR ELIGIBLE MEMBERS OF THE IDAHO STATE POLICE BE INCREASED TO FIFTY THOUSAND DOLLARS.

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

SECTION 1. That Section 19-4803, Idaho Code, be, and the same is hereby amended to read as follows:

19-4803. DUTIES OF SUPERINTENDENT. The superintendent, with the approval of the board of examiners and within the limits of any appropriation made available for such purposes, shall for such Idaho state police:

a. establish such ranks, grades and positions as shall appear advisable and designate the authority and responsibility in each such rank, grade and position;

b. for each such rank, grade and position set standards and qual-

ifications and fix prerequisites of training, education and experience, prescribe the salaries to be paid and allowances to be granted, including uniform allowances, travel and subsistence allowances and allowances for removal of personal effects upon change of station pursuant to official orders from one post of duty to another;

c. appoint such personnel to such rank, grade and position as are deemed by him to be necessary for the efficient operation and administration of the Idaho state police and devise and administer examinations designed to test applicants for the position therein, and only those applicants shall be appointed or promoted, who best meet the prescribed standards and prerequisites; provided, however, that all employees shall be selected in the manner provided for by section 19-4805, Idaho Code, and shall be probationers and on probation for a period of one (1) year from date of appointment;

d. formulate and place in effect such rules for the Idaho state police as from time to time appear to him advisable;

e. discharge, demote or temporarily suspend for reasonable cause, any employee of the Idaho state police without a hearing; provided however, that such employee may request a hearing, as provided in section 19-4805, Idaho Code, to determine whether such action of the superintendent was justified under the circumstances shown to exist;

f. prescribe by official order the uniform and equipment of the employees in such Idaho state police;

g. charge against each employee the value of any property of the state lost or destroyed through the carelessness or neglect of such employee;

h. station employees in such localities as he shall deem advisable for the enforcement of the laws of the state;

i. have purchased, or otherwise acquired, by the purchasing agent of the state, motor equipment and all other equipment and commodities deemed by him essential for efficient performance of the duties of the Idaho state police and purchase and install approved mechanical devices and equipment for the rapid transmission and broadcasting of information relative to crime, apprehension of criminals and the administration of the business of the Idaho state police;

j. establish and maintain information, data, and fingerprint records for the identification of criminals as hereinafter provided, procure and maintain equipment therefor;

k. the superintendent shall cause a copy of the official order prescribing the uniform of the Idaho state police issued by him pursuant to subsection f of this section, together with a facsimile of such uniform and equipment, to be filed with the secretary of state. Any person who shall impersonate or hold himself out as a member of the Idaho state police without being a member of said Idaho state police or who shall without authority wear as clothing the prescribed uniform of the Idaho state police or any part thereof shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or by both such fine and imprisonment.

l. provide, as a part of the retirement severance of an Idaho state police officer retiring after a minimum of twenty-five (25)

years' service, the retiring officer's badge, service revolver and handcuffs.

m. (1) The personnel group insurance administrator in the department of administration shall continue, or procure, and administer a contract of group insurance on the lives of all eligible members of the Idaho state police.

(2) There shall be issued to every eligible member of the Idaho state police and pursuant to the contract provided for in subsection (1) thereof, a term group life insurance certificate in the face amount of ~~ten~~ fifty thousand dollars ($~~1~~50,000) on the life of such members. Said insurance certificate shall set forth the name or names of such beneficiary or beneficiaries as the insured may name or designate.

(3) Any eligible person entering the employ of the Idaho state police as an active police officer after the effective date of this act shall be insured as other members of said Idaho state police immediately upon taking the oath of office.

(4) Every member of the Idaho state police, upon termination of active duty or permanent release, may surrender said certificate to the head of the department, or, at his option, may convert the insurance in accordance with the provisions of the contract, and no further premiums shall be paid on said policy by the state of Idaho.

(5) The superintendent is hereby directed to hereafter include in the biennial budget of the Idaho state police an amount sufficient to pay the annual costs accruing with respect to policies of insurance purchased under the provisions of this act.

(6) The premiums on the insurance herein provided for are to be paid one-half (1/2) by the employee and one-half (1/2) by the state. The superintendent is hereby authorized to make a monthly deduction on the payroll of the amount due from each employee under this act.

(7) Participation in and recovery on the group life insurance policy hereinbefore provided shall act to prevent recovery by any member of the Idaho state police of any and all claims against the state of Idaho other than claims coming under the jurisdiction of the industrial accident board. No provisions of title 41, Idaho Code, shall be construed to prohibit the execution of a contract to that effect.

Approved April 3, 1984.

CHAPTER 197
(H.B. No. 596, As Amended)

AN ACT

RELATING TO THE FUNDING OF BIG GAME WINTER FEEDING AND DEPREDATION CONTROL; AMENDING SECTION 36-107, IDAHO CODE, TO PROVIDE THAT ONE DOLLAR AND FIFTY CENTS FROM EACH ELK, DEER AND ANTELOPE GAME TAG

FEE BE SET ASIDE IN THE FISH AND GAME TRUST ACCOUNT FOR BIG GAME WINTER FEEDING AND DEPREDATION CONTROL; AND AMENDING SECTION 36-409, IDAHO CODE, TO INCREASE THE GAME TAG FEE FOR ELK, DEER AND ANTELOPE BY ONE DOLLAR AND FIFTY CENTS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 36-107, Idaho Code, be, and the same is hereby amended to read as follows:

36-107. FISH AND GAME ACCOUNT. (a) Creation of Account. The director shall promptly transmit to the state treasurer all moneys received by him, from the sale of hunting, fishing and trapping licenses, tags and permits or from any other source connected with the administration of the provisions of the Idaho fish and game code or any law or regulation for the protection of wildlife and the state treasurer shall deposit all such moneys in a special account to be known as the "fish and game account," which is hereby established, reserved, set aside, appropriated, and made available until expended as may be directed by the commission in carrying out the purposes of the Idaho fish and game code or any law or regulation promulgated for the protection of wildlife, and shall be used for no other purpose.

(b) Control of Expenditures. The commission shall govern the financial policies of the department and shall, as provided by law, fix the budget for the operation and maintenance of its work for each fiscal year. Said budget shall not be exceeded by the director.

(c) Big Game Range and Upland Game Bird and Waterfowl Management Moneys. For the purpose of acquiring access and acquiring and rehabilitating big game ranges and upland game bird and waterfowl habitats, the director shall set aside moneys within the fish and game account in an amount equal to two dollars ($2.00) for each combination and/or each hunting license sold as provided in sections 36-406 and 36-407, Idaho Code, provided that class 4 licenses, as provided for in section 36-404, Idaho Code (senior resident licenses issued to persons sixty-five (65) years of age and older), shall be exempt from the provisions of this subsection.

Said moneys shall be used only for acquiring access and for the acquisition and rehabilitation of big game ranges and upland game bird and waterfowl habitat. Unless it is inconsistent with the goals of the commission, it is the intent of the legislature of the state of Idaho that the commission negotiate lease arrangements as compared to outright purchase of private property.

(d) Predatory Animal Moneys. The director shall set aside from the state fish and game account the sum of not less than twelve thousand dollars ($12,000) per annum which amount shall be used by the director in the control of predatory animals and predatory birds. Provided further that any moneys which the director may derive from the sale of furs, taken under the provisions of this section, shall be deposited into the fish and game account.

(e) Fish and Game Trust Account. The director may receive on

behalf of the department any money or real or personal property donated, bequeathed, devised, or conditionally granted to the department. Such moneys received directly or derived from the sale of such property shall be deposited by the state treasurer in a special account in the agency asset fund to be known as the "fish and game trust account," which is hereby established, reserved, set aside, appropriated and made available until expended, used, and administered to carry out the terms or conditions of such donation, bequest, devise, or grant, or in the absence of such terms or conditions, the commission may expend, use, and administer such funds as it may deem advisable in the public interest and in accordance with the policies set forth in the Idaho fish and game code.

Pending such expenditure or use, surplus moneys in the fish and game trust account shall be invested by the state treasurer in the manner provided for idle state moneys in the state treasury by section 67-1210, Idaho Code. Interest received on all such investments shall be paid into the fish and game trust account.

(f) Nongame Management Moneys. For the purpose of the management and protection of nongame species of wildlife in this state, the director shall set aside moneys within the fish and game trust account in an amount equal to the amount designated by individuals in accordance with section 63-3067A, Idaho Code. The commission shall cause a nongame management and protection program to be developed. Said moneys shall be used only for this purpose.

(g) Big Game Winter Feeding and Control Moneys. The director shall set aside moneys within the fish and game trust account in an amount equal to one dollar and fifty cents ($1.50) for each elk, deer, and antelope tag sold as provided in section 36-409, Idaho Code. Said moneys shall be used only for the purposes of winter feeding of big game species of wildlife, control of depredation of private property by big game species of wildlife, and control of predators affecting big game species of wildlife. When the balance of set-aside moneys available exceeds the sum of four hundred thousand dollars ($400,000), the director may use the amount in excess of four hundred thousand dollars ($400,000) for rehabilitation of winter range for big game species of wildlife.

SECTION 2. That Section 36-409, Idaho Code, be, and the same is hereby amended to read as follows:

36-409. GAME TAGS -- ARCHERY PERMITS -- FEES -- PENALTY. (a) Resident Game Tags. A resident who has obtained a permit to hunt, as provided in section 36-401, Idaho Code, or has purchased a license to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees provided herein shall be eligible to receive a resident game tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear, or turkey in accordance with the laws of this state and regulations promulgated by the commission; provided further, that the holder of a senior resident permit may be issued a bear, deer or elk tag without charge.

(b) Nonresident Game Tags. A nonresident who has purchased a

payment of the fees provided herein, shall be eligible to receive a nonresident tag to hunt and kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, bear or turkey in accordance with the laws of this state and regulations promulgated by the commission.

(c) Schedule of Game Tag Fees.

Game	Resident	Nonresident
Moose	$ 60.00	$150.00
Bighorn Sheep	60.00	150.00
Mountain Goat	60.00	150.00
Elk	~~12.00~~13.50	~~150.00~~151.50
Deer	~~6.00~~ 7.50	~~50.00~~ 51.50
Antelope	~~25.00~~26.50	~~50.00~~ 51.50
Mountain Lion	10.00	50.00
Bear	6.00	25.00
Turkey	6.00	12.00

(d) Game Tags Required -- To Be Endorsed on License. The appropriate tag must be had for the hunting or taking of each and every one (1) of the aforementioned wildlife. Provided, however, that the requirements for a mountain lion tag or a bear tag, as to different periods of time and areas of the state, shall be determined and specified by the commission. All of said tags are to bear and have serial numbers to be endorsed on the purchaser's license by the vendor at the time of sale.

(e) Game Tag to Be Validated and Attached to Carcass. As soon as any person kills any wildlife for which a tag is required, said tag, belonging to him, must be validated and attached to said wildlife in a manner provided by commission regulation.

(f) Archery Permits. In addition to meeting the license and tag requirements provided in this chapter, any persons participating in any controlled or general game season which has been specifically designated as an archery hunt must have in his possession an archery hunt permit which may be purchased at a fee of five dollars ($5.00).

(g) Muzzleloader Permit. In addition to meeting the license and tag requirements provided in this chapter, any person participating in any controlled or general game season which has been specifically designated as a muzzleloader hunt must have in his possession a muzzleloader permit which may be purchased at a fee of five dollars ($5.00).

(h) Penalty. Failure to comply with any of the provisions of this section shall constitute a misdemeanor.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after May 1, 1984.

Approved April 3, 1984.

CHAPTER 198
(H.B. No. 609)

AN ACT

RELATING TO COMPENSATION OF COMMISSIONERS OF COUNTY WIDE HIGHWAY DISTRICTS; AMENDING SECTION 40-3004, IDAHO CODE, TO PROVIDE A MONTHLY SALARY FOR HIGHWAY DISTRICT COMMISSIONERS.

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

SECTION 1. That Section 40-3004, Idaho Code, be, and the same is hereby amended to read as follows:

40-3004. APPOINTMENT OF FIRST COMMISSIONERS -- SUBDISTRICTS -- ELECTIONS, TERMS AND ~~PER-DIEM~~ SALARY OF COMMISSIONERS. If there is a majority affirmative vote at special election held pursuant to this act, the county commissioners, at the next meeting of the board, shall organize the county-wide highway district. The county commissioners shall appoint the highway commissioners. The county shall be subdivided by the county commissioners into three (3) subdistricts, designated subdistricts number one, two and three, as nearly equal in population as practicable, and one (1) highway commissioner shall represent each subdistrict and be a resident thereof. The originally appointed commissioners shall serve until the next general election when two (2) members shall be elected for two (2) years and one (1) member shall be elected for a term of four (4) years, it being further provided that at the occasion of the first election, the commissioner from subdistrict number one shall be elected for a term of four (4) years and that the four (4) year term shall be allotted thereafter in rotation to subdistricts number two, three and one. A qualified voter of the county-wide highway district shall be eligible to vote for each of the county-wide highway district commissioners, and such election shall be conducted as provided by Idaho statutes relating to holding elections at the county level.

The highway commissioners shall take office on January 1 of the year immediately following their election.

The highway commissioners ~~shall~~ may each receive ~~twenty-five dollars ($25.00) per day of actual meeting~~ a salary of not to exceed four hundred dollars ($400) per calendar month with the exception of the president of the board who may receive a salary of not to exceed five hundred dollars ($500) per calendar month.

Approved April 3, 1984.

CHAPTER 199
(H.B. No. 628, As Amended)

AN ACT

RELATING TO SMALL CLAIMS ACTIONS; AMENDING SECTION 1-2301, IDAHO CODE,

TO ALLOW ACTIONS IN SMALL CLAIMS COURT TO BE BROUGHT IN EITHER THE COUNTY WHERE THE DEFENDANT RESIDES OR THE COUNTY WHERE THE CAUSE OF ACTION AROSE.

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

SECTION 1. That Section 1-2301, Idaho Code, be, and the same is hereby amended to read as follows:

1-2301. SMALL CLAIMS DEPARTMENT -- CREATION AND JURISDICTION. (a) In every magistrate's division of the district court of this state, the district court may create and organize a "Small Claims Department of the Magistrate's Division," which shall have jurisdiction only in cases for the recovery of money where the amount of each claim does not exceed two thousand dollars ($2,000) ~~and-where-the-defendant resides-within-the-county-of-such-magistrate's--division~~. Any action brought in a small claims department of the magistrate's division shall be brought in the magistrate's division encompassing either the county where the defendant resides or the county where the cause of action arose. Either party to an action may request a change of venue as provided by chapter 4, title 5, Idaho Code. ~~Provided,-however,-that if--an--action--is--brought--pursuant--to-section-1-2301A,-Idaho-Code, relating-to-drawing-checks-without-funds-or-with--insufficient--funds, the--action--may--be-brought-in-the-magistrate's-division-encompassing either-the-county-wherein-the-defendant-resides-or-the-county--wherein the--check,--draft--or-order-for-the-payment-of-money-was-drawn,-made, uttered-or-delivered.~~

~~(b)--Or,-if-an-action-is-brought-for-unpaid-compensation-for-labor performed,-the-action-may-be--brought--in--the--magistrate's--division encompassing--either--the-county-wherein-the-defendant-resides,-or-the county-wherein-the-performed-labor-was-contracted-for,-or--the--county wherein-the-labor-was-performed.~~

Approved April 3, 1984.

CHAPTER 200
(H.B. No. 650)

AN ACT

RELATING TO THE UNIFORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2732, IDAHO CODE, TO PROVIDE THAT POSSESSION OF A SIMULATED CONTROLLED SUBSTANCE IS UNLAWFUL AND TO PRESCRIBE PENALTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 37-2732, Idaho Code, be, and the same is hereby amended to read as follows:

37-2732. PROHIBITED ACTS A -- PENALTIES. (a) Except as authorized by this act, it is unlawful for any person to manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(A) a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for a term of years not to exceed life imprisonment, or fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other controlled substance which is a nonnarcotic drug classified in schedule I, or a controlled substance classified in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a substance classified in schedule V, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(b) Except as authorized by this act, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(A) a counterfeit substance classified in schedule I which is a narcotic drug, or a counterfeit substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than fifteen (15) years, fined not more than twenty-five thousand dollars ($25,000), or both;

(B) any other counterfeit substance classified in schedule I which is a nonnarcotic drug contained in schedule I or a counterfeit substance contained in schedule III, is guilty of a felony and upon conviction may be imprisoned for not more than five (5) years, fined not more than fifteen thousand dollars ($15,000), or both;

(C) a counterfeit substance classified in schedule IV, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, fined not more than ten thousand dollars ($10,000), or both;

(D) a counterfeit substance classified in schedule V or a noncontrolled counterfeit substance, is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one (1) year, fined not more than five thousand dollars ($5,000), or both.

(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant

to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this act.

(1) Any person who violates this subsection and has in his possession a controlled substance classified in schedule I which is a narcotic drug or a controlled substance classified in schedule II, is guilty of a felony and upon conviction may be imprisoned for not more than three (3) years, or fined not more than five thousand dollars ($5,000), or both.

(2) Any person who violates this subsection and has in his possession a controlled substance which is a nonnarcotic drug classified in schedule I or a controlled substance classified in schedules III, IV and V is guilty of a misdemeanor and upon conviction thereof may be imprisoned for not more than one (1) year, or fined not more than one thousand dollars ($1,000), or both.

(d) It shall be unlawful for any person to be present at or on premises of any place where he knows illegal controlled substances are being manufactured or cultivated, or are being held for distribution, transportation, delivery, administration, use, or to be given away. A violation of this section shall deem those persons guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three hundred dollars ($300) and not more than ninety (90) days in the county jail, or both.

(e) If any person is found to possess marijuana, which for the purposes of this subsection shall be restricted to all parts of the plants of the genus Cannabis, and not a derivative or an extract thereof, in an amount greater than three (3) ounces net weight, it shall be a felony and upon conviction may be imprisoned for not more than five (5) years, or fined not more than ten thousand dollars ($10,000), or both.

(f) If two (2) or more persons conspire to commit any offense defined in this act, said persons shall be punishable by a fine or imprisonment, or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the conspiracy.

(g) (1) It is unlawful for any person to manufacture~~,~~ or distribute~~,-or-possess~~ a "simulated controlled substance," or to possess with intent to distribute, a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) and not more than one (1) year in the county jail, or both.

(2) It is unlawful for any person to possess a "simulated controlled substance." Any person who violates this subsection shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars ($300) and not more than six (6) months in the county jail, or both.

(h) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation

offering for sale simulated controlled substances. Any person who violates this subsection is guilty of a misdemeanor and shall be punished in the same manner as prescribed in subsection (g) of this section.

(i) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in section 37-2701(1), Idaho Code, in the course of professional practice or research.

(j) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 3, 1984.

CHAPTER 201
(H.B. No. 661)

AN ACT

RELATING TO AD VALOREM TAXES; AMENDING SECTION 63-1119, IDAHO CODE, TO ALLOW PAYMENT OF CURRENT TAXES UNDER CERTAIN CIRCUMSTANCES WHERE THERE ARE DELINQUENT TAXES DUE.

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

SECTION 1. That Section 63-1119, Idaho Code, be, and the same is hereby amended to read as follows:

63-1119. PAYMENT OF ONE-HALF OF YEARLY TAX DELINQUENCY -- ORDER --RECEIPT. Whenever a tax shall be delinquent for any year, the taxpayer may pay to the tax collector of the county wherein such tax is delinquent, one-half of such delinquency for such year together with the penalty and interest thereon; provided, however, that such payment shall only be made and accepted upon the oldest delinquency standing on the records of the county tax collector wherein such payment is made ~~and--upon--such~~ , unless the taxpayer designates in writing that the payment be applied to current taxes or tenders the exact amount of current taxes. Payment shall then be applied against current taxes. Upon payment of delinquent taxes the tax collector shall issue to the taxpayer a receipt for the sum so paid. In the event payment is mailed

to the tax collector, the cancelled check may serve as receipt.

Approved April 3, 1984.

CHAPTER 202
(H.B. No. 679)

AN ACT

RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1402, IDAHO CODE, TO PROVIDE THAT LANDS NEED NOT BE CONTIGUOUS IN ORDER TO FORM A FIRE PROTECTION DISTRICT; AMENDING SECTION 31-1411, IDAHO CODE, TO STRIKE REFERENCE TO A REQUIREMENT FOR LANDS TO BE ADJOINING IN ORDER TO BE ANNEXED; AMENDING SECTION 31-1412, IDAHO CODE, TO STRIKE REFERENCE TO A REQUIREMENT FOR LANDS TO BE ADJOINING IN ORDER TO BE ANNEXED; AMENDING SECTION 31-1420, IDAHO CODE, TO STRIKE REFERENCE TO DISCRETIONARY AUTHORITY TO LEVY UPON CERTAIN PROPERTIES WITHIN A FIRE PROTECTION DISTRICT, AND TO PROVIDE FOR BUDGET LIMITATIONS WHEN FIRE PROTECTION DISTRICTS CONSOLIDATE OR ANNEX TERRITORY; AMENDING SECTION 31-1421, IDAHO CODE, TO STRIKE REFERENCE TO MAKING A LEVY IN MILLS, AND TO STRIKE REFERENCE TO DISCRETIONARY AUTHORITY TO LEVY UPON CERTAIN PROPERTIES; AMENDING SECTION 31-1429, IDAHO CODE, TO STRIKE OBSOLETE LANGUAGE; AMENDING SECTION 31-1430, IDAHO CODE, TO STRIKE OBSOLETE LANGUAGE; AND AMENDING SECTION 31-1437, IDAHO CODE, TO STRIKE OBSOLETE LANGUAGE.

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

SECTION 1. That Section 31-1402, Idaho Code, be, and the same is hereby amended to read as follows:

31-1402. CREATION AND ORGANIZATION OF DISTRICT. Whenever twenty-five (25) or more of the holders of title, or evidence of title, to lands aggregating not less than one thousand (1,000) acres of ~~contiguous~~ territory, or consisting of ~~contiguous~~ territory of less extent but having market value for assessment purposes of at least five hundred thousand dollars ($500,000) at the last preceding county assessment, desire to provide for the organization of the same as a fire protection district, none of their ~~said~~ lands being included within the boundaries of an already created and organized fire protection district under the terms of this ~~act;-such~~ chapter, a district may be created and organized as ~~hereinafter~~ provided in this chapter.

SECTION 2. That Section 31-1411, Idaho Code, be, and the same is hereby amended to read as follows:

31-1411. ANNEXATION OF ~~ADJOINING~~ TERRITORY IN SAME COUNTY -- PETITION -- HEARING -- ORDER -- CERTIFICATION TO COUNTY COMMISSIONERS -- ALTERNATE PROCEDURE -- ELECTION. After the organization of a fire protection district, additional territory ~~adjoining-such-district;-and~~

lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district, by the owners or contract purchasers of all the land sought to be annexed petitioning the fire protection board requesting annexation of the territory particularly described in said petition. Upon receipt of any such petition the fire protection board shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, and said board shall cause notice of such hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district. Any person supporting or objecting to such petition shall be heard at such hearing, if in attendance, and at the close of such hearing said board shall approve or reject said petition. If the board approves said petition it shall make an order to that effect and certify a copy of said order containing an accurate legal description of the annexed territory to the board of county commissioners of the county where said fire district is situated. Said board of county commissioners shall thereupon enter an order of annexation and cause the same to be recorded so as to include the annexed property on the tax rolls as in this chapter provided.

In the event that all the owners or contract purchasers of the land sought to be annexed do not join in said petition or the petition is denied as above set forth, additional territory may nevertheless be annexed by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken either at a general or special election held as provided in section 31-1405, Idaho Code. But such additional territory shall not be annexed to or be included within the district unless such annexation and inclusion be first approved by the fire protection board of the existing district by resolution entered on the minutes of such board prior to the election on the question of annexation. The same procedure, with such modifications in the form of petition, notices, ballots, etc., as may be necessary shall be adopted as in this law provided in sections 31-1402 to 31-1406, ~~inclusive~~ Idaho Code.

SECTION 3. That Section 31-1412, Idaho Code, be, and the same is hereby amended to read as follows:

31-1412. ANNEXATION OF TERRITORY IN ADJOINING COUNTY. After the organization of a fire protection district, additional territory adjoining ~~such~~ the district ~~and contiguous thereto~~, and located wholly within an adjoining county, may be added to ~~such~~ the district and become a part thereof as hereinafter provided in this section. The proceedings for ~~such~~ annexation shall be the same as the proceedings for the creation and organization of a fire protection district with the following exceptions and modifications:

a. Such proceeding may be initiated by two (2) or more of the holders of title or evidence of title to ~~contiguous~~ lands aggregating not less than one hundred (100) acres, or of less area but having market value for assessment purposes of at least one hundred twenty-five thousand dollars ($125,000).

b. A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of ~~such~~ the territory, and ~~also~~ name and describe the fire protection district to which annexation is sought, ~~and~~ shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. ~~Such~~ The petition must be accompanied by a certified copy of a resolution of the board of fire protection commissioners of the original district consenting to ~~such~~ the annexation.

c. The notice of hearing on ~~such~~ the petition shall state that certain territory ~~therein~~ described in the petition, is proposed to be annexed to a fire protection district ~~therein~~ named in the petition and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections ~~thereto~~ at the time and place ~~therein~~ specified. The order entered by the local board of county commissioners on ~~such~~ the petition shall, if ~~such~~ the petition be granted, fix the boundaries of ~~such~~ the annexed territory and direct that a map ~~thereof~~ it be prepared under the direction of the clerk of the board, and certified copies of ~~such~~ the order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original fire protection district is situated.

d. An election shall be held in the territory proposed to be annexed for the purpose of voting upon ~~such~~ the annexation and the notice ~~thereof~~ shall accurately describe the boundaries of the territory proposed to be annexed, ~~and~~ shall state the name of the district to which annexation is sought, and that a map showing the boundaries of ~~such~~ the district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. ~~Such~~ The notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to .... Fire Protection District" and "Against annexation to .... Fire Protection District," and shall direct that the voter indicate his choice thereon by a cross (X).

e. The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to .... Fire Protection District." The returns of ~~such~~ the election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from ~~such~~ the canvass that more than one-half (1/2) of ~~said~~ the voters are in favor of ~~such~~ the annexation, ~~such~~ the board shall, by order entered on its minutes, declare ~~such~~ the territory a part of the fire protection district to which annexation is sought, and a certified copy of ~~such~~ the order shall be transmitted to the fire protection board of the original district, and also to the board of the county commissioners of the county in which ~~such~~ the original district is situated. A certified copy of ~~such~~ the order shall also be filed in the office of the county recorder of the county in which the

territory proposed to be annexed is situated. Not more than two (2) members of the fire protection board shall be residents of the same county;~~--and--provided,-further,-that-the~~. The commissioner whose term of office first expires after ~~such~~ the annexation shall be elected by the voters of the entire district from among the qualified electors of ~~such~~ the annexed territory. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to ~~such~~ the levy.

SECTION 4. That Section 31-1420, Idaho Code, be, and the same is hereby amended to read as follows:

31-1420. LEVY. Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this act, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district, not exceeding ~~eight-(8)-mills-on-the-dollar-of-assessed-valuation~~ sixteen hundredths percent (.16%) of market value for assessment purposes, provided, districts having a population in excess of two thousand five hundred (2500) may levy a total tax of ~~twelve-(12)-mills-on-the-dollar of-assessed-valuation~~ twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this act and for no other purpose. The levy shall be made ~~in-mills-on-the dollar,~~ by resolution entered upon the minutes of the board of commissioners of the fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor, county assessor and state board of equalization certified copies of the resolution providing for such levy ~~as--provided-by-section-63-916~~. Said taxes shall be collected as provided by section 63-918, Idaho Code. ~~Provided,--however,--that--it--shall-be-discretionary-with-such-boards-to levy-said-tax-uniformly-within-said-district--upon--the--land--or--the improvements,-or-the-taxable-personal-property,-or-upon-some-or-all-of said-categories.~~

If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-2220, Idaho Code, shall not apply to the consolidated district's budget request during the first tax year following consolidation, and the budget request of the fire protection district resulting from such consolidation for the first fiscal year following such consolidation shall not exceed the greater of:

(a) The sum of the dollar amount of ad valorem taxes certified by each of the districts for the current fiscal year, which combined amounts may be increased by a growth factor of not to exceed five percent (5%); or

(b) The dollar amount of ad valorem taxes certified for the cur-

rent fiscal year by the fire protection district with the higher levy, to which may be added an amount determined by applying the current year tax rate of the district with the higher levy to the market value for assessment purposes of any other fire protection district being consolidated, which combined amounts may be increased by a growth factor of not to exceed five percent (5%).

If a fire protection district annexes territory, the provisions of section 63-2220, Idaho Code, shall not apply to that fire protection district's budget request during the first tax year following annexation, and the budget request of that fire protection district for the first fiscal year following such annexation shall not exceed the dollar amount of ad valorem taxes certified for the current fiscal year by that district, to which may be added an amount determined by applying the current year tax rate of the annexing district to the market value for assessment purposes of the annexed territory, which combined amounts may be increased by a growth factor of not to exceed five percent (5%).

SECTION 5. That Section 31-1421, Idaho Code, be, and the same is hereby amended to read as follows:

31-1421. DUTIES OF COUNTY COMMISSIONERS. The board of county commissioners, at the time of making the annual county levies, shall make a levy ~~in mills,~~ upon all the taxable property not exempt from taxation within each district within the county in the same amount as the levy made by the board of commissioners of each fire protection district, and shall certify such levy or levies to the county auditor, and said auditor shall extend such levy on the ~~rules~~ rolls of the county, as other county taxes are extended; such special taxes so levied, as aforesaid, shall constitute a lien upon the property so assessed and shall be due and payable at the same time and in all respects are to be collected in the same manner as the state and county taxes, except that the tax collector must keep a separate list thereof and must list said tax in his receipt to the taxpayers and must pay to the county treasurer as he pays other taxes, specify to the treasurer what taxes they are and take a separate receipt therefor, and keep separate accounts thereof. ~~Provided, that such special taxes shall be levied only on the class or classes of property as determined by the board of commissioners of each fire district as provided for in section 31-1420.~~

SECTION 6. That Section 31-1429, Idaho Code, be, and the same is hereby amended to read as follows:

31-1429. INCLUSION, ANNEXATION OR WITHDRAWAL OF AREA IN CITIES ~~AND VILLAGES~~. Any area embraced within the limits of any ~~village or~~ city may, with the consent of the governing board thereof, expressed by ordinance or resolution, be included within the limits of a fire protection district, when formed, or be subsequently annexed thereto. Any area in any ~~village or~~ city embraced within the limits of a fire protection district, may be withdrawn ~~therefrom~~ from the district upon

proceedings as elsewhere provided in this act~~;-provided,-that-any-area within--any--village-or-city-of-the-second-class-may-be-withdrawn-only with-the-approval-of-the-governing--board--of--such--village--or--city expressed-by-resolution~~.

SECTION 7. That Section 31-1430, Idaho Code, be, and the same is hereby amended to read as follows:

31-1430. COOPERATION AND RECIPROCATING USE OF FIRE FIGHTING FORCES AND APPARATUS OF DISTRICTS~~,~~ AND CITIES~~,-TOWNS-AND-VILLAGES~~. Whenever a fire occurs in an incorporated city~~,--town--or--village~~ adjoining a fire protection district, and help is asked by an officer or agent of ~~such~~ that city, ~~town-or-village,~~ the district fire fighting force may respond with assistance and use of the district apparatus, with or without a contract to do so, provided the district shall be entitled to the reasonable value of ~~such~~ their services to be paid by the owner of the property serviced and secured by lien as ~~hereinafter~~ provided in this section. Whenever a fire occurs within a fire protection district adjoining a city, ~~town-or-village,~~ and help is asked by an officer or agent of ~~such~~ the district, the fire fighting force of ~~such~~ that city~~,-town-or-village~~ may likewise respond with fire fighting force and apparatus of ~~such~~ that city~~,-town-or--village~~. Fire fighting forces and apparatus of a district can be housed in an incorporated city~~,-town-and-village~~ outside the district upon written agreement with the ~~governing-board-or-executive~~ city council of ~~such~~ the incorporated city~~,-town-or-village,~~ whether ~~such~~ the incorporated city~~,--town--or--village~~ is incorporated under the general laws or by special charter, and all incorporated cities~~,-towns-and--villages~~ are hereby authorized and empowered to make and enter into written contracts with duly organized fire protection districts adjoining them and may respond to calls hereunder outside their boundaries but within the boundaries of a duly organized fire protection district. Any city~~,-town-or-village~~ or district extinguishing a fire or responding to ~~such~~ a call for assistance shall have a lien upon the property thus serviced, which lien shall be filed of record against ~~such~~ that property in the name of the city~~,-town-or-village~~ or district in the time and manner provided by section 45-507, Idaho Code, for liens of original contractors.

SECTION 8. That Section 31-1437, Idaho Code, be, and the same is hereby amended to read as follows:

31-1437. NONLIABILITY OF AGENCY FOR DELAY IN REPORT OF FIRE -- EXCEPTION. No person, corporation, partnership or association which is authorized by any city~~,--town-or-village~~ fire department, fire protection district or by any volunteer fire company to receive any report of fire or which agrees to receive and transmit any ~~such~~ the report to ~~such~~ the fire department, fire protection district or volunteer fire company, shall be liable in any civil action for damage to property or persons, including death, caused by delay in reporting or failure to report ~~such~~ the fire, unless ~~such~~ the delay or failure is

the result of the gross negligence of ~~such~~ the person, corporation, partnership or association.

Approved April 3, 1984.

CHAPTER 203
(H.B. No. 682)

AN ACT
RELATING TO THE LIEUTENANT-GOVERNOR; REPEALING SECTION 67-806, IDAHO CODE; AND AMENDING SECTION 67-809, IDAHO CODE, TO CLARIFY THE AMOUNT OF EXPENSE ALLOWANCES OF THE LIEUTENANT-GOVERNOR.

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

SECTION 1. That Section 67-806, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 67-809, Idaho Code, be, and the same is hereby amended to read as follows:

67-809. DUTIES OF LIEUTENANT-GOVERNOR -- ACTUAL AND NECESSARY EXPENSES. (1) The lieutenant-governor shall perform on a day-to-day basis such duties in and for the government of this state as the governor may from time-to-time direct. The lieutenant-governor shall perform such additional duties as the governor may deem necessary and desirable to promote the improvement of state government and the development of the human, natural and industrial resources of this state. At the written direction of the governor, the lieutenant-governor may represent the state in negotiations, compacts, hearings and other matters dealing with the states or the federal government. He shall cooperate with all state and local governmental agencies to promote and encourage the orderly development of the resources of Idaho.

The lieutenant-governor~~,-while-performing-the-duties-of-his-office on-a-day--to--day--basis,--shall--receive--his--actual--and--necessary expenses,--as--such--are-defined-in-Article-IV,-section-19,-Idaho-Constitution.-The-lieutenant-governor,-while-serving-as-president-of--the senate,-shall-receive-the-same-unvouchered-expense-allowances-on-a-day to--day--basis-as-are-provided-the-speaker-of-the-house-of-representatives.-The-actual-and-necessary-expenses-of-the-lieutenant-governor-on a-day-to-day-basis-are-hereby-expressly--defined--as--being--the--same total--daily-amount-paid-during-the-first-sixty-(60)-days-of-a-regular session-as-unvouchered-expense-allowances-to--the--lieutenant-governor while--acting--as--president--of--the-senate,-together-with-his-actual travel-and-lodging-expense.~~ shall also exercise the powers and privileges of the office of governor and presidency of the senate as provided by article IV, sections 12 and 13 of the Idaho constitution.

(2) The lieutenant-governor shall be entitled to receive the

following expense allowances:

(a) As unvouchered expense allowances:

(i) While performing the duties of acting governor, the difference between the daily salary of lieutenant-governor and the daily salary of governor, which amount shall be in addition to the salary as lieutenant-governor. Such amount shall not be paid for any day on which the lieutenant-governor claims an unvouchered expense allowance as president of the senate.

(ii) For each day spent serving as president of the senate during a legislative session, the sum of forty-four dollars ($44.00) if the lieutenant-governor does not maintain his primary residence in Ada County.

(iii) For each day spent serving as president of the senate during a legislative session, the sum of twenty-five dollars ($25.00) if the lieutenant-governor maintains his primary residence in Ada County.

(iv) Actual mileage expense reimbursement for coming to and returning from any regular, extraordinary or organizational session of the legislature at the same rate as mileage expense reimbursement is made for other state officers and employees.

(v) For each day actually spent in the office serving as lieutenant-governor while the legislature is not in session, the sum of forty-four dollars ($44.00) if the lieutenant-governor does not maintain his primary residence in Ada County.

(vi) For each day actually spent in the office serving as lieutenant-governor when the legislature is not in session, the sum of twenty-five dollars ($25.00) if the lieutenant-governor maintains his primary residence in Ada County.

(b) As vouchered expense allowances:

(i) Actual and necessary expenses incurred while serving as president of the senate during a legislative session, subject to the same requirements and limitations as if a member of the legislature.

(ii) Actual and necessary expenses incurred while serving as lieutenant-governor or as acting governor.

(3) Unvouchered expense allowances and vouchered expense reimbursement for duties performed as president of the senate shall be paid from the legislative fund. All other compensation and/or allowances for duties performed as the lieutenant-governor shall be paid from the appropriation made for the office of the lieutenant-governor.

(4) The actual and necessary expenses of the lieutenant-governor while performing his official duties as lieutenant-governor or as acting governor are hereby expressly exempted from the provisions of section 67-2007 and section 67-2008, Idaho Code (Standard Travel Pay and Allowance Act of 1949).

Approved April 3, 1984.

CHAPTER 204
(H.B. No. 696)

AN ACT

RELATING TO COURT COSTS; AMENDING CHAPTER 1, TITLE 12, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 12-117, IDAHO CODE, TO PROVIDE FOR THE AWARD OF ATTORNEY'S FEES, WITNESS FEES AND EXPENSES IF A STATE AGENCY ACTS WITHOUT A REASONABLE BASIS IN LAW OR FACT, TO PROVIDE FOR PARTIAL AWARDS, TO PROVIDE FOR THE PAYMENT OF COURT COSTS BY STATE AGENCIES, TO PROVIDE DEFINITIONS, AND TO PROVIDE REQUIREMENTS IN SMALL ACTIONS.

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

SECTION 1. That Chapter 1, Title 12, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 12-117, Idaho Code, and to read as follows:

12-117. ATTORNEY'S FEES, WITNESS FEES AND EXPENSES AWARDED IN CERTAIN INSTANCES. (1) In any administrative or civil judicial proceeding involving as adverse parties a state agency and a person, the court shall award the person reasonable attorney's fees, witness fees and reasonable expenses, if the court finds in favor of the person and also finds that the state agency acted without a reasonable basis in fact or law.

(2) If the person is awarded a partial judgment and the court finds the state agency acted without a reasonable basis in fact or law, the court shall allow the person attorney's fees, witness fees and expenses in an amount which reflects the person's partial recovery.

(3) Expenses awarded under this act shall be paid from funds in the regular operating budget of the state agency. If sufficient funds are not available in the budget of the agency, the expenses shall be considered a claim governed by the provisions of section 67-2018, Idaho Code. Every state agency against which litigation expenses have been awarded under this act shall, at the time of submission of its proposed budget, submit a report to the governmental body which appropriates its funds in which the amount of expenses awarded and paid under this act during the fiscal year is stated.

(4) For the purposes of this section:

(a) "Person" shall mean any individual, partnership, corporation, association or any other private organization;

(b) "State agency" shall mean any agency as defined in section 67-5201(1), Idaho Code.

(5) If the amount pleaded in an action by a person is twenty-five hundred dollars ($2,500) or less, the person must satisfy the requirements of section 12-120, Idaho Code, as well as the requirements of

this section before he or she may recover attorney's fees, witness fees or expenses pursuant to this section.

Approved April 3, 1984.

CHAPTER 205
(H.B. No. 706, As Amended)

AN ACT

RELATING TO TRANSPORTATION, STORAGE AND DISPOSAL OF HAZARDOUS WASTE; AMENDING SECTION 39-4403, IDAHO CODE, TO DEFINE COMMERCIAL HAZARDOUS WASTE FACILITY OR SITE; AMENDING SECTION 39-4410, IDAHO CODE, TO PROVIDE FOR A SPECIAL TRIP PERMIT FOR MOTOR VEHICLES OR TRAILERS TRANSPORTING HAZARDOUS WASTE IN THIS STATE, TO PROVIDE PROCEDURES FOR COLLECTION AND REMITTANCE, TO PROVIDE EXEMPTIONS, TO PROVIDE CONDITIONS UPON ACCEPTANCE OF HAZARDOUS WASTE BY A COMMERCIAL HAZARDOUS WASTE DISPOSAL FACILITY OR SITE; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4417B, IDAHO CODE, TO CREATE THE HAZARDOUS WASTE TRAINING, EMERGENCY AND MONITORING ACCOUNT; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4426, IDAHO CODE, TO PROVIDE FOR INSPECTORS AT PERMITTED HAZARDOUS WASTE FACILITIES AND TO PROVIDE POWERS AND DUTIES OF SUCH HEALTH INSPECTORS; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4427, IDAHO CODE, TO PROVIDE FOR THE IMPOSITION OF A HAZARDOUS WASTE DISPOSAL FEE ON THE OWNER OR OPERATOR OF A PERMITTED COMMERCIAL HAZARDOUS WASTE DISPOSAL FACILITY OR SITE; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4428, IDAHO CODE, TO PROVIDE FOR COLLECTION OF THE HAZARDOUS WASTE DISPOSAL FEE AND TO PROVIDE FOR RETURNS REGARDING THE HAZARDOUS WASTE DISPOSAL FEE; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4429, IDAHO CODE, TO PROVIDE FOR RECORD KEEPING AND ACCESS TO RECORDS ON HAZARDOUS WASTE; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4430, IDAHO CODE, TO PROVIDE FOR ADDITIONS AND PENALTIES; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4431, IDAHO CODE, TO PROVIDE COLLECTION AND ENFORCEMENT PROCEDURES FOR COLLECTION OF THE HAZARDOUS WASTE DISPOSAL FEE; AMENDING CHAPTER 44, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-4432, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF HAZARDOUS WASTE DISPOSAL FEE REVENUES; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2929, IDAHO CODE, TO REQUIRE VEHICLES TRANSPORTING HAZARDOUS WASTE TO STOP AT PORTS OF ENTRY OR CHECKING STATIONS AND SUBMIT TO INSPECTION OR WEIGHING FOR COMPLIANCE WITH THE LAW AND TO PROVIDE FOR CHECKING OF MANIFESTS AND BILLS OF LADING; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2930, IDAHO CODE, TO PROVIDE PENALTIES FOR TRANSPORTERS CARRYING HAZARDOUS WASTE NOT STOPPING AT PORTS OF ENTRY OR CHECKING

STATIONS, OR COMPLYING WITH OTHER HAZARDOUS WASTE LAWS, AND TO PROVIDE PENALTIES FOR INDIVIDUALS WHO CAUSE A VIOLATION OF THE PROVISIONS OF THIS SECTION BY THEIR ACT OR OMISSION; AMENDING CHAPTER 39, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-3905, IDAHO CODE, TO PROVIDE PENALTIES FOR TRANSPORTERS OF HAZARDOUS WASTE, GENERATORS OF HAZARDOUS WASTE OR OTHER PERSONS, IF THE HAZARDOUS WASTE IS NOT TRANSPORTED IN COMPLIANCE WITH THE LAWS AND RULES AND REGULATIONS OF THE STATE OF IDAHO; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-4403, Idaho Code, be, and the same is hereby amended to read as follows:

39-4403. DEFINITIONS. As used in this chapter:

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

(2) "Commercial hazardous waste facility or site" means any hazardous waste facility whose primary business is the treatment, storage or disposal, for a fee or other consideration, of hazardous waste generated offsite by generators other than the owner and operator of the facility.

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

(~~3~~4) "Director" means the director of the Idaho department of health and welfare or the director's authorized agent.

(~~4~~5) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(~~5~~6) "Generator" means any person, who by virtue of ownership, management, or control, is responsible for causing or allowing to be caused the creation of a hazardous waste.

(~~6~~7) "Hazardous waste" means a waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may:

(a) Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible or incapacitating reversible illnesses; or

(b) Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitible, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties but do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to national pollution discharge elimination system permits under the Federal Water Pollution Control Act, as amended, 33 U.S.C., Section 1251 et

seq., or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C., Section 2011 et seq.

(~~7~~8) "Hazardous waste management" means the systematic control of the collection, source separation, storage, treatment, transportation, processing, and disposal of hazardous wastes.

(~~8~~9) "Hazardous waste facility or site" means any property, structure, or ancillary equipment intended or used for the transportation, treatment, storage or disposal of hazardous wastes.

(~~9~~10) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste identification code(s), and destination of hazardous waste during any transportation from the point of generation to the point of treatment, storage or disposal.

(~~10~~11) "Person" means any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency, or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties.

(~~11~~12) "RCRA" means the Resource Conservation and Recovery Act of 1976 as amended in 1978 and 1980.

(~~12~~13) "Storage" means the containment of hazardous wastes, on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous wastes.

(~~13~~14) "Transportation" means the movement of any hazardous waste to or from a hazardous waste facility or site.

(~~14~~15) "Transporter" means any person who transports a hazardous waste to or from a hazardous waste facility or site.

(~~15~~16) "Treatment" means any method, technique, or process, including neutralization, which is designed not to be an integral part of a production process, but which is rather designed to change the physical, chemical, or biological character or composition of any hazardous waste prior to storage or final disposal so as to neutralize such waste or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(~~16~~17) "Waste" means any solid, semisolid, liquid or contained gaseous material for which no reasonable use or reuse is intended or which is intended to be discarded.

SECTION 2. That Section 39-4410, Idaho Code, be, and the same is hereby amended to read as follows:

39-4410. TRANSPORTATION OF HAZARDOUS WASTE. (1) The board shall promulgate hazardous waste transportation rules and regulations to control the intrastate and interstate transportation of federally regulated types and quantities of hazardous waste. The rules and regulations shall be consistent with the rules and regulations issued by the United States department of transportation and the United States environmental protection agency. The rules and regulations shall also

be consistent with the rules and regulations of the Idaho public utilities commission unless such consistency would impair the primacy or the effectiveness of the state's hazardous waste management program. In that case the board shall confer with the commission and endeavor to develop mutually acceptable transportation rules and regulations. If mutually acceptable rules and regulations cannot be developed, the board shall promulgate transportation rules and regulations that minimize conflict with the commission's rules and regulations while assuring the primary authority and effectiveness of the state's hazardous waste management program. Rules and regulations so promulgated by the board shall prevail over conflicting rules and regulations of the commission.

(2) The hazardous waste transportation rules and regulations shall apply to all transporters of federally regulated types and quantities of hazardous waste generated either by themselves or by others. These rules and regulations shall apply to any movement of hazardous wastes to or from a hazardous waste facility or site.

(3) The hazardous waste transportation rules and regulations shall provide for but not be limited to:

(a) Standards for the containerization and labeling of hazardous wastes;

(b) Standards for the handling and placarding of hazardous waste shipments;

(c) A hazardous waste tracking system requiring that:

(i) All transporters of federally regulated types and quantities of hazardous waste obtain an identification number from the department, the environmental protection agency, or another approved state program, before accepting hazardous waste for transport;

(ii) All shipments of federally regulated types and quantities of hazardous waste to be shipped off site or received from off site be accompanied by a manifest or similar form describing the hazardous waste being shipped and its destination;

(iii) A copy of each manifest or similar form be returned to the generator and/or originator of the shipment and a copy be retained by the transporter for a minimum of three (3) years.

(4) The hazardous waste transportation rules and regulations may provide for special routing of hazardous waste shipments in this state when necessary to protect the public health, the public safety, or the environment.

(5) The owner or operator of a motor vehicle or trailer transporting on the highways or public roads of this state hazardous waste required to be manifested shall be required to purchase a hazardous waste trip permit. The permit shall be issued by the Idaho transportation department upon the payment of a fee of twenty dollars ($20.00) for each single trip movement or transit of the vehicle or trailer between the point of origin and destination as set forth in the permit. No permit shall be required for transportation of five hundred (500) pounds or less of hazardous waste by a generator twenty (20) miles or less to an accumulation site from which the hazardous

waste will ultimately be transported for final disposal. The permit may be in the form of a single trip permit issued pursuant to section 49-125A, Idaho Code, but shall not be in lieu of any other permits or registration required pursuant to title 49, Idaho Code. All moneys collected pursuant to this section by the Idaho transportation department shall be remitted to the state treasurer for deposit in the hazardous waste training, emergency and monitoring account created in section 39-4417B, Idaho Code. An amount of money equal to the actual and reasonable cost of issuing the hazardous waste trip permit and collecting the moneys pursuant thereto as determined by the Idaho transportation department and certified quarterly by the state auditor, shall be transferred from the account to the Idaho transportation department.

(6) No commercial hazardous waste disposal facility or site permitted under section 39-4409, Idaho Code, shall receive hazardous waste from a motor vehicle or trailer unless the waste is accompanied by a proper manifest and the transporter has obtained a special trip permit from the Idaho transportation department as provided in subsection (5). If an improperly documented shipment of hazardous waste arrives at a permitted commercial hazardous waste facility or site, the owner or operator of the facility or site shall immediately notify the Idaho transportation department and the Idaho department of health and welfare.

SECTION 3. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4417B, Idaho Code, and to read as follows:

39-4417B. HAZARDOUS WASTE TRAINING, EMERGENCY AND MONITORING ACCOUNT. (1) There is hereby created an account in the dedicated fund in the state treasury to be designated the hazardous waste training, emergency and monitoring account.

(2) The account shall consist of:

(a) Moneys appropriated to the account;

(b) Moneys as provided in sections 39-4410 and 39-4432, Idaho Code;

(c) Donations, gifts and grants from any source; and

(d) Any other moneys which may hereafter be provided by law.

(3) Moneys in the account may be appropriated for any or all of the following purposes:

(a) Acquisition of property and equipment by the department of health and welfare to analyze, monitor, contain, collect or dispose of hazardous wastes;

(b) Employment of or contracting with necessary personnel to analyze, monitor, contain, collect or dispose of hazardous wastes; or

(c) Employment of individuals or contracting with individuals or corporations to respond throughout the state to health and environmental problems which may be caused by hazardous waste emergencies or spills, improperly packaged or handled hazardous waste or the alleviation of damages to the people and environment of the

state of Idaho caused by such emergencies or spills.

(d) Taking removal or remedial action relating to hazardous wastes which the department deems necessary to prevent, minimize or mitigate damage to the public health and welfare or the environment.

SECTION 4. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4426, Idaho Code, and to read as follows:

39-4426. APPOINTMENT OF HEALTH INSPECTORS. (1) The department of health and welfare shall assign a sufficient number of employees and equipment to inspect hazardous waste facilities or sites permitted under section 39-4409, Idaho Code, and located in Idaho where disposal of hazardous waste occurs for the purpose of assuring the protection of the health and safety of the public by monitoring the receipt and handling of hazardous wastes which have been transported by common carrier.

(2) The employees of the department of health and welfare designated in subsection (1) of this section shall be agents of the Idaho transportation department and the public utilities commission for the purpose of collecting regulatory and registration fees pursuant to sections 61-811 and 61-812, Idaho Code, and for collecting fees and permits pursuant to chapter 1, title 49, Idaho Code, which fees have not otherwise been lawfully paid by transporters to the public utilities commission, the Idaho transportation department or a county assessor in this state and for issuing hazardous waste trip permits pursuant to section 39-4410, Idaho Code. All moneys collected by the department's employees as agents of the Idaho transportation department and the public utilities commission shall be remitted to the state treasurer for deposit in the proper account as provided by law.

(3) All employees of the department designated pursuant to subsection (1) of this section shall alert proper authorities or peace officers regarding violations pursuant to this chapter, violations pursuant to title 61, Idaho Code, and violations pursuant to title 49, Idaho Code, and violations to any rules and regulations issued pursuant to any of the aforementioned code sections.

All actions brought for violations of the provisions of this chapter or rules and regulations promulgated pursuant thereto shall be brought as provided for in this chapter. All actions brought for violations of the provisions of title 61, Idaho Code, or of title 49, Idaho Code, shall be brought as provided in those titles.

SECTION 5. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4427, Idaho Code, and to read as follows:

39-4427. HAZARDOUS WASTE DISPOSAL FEE. On and after July 1, 1984, there is imposed on the owner or operator of every commercial hazard-

ous waste disposal facility or site permitted under section 39-4409, Idaho Code, a fee of twenty dollars ($20.00) per ton, or fraction thereof, on all materials disposed of at the facility or site.

SECTION 6. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4428, Idaho Code, and to read as follows:

39-4428. COLLECTION OF FEES -- RETURNS. The fees imposed under section 39-4427, Idaho Code, shall be due and payable in monthly installments by the owner, agent, employee, or operator of such hazardous waste facility or site and remittance shall be made to the Idaho department of health and welfare on or before the fifteenth day of the month next succeeding the end of the monthly period in which the fee accrued. The owner, operator or designated employee or agent of the hazardous waste facility or site, on or before the fifteenth day of the month, shall make out a return, upon such forms setting forth such information as the department may require, showing the amount of the fee for which the owner or operator of the hazardous waste facility or site is liable for the preceding monthly period, and shall sign and transmit the same to the department, together with a remittance for such amount in the form required.

(2) The department may relieve any person or class of persons from the obligation of filing monthly returns and may require the return to cover other reporting periods, but in no event shall returns be filed for a period greater than three (3) months.

SECTION 7. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4429, Idaho Code, and to read as follows:

39-4429. BOOKS AND RECORDS TO BE PRESERVED -- ENTRY AND INSPECTION BY DEPARTMENT OF HEALTH AND WELFARE. Every person or entity subject to the imposition of the fees specified in section 39-4427, Idaho Code, shall keep complete and accurate records, including itemized invoices and manifests for federally regulated types and quantities of hazardous waste ultimately disposed of at a hazardous waste facility or site in Idaho. All books, documents and papers, computer tapes, discs, and other records required to be kept by this section shall be preserved for a period of at least five (5) years from the date of the records or the date of the entries appearing in the records, unless the department in writing, authorized their destruction or disposal at an earlier date. For purposes of this act, at any time during usual business hours, the department or duly authorized agents or employees, may enter any place of business of the owner or operator of a hazardous waste facility or site where hazardous wastes are disposed and inspect the premises, the records required to be kept under this chapter, and the hazardous wastes or other chemicals contained therein, to determine whether or not all the provisions of sec-

tions 39-4427 and 39-4428, Idaho Code, are being fully complied with. Trade secret information obtained by the department under the provisions of this section shall be treated in the same manner as such information obtained under section 39-4411, Idaho Code. If the department, or any of its authorized agents or employees is unreasonably denied free access or is unreasonably hindered or interfered with in making the examination of a hazardous waste facility or site, that hindrance or interference shall constitute grounds for suspension or revocation of the facility or site's permit by the director of the department of health and welfare under subsection (b) of section 39-4413, Idaho Code.

SECTION 8. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4430, Idaho Code, and to read as follows:

39-4430. ADDITIONS AND PENALTIES. The additions, penalties, and requirements provided by the Idaho income tax act, sections 63-3046, 63-3075, 63-3076 and 63-3077, Idaho Code, as they now exist or as they may be subsequently amended, shall apply in the same manner and to the same extent to this act as to the Idaho income tax act and shall cover such additions, penalties and requirements and shall, for this purpose, be described and be for acts, omissions, delinquencies, and requirements under this chapter.

SECTION 9. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4431, Idaho Code, and to read as follows:

39-4431. COLLECTION AND ENFORCEMENT. (1) The collection and enforcement procedures available to the Idaho state tax commission provided by the Idaho income tax act, sections 63-3030A, 63-3038, 63-3039, 63-3040, 63-3042 through 63-3045A, 63-3047 through 63-3065A, 63-3068, 63-3070, 63-3071, 63-3072, 63-3073 and 63-3078, Idaho Code, as they now exist or as they may subsequently be amended, shall apply and be available to the department of health and welfare for the enforcement of the hazardous waste disposal fee and for the assessment and collection of any amounts due thereunder. Said sections shall, for the aforementioned purposes, be considered part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this act, be described as hazardous waste disposal fee liens and proceedings.

(2) The department of health and welfare may be made a party defendant in any action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the department of health and welfare and said judgment shall be paid or satisfied out

of the hazardous waste disposal fee refund account.

SECTION 10. That Chapter 44, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-4432, Idaho Code, and to read as follows:

39-4432. DISTRIBUTION OF HAZARDOUS WASTE DISPOSAL FEE REVENUES. The revenues received from the fees imposed by this chapter and any penalties, interest, or deficiency additions, shall be paid over to the state treasurer by the department to be distributed as follows:

(1) An amount of money to maintain the hazardous waste disposal fee refund account, which is hereby created, and from which all refunds authorized to be paid by this act shall be paid, at a monthly balance of ten thousand dollars ($10,000) or at such greater sum as in the opinion of the department may be needed to meet reasonable requirements imposed on the hazardous waste disposal fee refund account.

(2) The balance remaining with the state treasurer after deducting the amounts in (1) above, shall be remitted periodically but no less frequently than quarterly, to the hazardous waste training, emergency and monitoring account created in section 39-4417B, Idaho Code.

SECTION 11. That Chapter 29, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2929, Idaho Code, and to read as follows:

67-2929. HAZARDOUS WASTE. Wherever hazardous waste, as defined in section 39-4403, Idaho Code, is being transported within the state, within the state to without the state, or from without the state to within the state, the operator or owner of the motor vehicle or trailer, as defined in chapter 5, title 49, Idaho Code, transporting hazardous waste is hereby required to stop at such ports of entry or checking stations and submit to inspection or weighing for compliance with the laws of the state of Idaho. Additionally, such owner or operator of the motor vehicle or trailer transporting hazardous waste is hereby required and directed to allow employees of the department of health and welfare, the public utilities commission or the state police or any peace officer on duty to inspect and review all manifests and bills of lading to ensure that such hazardous waste is being shipped in a manner which will not endanger the health, welfare or safety of the citizens of the state of Idaho and is being shipped in compliance with the laws of the state of Idaho and any rules and regulations promulgated pursuant thereto.

SECTION 12. That Chapter 29, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2930, Idaho Code, and to read as follows:

67-2930. PENALTIES. (1) Any person failing to stop at any port of entry or checking station when so required by section 67-2929, Idaho Code, or who refuses to submit to the inspection or weighing as provided in that section or who refuses to allow inspection or review of any manifest or bill of lading, shall be guilty of a misdemeanor and shall be subject to a fine of not more than ten thousand dollars ($10,000), imprisonment for a period of not more than six (6) months or by both such fine and imprisonment. This penalty shall be in addition to any other civil or criminal penalties which may be provided by law.

(2) If a person violates the provisions of subsection (1) of this section and it is determined that the violation of subsection (1) of this section was caused in whole or by the knowing, willful or negligent act or omission of a generator of hazardous waste incorrectly filling out a manifest or bill of lading, by an act or omission of a person who caused the hazardous waste to be transported on the highways or roads of this state, the generator of the hazardous waste or the person causing the hazardous waste to be transported shall be guilty of a misdemeanor and shall be subject to a fine of not more than ten thousand dollars ($10,000), imprisonment for a period of not more than six (6) months or by both such fine and imprisonment. This penalty shall be in addition to any other civil or criminal penalties which may be provided by law.

SECTION 13. That Chapter 39, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3905, Idaho Code, and to read as follows:

18-3905. TRANSPORTATION OF HAZARDOUS WASTE. (1) Whenever hazardous waste, as defined in section 39-4403, Idaho Code, is being transported on highways or roads of this state, it shall be transported in a manner which will not endanger the health, welfare or safety of the citizens of the state of Idaho and it shall be transported in compliance with the laws of the state of Idaho and rules and regulations promulgated thereto.

(2) Any person who transports hazardous waste or any generator of hazardous waste or other person who causes hazardous waste to be transported on highways or roads of this state in a manner which will endanger the health, welfare or safety of the citizens of the state of Idaho, or who transports or causes hazardous waste to be transported on highways or roads of this state in a manner which is not in compliance with the laws of the state of Idaho and any rules and regulations promulgated pursuant thereto shall be guilty of a misdemeanor and shall be subject to a fine of not more than ten thousand dollars ($10,000), imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment. This penalty shall be in addition to any other civil or criminal penalties which may be provided by law.

SECTION 14. An emergency existing therefor, which emergency is

hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 3, 1984.

CHAPTER 206
(H.B. No. 712)

AN ACT
APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE DIVISION OF ECONOMIC AND COMMUNITY AFFAIRS FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Division of Economic and Community Affairs to be expended according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$277,900	$ 63,300		$ 341,200
Idaho Travel and Convention Account	165,400	1,036,700	$1,036,800	2,238,900
Idaho Development and Publicity Account		117,500		117,500
Economic and Community Affairs Account	151,000	84,600	8,623,000	8,858,600
TOTAL	$594,300	$1,302,100	$9,659,800	$11,556,200

Approved April 3, 1984.

CHAPTER 207
(H.B. No. 718)

AN ACT
APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. There is hereby appropriated to the Industrial Commission the following amounts, to be expended for the designated programs according to designated expense classes from the listed account for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Industrial Administration Account	$1,073,700	$235,000	$181,900	$1,490,600
B. REHABILITATION:				
FROM:				
Industrial Administration Account	$ 764,200	$202,600	$ 45,300	$1,012,100
GRAND TOTAL	$1,837,900	$437,600	$227,200	$2,502,700

Approved April 3, 1984.

CHAPTER 208
(H.B. No. 719)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1985; AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Correction not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$ 8,842,300
Operating Expenditures	4,413,200
Capital Outlay	286,100
TOTAL	$13,541,600
FROM:	
General Account	$12,506,400
Interagency Billing and Receipts Account	159,100
Penitentiary Income Account	852,000
Corrections -- CETA Grant Account	24,100
TOTAL	$13,541,600

SECTION 2. There is hereby appropriated to the Department of Correction the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Account	$ 788,300	$ 337,500	$ 38,200	$ 1,164,000
B. IDAHO STATE CORRECTIONAL INSTITUTION				
FROM:				
General Account	$4,999,800	$1,897,100	$137,000	$ 7,033,900
Penitentiary Income Account		852,000		852,000
Interagency Billing and Receipts Account		69,300		69,300
TOTAL	$4,999,800	$2,818,400	$137,000	$ 7,955,200
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO				
FROM:				
General Account	$ 590,800	$ 325,800	$ 30,800	$ 947,400
D. NORTH IDAHO CORRECTIONAL INSTITUTION:				
FROM:				
General Account	$ 586,200	$ 439,200	$ 21,400	$ 1,046,800
E. PROBATION AND PAROLE:				
FROM:				
General Account	$1,791,600	$ 385,500	$ 57,300	$ 2,234,400
Corrections -- CETA Grant Account	21,700	2,400		24,100
Interagency Billing and Receipts Account		89,800		89,800
TOTAL	$1,813,300	$ 477,700	$ 57,300	$ 2,348,300
F. PAROLE COMMISSION:				
FROM:				
General Account	$ 63,900	$ 14,600	$ 1,400	$ 79,900
GRAND TOTAL	$8,842,300	$4,413,200	$286,100	$13,541,600

Approved April 3, 1984.

CHAPTER 209
(H.B. No. 720)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1985; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO MAGISTRATE POSITIONS.

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

SECTION 1. There is hereby appropriated to the Supreme Court the following amounts, from the listed accounts, for the period July 1,

1984, through June 30, 1985:
FROM:

General Account	$8,946,200
Interagency Billing and Receipts Account	74,100
TOTAL	$9,020,300

SECTION 2. It is legislative intent that of the amount appropriated in Section 1, an amount not to exceed $2,500 may be used at the discretion of the Chief Justice, and an amount not to exceed $1,000 may be used by each of the other justices to assist in defraying expenses relating to or resulting from the discharge of their official duties and the official duties of the Supreme Court. Further, it is legislative intent that an amount, not to exceed $1,000 of the amounts appropriated in Section 1, may be used at the discretion of the Chief Judge of the Court of Appeals to assist in defraying expenses relating to or resulting from the discharge of his official duties and the official duties of the Court of Appeals. Such moneys shall be accounted for solely on the itemized certificate of the Chief Justice of the Supreme Court and the Chief Judge of the Court of Appeals respectively, and shall be exempted from provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 3. It is legislative intent that of the amount appropriated in Section 1, $40,700 shall be allocated by the Supreme Court for upgrades of nonlawyer magistrate positions to lawyer magistrate positions, and that such upgrades will be based on factors of need, including case load, county population, numbers of resident attorneys, circuit coverage from other counties and consolidation of positions.

Approved April 3, 1984.

CHAPTER 210
(H.B. No. 721)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Department of Insurance the following amounts, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$600,600	$151,600		$ 752,200
Arson, Fire and Fraud Prevention Account	185,100	124,200	$21,300	330,600
Title Insurance Account	2,000	10,400		12,400
TOTAL	$787,700	$286,200	$21,300	$1,095,200

Approved April 3, 1984.

CHAPTER 211
(H.B. No. 725)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Labor and Industrial Services not exceed the following amounts for the period July 1, 1984 through June 30, 1985.

FOR:	
Personnel Costs	$2,200,100
Operating Expenditures	490,600
Capital Outlay	15,000
Trustee and Benefit Payments	90,000
TOTAL	$2,795,700
FROM:	
General Account	$ 428,900
Electrical Board Account	1,432,400
Plumbing Board Account	427,200
Idaho Building Code Account	392,700
Interagency Billing and Receipts Account	14,500
Mine Safety Training Grant Account	100,000
TOTAL	$2,795,700

SECTION 2. There is hereby appropriated to the Department of Labor and Industrial Services the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 48,800	$ 5,500			$ 54,300
Electrical Board Account	118,400	7,800			126,200
Idaho Building Code Account	66,300	4,300			70,600
Plumbing Board Account	52,100	3,400			55,500
Interagency Billing and Receipts Account		14,500			14,500
TOTAL	$ 285,600	$ 35,500			$ 321,100
B. ELECTRICAL BUREAU:					
FROM:					
Electrical Board Account	$1,031,300	$274,900			$1,306,200
C. UNIFORM BUILDING BUREAU:					
FROM:					
Idaho Building Code Account	$ 263,600	$ 43,500	$15,000		$ 322,100
D. PLUMBING BUREAU:					
FROM:					
Plumbing Board Account	$ 299,900	$ 71,800			$ 371,700
E. SAFETY AND LABOR RELATIONS BUREAU:					
FROM:					
General Account	$ 314,700	$ 59,900			$ 374,600
Mine Safety Training Grant Account	5,000	5,000		$90,000	100,000
TOTAL	$ 319,700	$ 64,900		$90,000	$ 474,600
GRAND TOTAL	$2,200,100	$490,600	$15,000	$90,000	$2,795,700

Approved April 3, 1984.

CHAPTER 212
(H.B. No. 726)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1985; DESIGNATING PROGRAM LIMITS; AND EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO THE BUREAU OF MINES AND GEOLOGY.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Lands not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$ 7,707,700
Operating Expenditures	5,969,500
Capital Outlay	374,600
Trustee & Benefit Payments	288,600
TOTAL	$14,340,400
FROM:	
General Account	$ 5,553,700
Interagency Billing and Receipts Account	72,400
Scaling Practices Account	172,900
Forest & Range Conservation Account	9,800
Land Commissioners Scaling Trust Account	561,100
Forest Management Account	1,611,200
U.S. Clark-McNary Account	1,084,700
Soil Erosion Control Account	356,400
Insect Disease Control Account	297,800
Mining Bond Forfeiture Account	5,800
Clearwater Potlatch Timber Protection Association Account	1,474,100
Southern Idaho Timber Protection Association Account	345,800
10% Grazing Lease Account	189,400
10% Recreation Lease Account	43,500
10% Timber Lease Account	2,268,500
Lands Federal Account	164,900
Oil and Gas Commission Account	3,300
Site Restoration Account	125,100
TOTAL	$14,340,400

SECTION 2. There is hereby appropriated to the Department of Lands the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPPORTING SERVICES:					
FROM:					
General Account	$ 685,400	$ 220,400	$ 9,900		$ 915,700
Interagency Billing and Receipts Account		17,900	$ 12,500		30,400
U.S. Clark-McNary Account	215,500	30,800	80,000		326,300
Forest Management Account	47,400	11,200			58,600
Lands Federal Account		31,800			31,800
TOTAL	$ 948,300	$ 312,100	$102,400		$ 1,362,800
II. FOREST RESOURCES MANAGEMENT:					
FROM:					
General Account	$1,267,300	$ 186,700	$ 59,000		$ 1,513,000
Land Commissioners Scaling Trust Account	489,900	52,800	18,400		561,100
Insect Disease Control Account	140,500	143,400	13,900		297,800
Site Restoration Account	10,000	115,100			125,100
10% Timber Lease Account	951,100	1,281,300	36,100		2,268,500
Lands Federal Account	61,800	18,600			80,400
TOTAL	$2,920,600	$1,797,900	$127,400		$ 4,845,900
III. LANDS AND RANGE RESOURCES MANAGEMENT:					
FROM:					
General Account	$ 668,500	$ 72,500	$ 22,300		$ 763,300
Interagency Billing and Receipts Account		42,000			42,000
10% Grazing Lease Account	68,000	68,900	52,500		189,400
TOTAL	$ 736,500	$ 183,400	$ 74,800		$ 994,700
IV. EARTH RESOURCES MANAGEMENT:					
FROM:					
General Account	$ 604,900	$ 65,900	$ 10,500		$ 681,300
Oil and Gas Commission Account		3,300			3,300
Mining Bond Forfeiture Account		5,000	800		5,800
Lands Federal Account		11,700			11,700
10% Recreation Lease Account	11,300	32,200			43,500
TOTAL	$ 616,200	$ 118,100	$ 11,300		$ 745,600
V. FOREST & RANGE FIRE PROTECTION:					
FROM:					
General Account	$ 365,300	$ 796,100	$ 40,000	$153,300	$ 1,354,700
Forest & Range Conservation Account	6,000	3,800			9,800
U.S. Clark-McNary Account	744,300	13,500	600		758,400
TOTAL	$1,115,600	$ 813,400	$ 40,600	$153,300	$ 2,122,900
VI. HAZARD MANAGEMENT & EROSION CONTROL:					
FROM:					
Forest Management Account	$ 918,800	$ 617,900	$ 15,900		$ 1,552,600
Soil Erosion Control Account	133,900	222,500			356,400

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Clearwater Potlatch Timber Protection Association Account		1,474,100			1,474,100
Southern Idaho Timber Protection Association Account		345,800			345,800
TOTAL	$1,052,700	$2,660,300	$ 15,900		$ 3,728,900
VII. SOILS & WATER MANAGEMENT:					
FROM:					
General Account	$ 162,300	$ 27,600	$ 500	$135,300	$ 325,700
Lands Federal Account	20,000	21,000			41,000
TOTAL	$ 182,300	$ 48,600	$ 500	$135,300	$ 366,700
VIII. SCALING PRACTICES:					
FROM:					
Log Scalers Law Account	$ 135,500	$ 35,700	$ 1,700		$ 172,900
GRAND TOTAL	$7,707,700	$5,969,500	$374,600	$288,600	$14,340,400

SECTION 3. It is legislative intent that the appropriation for the Bureau of Mines and Geology within the Earth Resources Program in the Department of Lands shall be transferred to the University of Idaho upon passage and approval of Senate Bill No. 1269, Second Regular Session, Forty-seventh Idaho Legislature.

Approved April 3, 1984.

CHAPTER 213
(H.B. No. 729)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1985; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Office of the State Board of Education the following amount from the listed accounts for the period July 1, 1984, through June 30, 1985:

FROM:

General Account	$ 764,900
Federal Funds - State Student Incentive Grant Account	264,000
Paul L. Fowler Scholarship Fund Account	10,600
TOTAL	$1,039,500

SECTION 2. There is hereby reappropriated to the State Board of Education for the Office of the State Board of Education, any unexpended and unencumbered balances of the General Account moneys appropriated by Sections 1 and 2, Chapter 193, Laws of 1983, for fiscal year 1985.

Approved April 3, 1984.

CHAPTER 214
(H.B. No. 730)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1985; AND DESIGNATING PROGRAM LIMITS; AND TRANSFERRING CERTAIN UNEXPENDED MONEYS TO THE GENERAL ACCOUNT.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Law Enforcement not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$10,371,000
Operating Expenditures	4,404,900
Capital Outlay	1,042,600
Trustee and Benefit Payments	176,000
TOTAL	$15,994,500
FROM:	
General Account	$ 4,911,100
Idaho Law Enforcement Telecommunications Account	157,500
Idaho Law Enforcement Account	8,038,000
Idaho State Horse Racing Commission Account	304,700
State Brand Board Account	980,000
Brand Recording Account	415,700
Small Track Fund Account	63,000
Breeder Fund Account	63,000
Interagency Billing and Receipts Account	184,900
Peace Officers Account	526,600
Federal Motor Carrier Safety Account	350,000
TOTAL	$15,994,500

SECTION 2. There is hereby appropriated to the Department of Law Enforcement the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 765,500	$ 343,600			$ 1,109,100
Idaho Law Enforcement Account		180,000			180,000
TOTAL	$ 765,500	$ 523,600			$ 1,289,100
II. POLICE SERVICES:					
FROM:					
General Account	$ 1,951,900	$1,161,800	$ 60,200		$ 3,173,900
Idaho Law Enforcement Telecommunications Account		157,500			157,500
Idaho Law Enforcement Account			125,000		125,000
Interagency Billing and Receipts Account	133,100	51,800			184,900
TOTAL	$ 2,085,000	$1,371,100	$ 185,200		$ 3,641,300
III. IDAHO STATE POLICE DIVISION:					
FROM:					
Idaho Law Enforcement Account	$ 5,261,300	$1,760,400	$ 711,300		$ 7,733,000
Federal Motor Carrier Safety Account	270,000	40,000	40,000		350,000
TOTAL	$ 5,531,300	$1,800,400	$ 751,300		$ 8,083,000
IV. BRAND INSPECTION:					
FROM:					
State Brand Board Account	$ 779,100	$ 172,500	$ 28,400		$ 980,000
Brand Recording Account	415,700				415,700
TOTAL	$ 1,194,800	$ 172,500	$ 28,400		$ 1,395,700
V. HORSE RACING COMMISSION:					
FROM:					
Idaho State Horse Racing Commission Account	$ 166,200	$ 112,500	$ 26,000		$ 304,700
Small Track Fund Account				$ 63,000	63,000
Breeder Fund Account				63,000	63,000
TOTAL	$ 166,200	$ 112,500	$ 26,000	$126,000	$ 430,700
VI. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Account	$ 421,500	$ 160,600	$ 46,000		$ 628,100
VII. POST ACADEMY:					
FROM:					
Peace Officers Account	$ 206,700	$ 264,200	$ 5,700	$ 50,000	$ 526,600
GRAND TOTAL	$10,371,000	$4,404,900	$1,042,600	$176,000	$15,994,500

SECTION 3. As determined by the State Auditor, the unencumbered and unexpended balances in the Alcohol Safety Action Program Account and the Liquor Law Enforcement Account as of June 30, 1984, shall be transferred to the General Account.

Approved April 3, 1984.

CHAPTER 215
(H.B. No. 731)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures for the Idaho Transportation Department not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$ 46,735,900
Operating Expenditures	30,896,300
Capital Outlay	106,302,400
Trustee & Benefit Payments	2,101,800
TOTAL	$186,036,400
FROM:	
State Highway Account	181,615,900
Idaho Traffic Safety Commission Account	1,005,900
State Aeronautics Account	1,693,100
Interagency Billing and Receipts Account	1,721,500
TOTAL	$186,036,400

SECTION 2. There is hereby appropriated to the Idaho Transportation Department the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. GENERAL SUPPORT:					
FROM:					
State Highway Account	$ 9,877,700	$ 5,040,100	$ 573,500	$ 338,100	$ 15,829,400
B. HIGHWAYS:					
FROM:					
State Highway Account	$36,108,500	$23,944,100	$105,717,900		$165,770,500
Idaho Traffic Safety Commission Account	149,400	56,500		$ 800,000	1,005,900
TOTAL	$36,257,900	$24,000,600	$105,717,900	$ 800,000	$166,776,400
C. AERONAUTICS:					
FROM:					
State Aeronautics Account	$ 386,600	$ 210,000	$ 11,000	$ 63,400	$ 671,000
D. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Account	$ 11,100	$ 4,900			$ 16,000
State Aeronautics Account	75,700	46,100		$ 900,300	1,022,100
TOTAL	$ 86,800	$ 51,000		$ 900,300	$ 1,038,100
E. INTER AND INTRA-DEPARTMENTAL SERVICES:					
FROM:					
Interagency Billing and Receipts Account	$ 126,900	$ 1,594,600			$ 1,721,500
GRAND TOTAL	$46,735,900	$30,896,300	$106,302,400	$2,101,800	$186,036,400

Approved April 3, 1984.

CHAPTER 216
(H.B. No. 735)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the State Library Board the following amounts, to be expended according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
STATE LIBRARY SERVICES:					
FROM:					
General Account	$816,700	$378,800	$88,000	$ 25,000	$1,308,500
Library Services and Construction Act Account		10,000		506,600	516,600
Interagency Billing and Receipts Account		10,000	7,000	8,000	25,000
TOTAL	$816,700	$398,800	$95,000	$539,600	$1,850,100

Approved April 3, 1984.

CHAPTER 217
(H.B. No. 736)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, FOR THE PSEP-WESTERN INTERSTATE COMMISSION ON HIGHER EDUCATION; CREIGHTON UNIVERSITY BOYNE SCHOOL OF DENTISTRY; UNIVERSITY OF UTAH MEDICAL SCHOOL; IDAHO DENTAL EDUCATION PROGRAM; WOI - REGIONAL PROGRAM IN VETERINARY MEDICINE; AND THE WAMI MEDICAL EDUCATION PROGRAM FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures of the State Board of Education and the Board of Regents of the University of Idaho for Special Health Education Programs as appropriated in Sections 2 through 7 of this act, not exceed the following amounts for

the period July 1, 1984, through June 30, 1985:

FOR:	
Special Health Education Programs	$4,069,800
FROM:	
General Account	$3,434,200
Interagency Billing and Receipts Account	635,600
TOTAL	$4,069,800

SECTION 2. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the following amounts, to be expended for the PSEP-Western Interstate Commission of Higher Education Program from the listed accounts, for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$191,800
Interagency Billing and Receipts Account	5,000
TOTAL	$196,800

SECTION 3. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the following amounts, to be expended for the Creighton University Boyne School of Dentistry Program from the listed account, for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$22,500

SECTION 4. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the following amounts, to be expended for the University of Utah Medical School Program from the listed account, for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$339,600

SECTION 5. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the following amounts, to be expended for the Idaho Dental Education Program at Idaho State University from the listed accounts, for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$196,100
Interagency Billing and Receipts Account	47,900
TOTAL	$244,000

SECTION 6. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the following amounts, to be expended for the designated programs in the WOI - Regional Program in Veterinary Medicine, according to the designated expense classes from the listed accounts, for the period July 1, 1984, through June 30, 1985:

INSTRUCTION PROGRAM:

FOR:	
Personnel Costs	$ 899,800
Operating Expenditures	179,400
Capital Outlay	4,200
TOTAL	$1,083,400
FROM:	
General Account	$ 816,600
Interagency Billing and Receipts Account	266,800
TOTAL	$1,083,400
RESEARCH PROGRAM:	
FOR:	
Personnel Costs	$107,800
Operating Expenditures	4,200
TOTAL	$112,000
FROM:	
General Account	$ 73,800
Interagency Billing and Receipts Account	38,200
TOTAL	$112,000

SECTION 7. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the following amounts, to be expended for the WAMI Medical Education Program, according to the designated expense classes from the listed accounts, for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$ 292,200
Operating Expenditures	50,400
Trustee & Benefit Payments	1,728,900
TOTAL	$2,071,500
FROM:	
General Account	$1,793,800
Interagency Billing and Receipts Account	277,700
TOTAL	$2,071,500

Approved April 3, 1984.

CHAPTER 218
(H.B. No. 737)

AN ACT

APPROPRIATING $6,500,000 FROM THE PERMANENT BUILDING ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSES SPECIFIED; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED BY THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AUTHORIZING THE USE OF TAX ANTICIPATION NOTES; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the Permanent Building Account to the Permanent Building Fund Advisory Council and the Division of Public Works the sums of money set forth in this section, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, named and listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Account for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. PREVENTIVE MAINTENANCE PROJECTS:	
Office of the Governor:	
Commission for the Blind	$ 133,000
Military Division	98,000
Department of Agriculture	17,000
Department of Correction	237,100
Department of Lands	12,000
State Board of Education	1,904,900
Department of Health and Welfare	1,050,000
Public Health District 1	48,000
SUBTOTAL	$3,500,000
B. STATE BOARD OF EDUCATION:	
University of Idaho:	
Life Science Addition and Remodel	$3,000,000
GRAND TOTAL	$6,500,000

SECTION 2. It is the express intention that the moneys appropriated by this act may be made available for matching any allocation of moneys now in existence or hereafter made available by agencies of the United States and/or private donations; provided the express approval by the Permanent Building Fund Advisory Council is granted to make application for such moneys in each instance. It is further the intention of the legislature that this authority be effective from the effective date of this act.

SECTION 3. All appropriations made herein shall be exempt from the provisions of Chapter 36, Title 67, and Section 67-3516, Idaho Code, but shall be available for expenditure only after allotment in accordance with the other provisions of Chapter 35, Title 67, Idaho Code, and all appropriations made hereunder shall be subject to the provisions of Section 67-5711, Idaho Code, except as otherwise provided herein.

SECTION 4. The State Treasurer is hereby authorized and directed

to anticipate the revenues in the Permanent Building Fund by the issuance of tax anticipation notes in accordance with authority conferred by Sections 63-3201, 63-3202, 63-3203, 63-3204 and 63-3205, Idaho Code, and in accordance with the procedures and subject to the limitations provided in those sections, in the same manner as though the revenues in the General Fund were being anticipated.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 3, 1984.

CHAPTER 219
(H.B. No. 738)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS; AND APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 1985.

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

SECTION 1. It is legislative intent that the expenditures for the State Tax Commission not exceed the following amount for the period July 1, 1984, through June 30, 1985:

FROM:

General Account	$12,669,100
Idaho Travel and Convention Account	23,300
Highway Suspense Account	750,200
Fish and Game Suspense Account	17,700
Hotel & Motel Tax Suspense Account	16,500
United States Olympic Account	17,700
Multi-State Tax Compact Account	76,200
Interagency Billing and Receipts Account	29,300
Abandoned Property Account	67,800
TOTAL	$13,667,800

SECTION 2. There is hereby appropriated to the State Tax Commission the following amounts, to be expended for the designated programs from the listed accounts for the period July 1, 1984, through June 30, 1985:

A. ADMINISTRATION & SUPPORT:

FROM:

General Account	$ 1,055,600
Highway Suspense Account	115,400
Interagency Billing and Receipts Account	4,400
Idaho Travel and Convention Account	8,500

Fish and Game Suspense Account	4,000
United States Olympic Account	4,000
TOTAL	$ 1,191,900
B. AUDIT AND COLLECTIONS:	
FROM:	
General Account	$ 7,186,200
Interagency Billing and Receipts Account	2,600
Highway Suspense Account	634,800
Hotel & Motel Tax Suspense Account	16,500
Fish and Game Suspense Account	13,700
United States Olympic Account	13,700
Idaho Travel and Convention Account	14,800
Abandoned Property Account	67,800
TOTAL	$ 7,950,100
C. AD VALOREM:	
FROM:	
General Account	$ 905,700
Interagency Billing and Receipts Account	22,300
TOTAL	$ 928,000
D. CIRCUIT BREAKER TAX RELIEF:	
FROM:	
General Account	$ 3,001,200
E. MULTI-STATE TAX COMPACT:	
FROM:	
Multi-State Tax Compact Account	$ 76,200
F. UNIFORM ASSESSMENT:	
FROM:	
General Account	$ 520,400
GRAND TOTAL	$13,667,800

SECTION 3. There is hereby appropriated to the Board of Tax Appeals the following amount from the General Account, to be expended from the listed account for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$47,000

Approved April 3, 1984

CHAPTER 220
(H.B. No. 739)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1985; AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures for the Division of Vocational Rehabilitation not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$1,990,400
Vocational Rehabilitation Account	4,617,800
Interagency Billing and Receipts Account	50,000
TOTAL	$6,658,200

SECTION 2. There is hereby appropriated to the State Board of Education for the Division of Vocational Rehabilitation the following amounts, to be expended for the designated programs from the listed accounts for the period July 1, 1984, through June 30, 1985:

A. RENAL DISEASE:	
FROM:	
General Account	$ 356,200
B. VOCATIONAL REHABILITATION:	
FROM:	
General Account	$1,634,200
Vocational Rehabilitation Account	4,617,800
Interagency Billing and Receipts Account	50,000
TOTAL	$6,302,000
GRAND TOTAL	$6,658,200

Approved April 3, 1984.

CHAPTER 221
(H.B. No. 396, As Amended,
As Amended in the Senate)

AN ACT

RELATING TO THE COUNTY OPTION KITCHEN AND TABLE WINE ACT; AMENDING SECTION 23-1303, IDAHO CODE, TO PROVIDE A DEFINITION FOR "WINERY", "WINERY LICENSE" AND "VINTNER"; AMENDING SECTION 23-1306, IDAHO CODE, TO REQUIRE A LICENSE TO SELL WINE FOR RESALE WITHIN THIS STATE; AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1308A, IDAHO CODE, TO PROVIDE QUALIFICATIONS FOR A WINERY LICENSE; AMENDING SECTION 23-1310, IDAHO CODE, TO PROVIDE FOR PURCHASE OF WINE FROM A LICENSED WINERY; AMENDING SECTION 23-1313, IDAHO CODE, TO PROVIDE FOR THE RECEIPT OF WINE BY A WINE RETAILER THAT IS WHOLLY OWNED BY A LICENSED WINERY; AMENDING SECTION 23-1314, IDAHO CODE, TO PROVIDE FOR RECORDS OF A WINERY; AMENDING SECTION 23-1315, IDAHO CODE, TO INCREASE WINE LICENSE FEES, AND TO PROVIDE FOR A WINERY LICENSE FEE; AMENDING SECTION 23-1317, IDAHO CODE, TO PROVIDE FOR TRANSFER OF A WINERY LICENSE; AMENDING SECTION 23-1319, IDAHO CODE, TO PROVIDE FOR RESPONSIBILITY OF A WINERY TO PAY TAXES, AND TO PROVIDE THAT TAX

WILL NOT BE IMPOSED ON INVENTORY WHICH IS DESTROYED PRIOR TO PAYMENT OF TAX; AMENDING SECTION 23-1325, IDAHO CODE, TO PROVIDE CONDITIONS UNDER WHICH A LICENSED WINERY MAY ASSIST A RETAIL WINE OUTLET; AMENDING SECTION 23-1328, IDAHO CODE, TO PROVIDE FOR THE NAME OF THE WINERY ON THE LABEL OF WINE SOLD AT RETAIL; AMENDING SECTION 23-1328A, IDAHO CODE, TO PROHIBIT CERTAIN TRADE PRACTICES FOR WINERIES AND IMPORTERS; AND AMENDING SECTION 23-1331, IDAHO CODE, TO PROVIDE SUSPENSION, REVOCATION OR REFUSAL TO RENEW WINERY LICENSES.

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

SECTION 1. That Section 23-1303, Idaho Code, be, and the same is hereby amended to read as follows:

23-1303. DEFINITIONS. The following terms as used in this act are hereby defined as follows:

(a) "Wine" shall mean any alcoholic beverage containing not more than fourteen per cent (14%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(b) "Director" means the director of the department of law enforcement of the state of Idaho.

(c) "Retail wine license" means a license issued by the director, authorizing a person to sell wine at retail for consumption off the licensed premises.

(d) "Wine distributor's license" means a license issued by the director to a person authorizing such person to distribute wine to retailers within the state of Idaho.

(e) "Wine importer's license" means a license issued by the director to a person authorizing such person to import wine into the state of Idaho and to sell and distribute wine to a distributor.

(f) "Retailer" means a person to whom a retail wine license has been issued.

(g) "Distributor" means a person to whom a wine distributor's license has been issued.

(h) "Importer" means a person to whom a wine importer's license has been issued.

(i) "Winery" means a place, premise or establishment within the state of Idaho for the manufacture or bottling of wine for sale.

(j) "Winery license" means a license issued by the director authorizing a person to maintain a place, premise or establishment within the state of Idaho for the manufacture or bottling of wine for sale.

(k) "Vintner" means a person who manufactures, bottles, or sells wine to importers for resale within this state other than a licensed "winery" as herein defined.

(~~i~~l) "Person" includes an individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is

used.

(jm) "Wine by-the-drink license" means a license to sell wine by the individual glass or opened bottle at retail, for consumption on the premises only.

(kn) All other words and phrases used in this act, the definition of which is not herein given, shall be given their ordinary and commonly understood and accepted meaning.

SECTION 2. That Section 23-1306, Idaho Code, be, and the same is hereby amended to read as follows:

23-1306. LICENSES REQUIRED -- APPLICATION -- ISSUANCE OR REFUSAL. Before any person shall manufacture, import into this state, manufacture, bottle or broker for resale within this state, possess for resale, or distribute or sell wine within the state of Idaho, he shall apply to the director for a license to so do. The application form shall be prescribed and furnished by the director and require that the applicant therein show that he possesses all of the qualifications and none of the disqualifications of a licensee. A person may apply for and receive a license as both a distributor and importer, if otherwise qualified therefor, and shall pay the license fee required pursuant to this act for each license. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for such license, he shall issue a license for each classification applied for, subject to the restrictions of and upon the conditions specified in this act. The license or licenses issued shall be at all times prominently displayed in the place of business of the licensee. If the director determines that the applicant is not properly qualified, he shall refuse to issue a license and shall forthwith so notify the applicant and shall return to the applicant with such notification, three-fourths (3/4) of the license fee remitted with the application. A separate retail wine by the drink license, and wine distributor's license shall be required for each premises. Provided, however, nothing herein shall prohibit a distributor or retailer or wine by the drink licensee from possessing licenses for more than one (1) premises.

SECTION 3. That Chapter 13, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1308A, Idaho Code, and to read as follows:

23-1308A. QUALIFICATIONS FOR WINERY LICENSE. No winery license shall be issued to an applicant who at the time of making the application:

(a) Has not executed an agreement in writing with the director that such winery and every person employed by it or acting as its agents other than distributors and retailers, will faithfully comply with and observe all the provisions of the laws of the state of Idaho relating to the manufacturing, sale and distribution of wine and all rules and regulations adopted by the director pursuant to this act;

(b) Has had a winery license, a wine distributor's license, retail wine license, wine by-the-drink license or wine importer's license, revoked by the director within three (3) years from the date of making such application;

(c) Is licensed to distribute or to import wine in this state;

(d) Has been convicted of a violation of the laws of this state or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application;

(e) Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application.

SECTION 4. That Section 23-1310, Idaho Code, be, and the same is hereby amended to read as follows:

23-1310. STORAGE OR PURCHASE BY DISTRIBUTOR -- FROM WHOM PURCHASED. No distributor may store or purchase wine for purposes of storage or resale unless said wine has been received from persons holding a valid wine importer's license, a ~~or~~ valid wine distributor's license, or a valid winery license.

SECTION 5. That Section 23-1313, Idaho Code, be, and the same is hereby amended to read as follows:

23-1313. PURCHASES BY RETAILERS. No retailer shall purchase or receive wine for resale except from a distributor. Provided, however, that a retailer wholly owned and operated by a licensed winery, which retails exclusively the product of that winery, may receive wine for resale from that winery.

SECTION 6. That Section 23-1314, Idaho Code, be, and the same is hereby amended to read as follows:

23-1314. RECORDS OF WINERIES, IMPORTERS AND DISTRIBUTORS -- CONTENTS -- REPORTS -- CONTENTS -- INSPECTION OF RECORDS, INVENTORY, AND PROPERTY. Every winery, distributor and importer shall have, and notify the director, of a place of business within the state of Idaho where such licensee will and shall keep a record of his or its imports into, and sales of wine within, the state, including the date, quantity, from whom purchased for import, the carrier or other person or means by whom or which transported for import, and the name and address of the purchaser, and shall so keep such record of each such sale or import for a period of eighteen (18) months thereafter. Such licensee shall, on or before the fifteenth ~~(15th)~~ day of each month, make a return, under oath, to the director of the amount of wine sold in, and imported by him into, the state of Idaho for the preceding calendar month, which shall be upon forms furnished by the director. The director may require such additional information to be included in such returns as shall assist him in determining whether or not such

licensee is complying with this act and whether or not all taxes and fees provided for by this act are being fully paid. The director shall have the right at any time and it shall be his duty not less than once in each calendar year, to make an examination of each winery, distributor's and importer's books, records and premises, and such other matters as may assist him in verifying the accuracy of such returns, and retain in his office for not less than two (2) years, a report thereof. An application for, and acceptance of a license by a winery, distributor, importer or retailer shall constitute consent to, and be authority for, entry by the director or his authorized agents, upon any premises related to the licensee's business, or wherein are, or should be, kept, any of the licensee's books, records, supplies or other property related to said business, and to make the inventory, check and investigations aforesaid with relation to said licensee or any other licensee.

SECTION 7. That Section 23-1315, Idaho Code, be, and the same is hereby amended to read as follows:

23-1315. LICENSE FEES -- COUNTY RETAIL LICENSE FEES -- COUNTY LICENSE REQUIRED FOR RETAILERS. (a) Each importer shall pay to the state of Idaho an annual license fee of ~~two~~ three hundred dollars ~~($200);~~ ($300).

(b) Each distributor shall pay to the state of Idaho an annual license fee of ~~two~~ three hundred dollars ($~~2~~300) for each separate warehouse used for the purpose of or in connection with the sale or distribution of wine within this state.

(c) Each winery shall pay to the state an annual license fee of three hundred dollars ($300).

(d) Each retailer and wine by-the-drink licensee shall pay to the state of Idaho an annual license fee of one hundred dollars ($100) for each premises for which a license is issued for the sale of wine.

(~~d~~e) In addition to the fee required by subsection ~~(c)~~ (d) of this section, each retailer and wine-by-the drink licensee shall pay an annual license fee of not to exceed one hundred dollars ($100) to the county in which the licensed premises are located. If the licensed premises are located within the incorporated limits of a city, the licensee shall pay an annual license fee of not to exceed two hundred dollars ($200) to such city. Each city and county within this state are hereby authorized and empowered to determine the license fees to be paid by each retailer and wine by-the-drink licensee licensed pursuant to the terms and conditions of this act. No wine license issued by the commissioner shall authorize the sale of wine at retail unless such person possesses a county and city license as may be required by the governing board thereof.

SECTION 8. That Section 23-1317, Idaho Code, be, and the same is hereby amended to read as follows:

23-1317. TRANSFER OF LICENSES -- FEE -- APPLICATION FOR APPROVAL. (a) No winery license, wine distributor's license, wine by-the-drink

license, or retail wine license may be transferred to another person, including an executor, administrator, or trustee in bankruptcy of the estate of the licensee, unless the transferee shall first have obtained the approval of the director to such transfer upon application containing the substantially same information required of an applicant for a winery license, wine distributor's license or retail wine license, as the case may be. If the transferee possesses all of the qualifications and none of the disqualifications for such license, the director shall approve the transfer, which approval shall be attached and made a part of the license. The fee for each transfer of a winery license, wine distributor's license, wine by-the-drink license, or a retail wine license shall be twenty dollars ($20.00), which fee shall accompany the application for transfer.

(b) Application to transfer a winery license, wine distributor's license, wine by-the-drink license, or retail wine license from one location to another shall be made to the director on forms prescribed and furnished by the director. The director shall approve any such transfer upon submission of the application and receipt by the director of a transfer fee of twenty dollars ($20.00).

SECTION 9. That Section 23-1319, Idaho Code, be, and the same is hereby amended to read as follows:

23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- REFUND FOR BREAKAGE OR SPOILAGE. There is hereby imposed an excise tax of forty-five cents (45¢) per gallon, of which tax five cents (5¢) per gallon shall be deposited directly to the credit of the alcoholism treatment account created by section 23-~~217(e)~~ 404, Idaho Code, upon all wines sold by a distributor or winery to a retailer or consumer for use within the state of Idaho pursuant to this act. Sales of wine by a distributor or winery for the purpose of and resulting in export of wine from this state for resale outside this state shall be exempt from the taxes on wine imposed by this act.

(a) Every sale of wine by a distributor to a retailer shall constitute a sale of wine for resale or consumption in this state, whether said sale is made within or without this state, and such distributor shall be liable for the payment of taxes thereon. In every transfer of wine by a licensed winery to its licensed retail outlet, the winery shall be liable for payment of taxes thereon.

(b) When wine ~~shall--be~~ has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes after payment of taxes thereon, such distributor or winery, upon satisfactory proof of destruction or spoilage, shall be entitled to a refund of taxes paid thereon. Claims for refund shall not be required to be processed unless and until the total claim for refund is in excess of the sum of two hundred dollars ($200).

When wine has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes thereon, the distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to deduct from existing inventories, subject to tax, the amount of wine so destroyed or spoiled.

SECTION 10. That Section 23-1325, Idaho Code, be, and the same is hereby amended to read as follows:

23-1325. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) It shall be unlawful for any importer, distributor, vintner, winery or wholesaler, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee, to have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except such property as shall have been so owned or controlled continuously for more than one (1) year prior to the effective date of this act; or, directly or indirectly, to aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of wine, or by furnishing, giving, renting, lending or selling any equipment, signs, supplies, services, or other thing of value, except as expressly permitted by this act; or, to enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer, or to provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space; provided, however, that at the request of or with the consent of a licensed retailer, an importer, distributor, vintner, winery or wholesaler as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may:

(a) Furnish to a retailer, under the conditions and within the limitations prescribed herein, certain equipment, signs, supplies and services;

(b) Signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment may be given, granted, loaned or sold to a retailer by an industry member engaged in business as an importer, distributor, vintner, winery or wholesaler of wine. The importer, distributor, vintner, winery or wholesaler shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

(c) However, consumer advertising specialties such as ash trays, bottle or can openers, corkscrews, paper bags, matches, printed recipes, wine lists, leaflets, blotters, postcards, pencils, napkins, coasters, clothing, glassware and other containers which bear advertising matter may not be furnished or sold to a retailer;

(d) Newspaper cuts, mats or engraved blocks for use in retailer's advertisements may be furnished, given, rented, loaned or sold by an importer, distributor, vintner, winery or wholesaler to a retailer selling his product;

(e) Perform services incident to the stocking, rotation and restocking of wine sold and delivered to such licensed retailer on or in such licensed retailer's storeroom, salesroom shelves or

refrigerating units to the marking of containers of such wine to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section.

(2) When any advertising materials, equipment, supplies, illuminated signs or other property shall be furnished by an importer, distributor, vintner, winery or wholesaler to a retailer as permitted herein, a charge therefor or for services incident to installation may, upon request of an importer, distributor, vintner, winery or wholesaler, be paid by such retailer, at a price not less than the cost thereof to the industry member providing such property or services.

(3) Provided, however, that a licensed winery may aid or assist a licensed retail wine outlet which retails exclusively the wine product of that winery and which is wholly owned and operated thereby.

(4) Every violation of the provisions of this section by an importer, distributor, vintner, winery or wholesaler in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

SECTION 11. That Section 23-1328, Idaho Code, be, and the same is hereby amended to read as follows:

23-1328. RETAILER'S NAME ON LABELS PROHIBITED -- DISCRIMINATION AMONG RETAILERS PROHIBITED. No label on a wine container shall be used or placed thereon which indicates that a retailer is the producer or the bottler thereof or which contains the name of a retailer in any manner, except in the case of wineries licensed under this chapter, in which case such winery may sell at retail only wine manufactured and bottled in this state by the licensee upon satisfaction of all terms and conditions of this chapter relating to licensure for retail sale of wine. No distributor shall restrict the sale of wine for which the distributor has filed a price schedule in accordance with the provisions of this act to one retailer or to retail premises under common ownership or associated together in, by, or through a buying organization or agency which represents a common identity to the public; nor shall such distributor refuse to sell or distribute wine to a retailer on terms and conditions different from those terms and conditions upon which said distributor sells or distributes wine to other retailers.

SECTION 12. That Section 23-1328A, Idaho Code, be, and the same is hereby amended to read as follows:

23-1328A. PROHIBITION OF CERTAIN TRADE PRACTICES BETWEEN VINTNERS, WINERIES, IMPORTERS OR DEALERS AND DISTRIBUTORS. (1) It shall be unlawful for any vintners, winery, importer or dealer, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To require, by agreement or otherwise, that any distributors engaged in the sale or distribution of wine in the state of Idaho purchase any such wine or other distributed products from such

person to the exclusion in whole or in part of wine or other products made or imported by other vintners, wineries, importers or dealers;

(b) To induce, by any means, any distributor engaged in the sale or distribution of wine to purchase from or distribute the wine or other products of any vintner, winery, importer or dealer to the exclusion of the wine or products of other vintners, wineries, importers or dealers by any means, including, but not limited to the vintner's, winery's, importer's or dealer's acquisition of any interest in the distributor's license, or by acquiring any interest in the real or personal property owned, occupied, or used by the distributor;

(c) To discriminate in price, allowance, rebate, refund, commission, discount, or service between a distributor purchasing wine or a distributor purchasing other products;

(d) To threaten any distributor with any discrimination prohibited under subsection (1) (c) of this section, with the purpose or effect of changing or maintaining resale prices of the vintner, winery, importer or dealer;

(e) To impose conditions or restrictions on a distributor not generally imposed on other distributors; or

(f) To cause a termination, cancellation, nonrenewal or substantial change in competitive circumstances in the relationship with the distributor without providing at least ninety (90) days' written notice of the termination, cancellation, nonrenewal or substantial change in competitive circumstances. The notice shall state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and shall provide that the distributor has ninety (90) days from the date of receipt by said distributor of the vintner's, winery's, importer's or dealer's notice in which to rectify any claimed deficiency. If the deficiency is rectified within ninety (90) days the notice shall be void. The notice provisions of this section shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial change in competitive circumstances is nonpayment of sums due for the purchase of product, the distributor shall be entitled to written notice of such default, and shall have twenty (20) days in which to remedy such default from the date of delivery or posting of such notice.

(2) Nothing in this section shall be deemed to prohibit vintners, wineries, importers or dealers from selecting their own customers in bona fide transactions not in restraint of trade.

SECTION 13. That Section 23-1331, Idaho Code, be, and the same is hereby amended to read as follows:

23-1331. SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSES AND PERMITS -- MONETARY PENALTY. (1) The director may suspend, revoke, or refuse to renew a retail wine license, wine by the drink license,

wine distributor's license, or wine importer's license, winery license or vintner's license issued pursuant to the terms of this act for any violation of or failure to comply with the provisions of this act or rules and regulations promulgated by the director or the state tax commission pursuant to the terms and conditions of this act. Procedures for the suspension, revocation or refusal to grant or renew licenses issued under this act shall be in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) When the director determines to suspend such license, the affected licensee may petition the director prior to the effective date of the suspension requesting that a monetary payment be allowed in lieu of the license suspension. If the director determines such payment to be consistent with the purpose of the laws of the state of Idaho and is in the public interest, he shall establish a monetary payment in an amount not to exceed five thousand dollars ($5,000). The licensee may reject the payment amount determined by the director, and instead be subject to the suspension provisions of subsection (1) of this section. Upon payment of the amount established, the director shall cancel the suspension period. The director shall cause any payment to be paid to the treasurer of the state of Idaho for credit to the state's general account in the state operating fund.

(3) Whenever any licensee who has exercised the privilege granted under subsection (2) of this section and has paid a monetary penalty in lieu of suspension shall be guilty of a subsequent violation which brings him under the purview of this section, such licensee shall be ineligible to again exercise the privilege of a monetary penalty, and the director shall proceed under the provisions of subsection (1) hereof.

(4) The suspension of a license for the sale of liquor or beer shall automatically result in the suspension of any license for the sale of wine held by the same licensee and issued for the same premises or location. Such additional suspension shall be equal in length to and run concurrently with the period of the original suspension.

Approved April 4, 1984.

CHAPTER 222
(H.B. No. 400)

AN ACT

RELATING TO PROPERTY TAX ASSESSMENT ROLLS; AMENDING SECTION 63-412, IDAHO CODE, TO ELIMINATE OBSOLETE REFERENCES AND TO REQUIRE THE VALUE OF EXEMPT PROPERTY TO BE SHOWN ON THE ABSTRACT OF ASSESSMENT ROLLS.

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

SECTION 1. That Section 63-412, Idaho Code, be, and the same is hereby amended to read as follows:

63-412. DELIVERY OF ROLL TO COUNTY AUDITOR -- ABSTRACT OF ROLL. On the second Monday of July the board of county commissioners must deliver the real and personal property assessment rolls, with all changes, corrections and additions entered therein, to the county auditor, who must add up the amount and value of each kind and class of property, and of all property, and prepare an abstract of all the property entered upon the said rolls, ~~not including property exempt under section 63-105BB, Idaho Code,~~ showing the ~~total number of items or pieces of property and the total~~ full market value thereof, in each class, the number of acres~~, average value per acre~~, and the ~~total~~ full market value of each class of land, the ~~total~~ full market value of each class of improvements on land, the ~~total number and~~ full market value of each kind of the different classes of ~~livestock and~~ personal property, and the ~~amount and~~ full market value of each class of other property as shown on the assessment rolls as determined by the board of county commissioners. The value of exemptions will be shown and identified for exemptions granted pursuant to sections 63-105T, 63-105BB, 63-105CC, 63-105DD, Idaho Code, as well as the net taxable value for each of the categories. The said abstracts shall be prepared in duplicate and duly verified upon blanks supplied by the state tax commission and must show a correct classification of all the property in accordance with the classification of such property upon the assessment rolls, and all matters and things required to be shown upon the abstracts must be entered in the proper spaces and columns provided for that purpose in the blanks.

Approved April 4, 1984.

CHAPTER 223
(H.B. No. 403, As Amended)

AN ACT

RELATING TO DEBTS OWING BY THE STATE OF IDAHO SUBJECT TO EXECUTION AND GARNISHMENT; AMENDING SECTION 11-202, IDAHO CODE, TO INCREASE THE FEE FOR SERVICE AND NOTICE OF GARNISHMENT.

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

SECTION 1. That Section 11-202, Idaho Code, be, and the same is hereby amended to read as follows:

11-202. DEBTS OWING BY STATE OF IDAHO SUBJECT TO EXECUTION OR GARNISHMENT AFTER JUDGMENT. Debts, moneys and credits due or owing by the state of Idaho to any person whomsoever, except an elective official of the state of Idaho, shall be subject to execution and garnishment after final judgment against such person for the satisfaction of such judgment by service by the sheriff of Ada County, Idaho, upon the state auditor of the state of Idaho of a copy of the writ of execution

and a notice of garnishment signed by such officer in duplicate, and the state auditor of the state of Idaho shall at the time of the service of such writ and notice collect a fee of ~~$2.00~~ ten dollars ($10.00) therefor from said officer and the state auditor of the state of Idaho shall thereafter have a period of thirty (30) days in which to answer said notice of garnishment and he shall immediately after such service notify the board of examiners of the state of Idaho thereof, and upon the claim of such person being allowed by the state board of examiners, the amount thereof so levied upon or garnisheed, or so much thereof as is necessary for the satisfaction of the writ of execution and judgment upon which the same was issued, and not subject to exemption as provided for by law and claimed by said person, shall be paid by the state auditor in the usual manner provided by law to the officer serving said writ and notice, and said officer's receipt therefor shall be a sufficient release of the state of Idaho and the state auditor of the state of Idaho, of said claim of such person.

Approved April 4, 1984.

CHAPTER 224
(H.B. No. 441)

AN ACT

RELATING TO RATES FOR PUBLICATION OF NOTICES; AMENDING SECTION 60-105, IDAHO CODE, TO PROVIDE FOR CHANGES IN RATES CHARGED FOR ALL OFFICIAL NOTICE PUBLICATIONS, BOTH FIRST AND SUBSEQUENT INSERTIONS.

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

SECTION 1. That Section 60-105, Idaho Code, be, and the same is hereby amended to read as follows:

60-105. RATES FOR OFFICIAL NOTICES. The rate to be charged for all official notices required by law to be published in any newspaper in this state, by any state, county, municipal official or other person, shall be as follows: ~~three~~ four cents (~~3~~4¢) for each pica in a column line for the first insertion and ~~two~~ three cents (~~2~~3¢) for each pica in a column line for each subsequent insertion. For table and figure matter, the rate shall be ~~four~~ five cents (~~4~~5¢) for each pica in a column line for the first insertion, and ~~two~~ three cents (~~2~~3¢) for each pica in a column line for each subsequent insertion. In the event that a column line ends in a one-half (1/2) pica measurement, the rate for such one-half (1/2) pica shall be one-half (1/2) the rate established for a full pica for the type of matter set forth herein. For purposes of this section, the type used shall not be smaller than 7 point nor greater than 8 point.

Approved April 4, 1984.

CHAPTER 225
(H.B. No. 452, As Amended,
As Amended in the Senate)

AN ACT

RELATING TO LOCAL OPTION TAXES IN RESORT CITIES; AMENDING SECTION 50-1046, IDAHO CODE, TO PROVIDE THAT QUALIFYING RESORT CITIES MAY ALSO COLLECT THE FOLLOWING CITY LOCAL-OPTION NONPROPERTY TAXES: AN OCCUPANCY TAX ON SLEEPING ACCOMMODATIONS RENTED OR LEASED FOR A PERIOD OF THIRTY DAYS OR LESS, A TAX UPON WINE AND BEER SOLD AT RETAIL FOR CONSUMPTION ON THE LICENSED PREMISES AND A SALES TAX UPON PART OR ALL OF SALES SUBJECT TO TAXATION UNDER CHAPTER 36, TITLE 63, IDAHO CODE.

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

SECTION 1. That Section 50-1046, Idaho Code, be, and the same is hereby amended to read as follows:

50-1046. CITY LOCAL-OPTION NONPROPERTY TAXES PERMITTED BY SIXTY PER CENT MAJORITY VOTE. A sixty per cent (60%) majority of the voters of any resort city voting on the question may approve and, upon such approval, any city may adopt, implement, and collect, subject to the provisions of this act, the following city local-option nonproperty taxes: (a) ~~hotel-motel--room~~ an occupancy tax upon hotel, motel, and other sleeping accommodations rented or leased for a period of thirty (30) days or less; and (b) a tax upon liquor by-the-drink ~~tax~~, wine and beer sold at retail for consumption on the licensed premises; and (c) a sales tax upon part or all of sales subject to taxation under chapter 36, title 63, Idaho Code.

Approved April 4, 1984.

CHAPTER 226
(H.B. No. 453)

AN ACT

RELATING TO THE INVESTMENT BOARD; AMENDING SECTION 57-722, IDAHO CODE, TO PRESCRIBE THE TYPES OF INVESTMENTS THE BOARD MAY MAKE; AMENDING SECTION 57-724, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR ACCOUNTING FOR DETERMINATION OF NET CAPITAL GAINS OR LOSSES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 57-722, Idaho Code, be, and the same is hereby amended to read as follows:

57-722. INVESTMENT POWERS OF INVESTMENT MANAGER(S) -- LIMITATIONS. The board or its investment manager(s) may, and they are hereby authorized to, invest the permanent endowment funds of the state of Idaho in the following manner and in the following investments or securities and none others:

(1) For a period of two (2) years following the effective date of this act, March 25, 1969, not more than fifty per cent (50%) of the endowment funds as now invested can be reinvested otherwise than in United States treasury bills, United States treasury notes, or other United States governmental debt instruments.

(2) United States, state, county, city, or school district bonds or state warrants.

(3) (a) Bonds, notes, or other obligations of the United States or ~~those--guaranteed--by,--or-for-which-the-credit-of,-the-United States-is-pledged-for-payment-of-the--principal--and--interest--or dividends-thereof~~ any agency or instrumentality thereof.

(b) Money market mutual funds whose assets are limited to obligations of the United States or any agency or instrumentality thereof.

(4) Bonds, notes, or other obligations of the state of Idaho and its political subdivisions, or bonds, notes, and other obligations of other states and their political subdivisions, provided such bonds, notes or other obligations or the issuing agency for other than the state of Idaho and its political subdivisions have, at the time of their purchase, an AAA rating or higher by a commonly known rating service.

(5) Bonds, debentures or notes of any corporation organized, controlled and operating within the United States which have, at the time of their purchase, an A rating or higher by a commonly known rating service. Nothing in this subsection shall apply to the provisions of subsection (6) immediately following.

(6) Corporate obligations designated as corporate convertible debt securities which have, at the time of their purchase, a BBB rating or higher by a commonly known rating service, so long as the right of conversion is not exercised.

(7) Obligations secured by mortgages constituting a first lien upon real property in the state of Idaho which are fully insured or guaranteed as to the payment of the principal by the government of the United States or any agency thereof.

(8) Time certificates of deposit and savings accounts.

SECTION 2. That Section 57-724, Idaho Code, be, and the same is hereby amended to read as follows:

57-724. DISTRIBUTION OF INCOME FROM INVESTMENTS -- DETERMINATION OF NET CAPITAL GAINS OR LOSSES. The board shall distribute the income from the investments or securities in accordance with this act. For the purposes of this act, income shall not include capital gains derived from the sale of investments or securities. In computing net capital gains or net capital losses the board shall use the marketable value of the securities as of the effective date hereof for its com-

putation on July 1, 1971, and shall thereafter use the difference between acquisition cost of securities and actual proceeds received from the sale of securities as the determinant of the gain or loss. Gains or losses shall be determined for four (4) year periods, commencing on July 1, 1975. At the end of each such four (4) year period, the net amount of losses on the sale of securities, not offset by gains on the sale of securities during such period shall be computed and such net losses shall be made up from an appropriation from the general fund, and shall be credited to the appropriate fund. Any realized gains existing at the end of each such four (4) year period shall be carried over to the next subsequent four (4) year period for the accounting purposes of this section. All net income or net losses from the investments or securities shall be distributed to each participating fund in the same rates as each fund's average daily balance bears to the total average daily balance of all participating funds, provided, losses of the public school fund shall be maintained separate from all other funds as required by section 3 of article 9 of the Idaho constitution.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1984.

CHAPTER 227
(H.B. No. 486)

AN ACT

RELATING TO THE REGISTRATION OF PILOTS; AMENDING SECTION 21-114, IDAHO CODE, TO INCREASE THE PILOT REGISTRATION FEE FROM TWO DOLLARS TO TWELVE DOLLARS AND TO PROVIDE FOR BIENNIAL REGISTRATION RENEWAL.

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

SECTION 1. That Section 21-114, Idaho Code, be, and the same is hereby amended to read as follows:

21-114. REGISTRATION OF PILOTS AND AIRCRAFT -- REQUISITES. (a) Pilot Registration--Fees. Subject to the limitation of subsections (c) and (d) of this section, the department is authorized to require that every individual who pilots an aircraft within this state is to register with the department and to renew such registration ~~each~~ every other year thereafter in which he pilots an aircraft within this state. The department may charge for each such registration, and for each ~~annual~~ biennial renewal thereof, a fee of ~~two~~ twelve dollars ($12.00). Such income shall be used for search and rescue of lost aircraft and airmen, which said search and rescue shall be under the direction and supervision of the director of ~~aeronautics~~ the

department.

(b) Aircraft Registration--Fees.

(1) Private Aircraft. Subject to the limitations of subsections (c) and (d) of this section, every aircraft operating within this state and/or holding a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency, shall be registered with the department for each annual registration year in which the aircraft is operated within this state. The annual registration year shall commence on the date provided by regulation and the holding of a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the appropriate federal agency shall be considered prima facie evidence that the aircraft is operating within this state. The department may charge for each such registration, and for each annual renewal thereof, the fees at the rate of two and one-half cents (2 1/2¢) per pound of useful load, being the difference between the weight of an aircraft empty and the gross weight authorized in the license of said aircraft issued by the federal aviation agency, and in no case to exceed one hundred dollars ($100) upon any one (1) aircraft, provided that such fee shall be in lieu of all personal property taxes on such aircraft.

Registration certificates shall be kept in the aircraft at all times. In addition to the registration certificate, an identifying decal shall be issued and placed on the left side of the aircraft either upon the vertical stabilizer thereof or upon a window nearest to the rear of the aircraft, fully visible from the outside of the aircraft.

Registration certificates issued after expiration of the first six (6) months of the annual registration year, as prescribed by the department, shall be issued at the rate of fifty per cent (50%) of the annual fee. Those aircraft that have been found in violation of the provisions of this section after the first six (6) months will pay the full year's fee.

(2) Manufacturers and Dealers License. It shall be unlawful for any person to carry on or conduct the business of buying, selling, or dealing in aircraft unless registered with the department, as such manufacturer or dealer. Any manufacturer or dealer in aircraft owning, having an interest in, or having in his possession an aircraft for the purpose of sale, shall upon the registration and payment of fees as in this act required, acquire one (1) registration certificate which shall bear the distinctive registration number issued to such manufacturer or dealer, and any number of identifying decals. The registration certificate shall be kept at the main office of the manufacturer or dealer and an identifying decal shall be placed upon the left side of every aircraft that the manufacturer or dealer may have an interest in which is held for sale, on the left side thereof either upon the vertical stabilizer or upon a window nearest to the rear of the aircraft.

An identifying decal issued to a manufacturer or dealer

during the calendar year for which issued can be transferred from an aircraft no longer in the possession of the dealer or manufacturer for sale or demonstration to one acquired for the purpose of sale or demonstration during the calendar year.

No identifying decal issued to a manufacturer or dealer as herein provided may be transferred to an aircraft owned or in the possession of such manufacturer or dealer when such aircraft is used solely for commercial purposes.

The fee to be paid by a manufacturer or dealer in aircraft shall be forty dollars ($40.00) for the registration certificate and one dollar ($1.00) for each identifying decal issued to such manufacturer or dealer.

(c) Requirements for Registration, Issuance of Certificate. Possession of the appropriate effective federal certificate, permit, rating or license relating to competency of the pilot or ownership and airworthiness of the aircraft, as the case may be, and payment of the fee duly required pursuant to the provisions of this section shall be the only requisites for registration of a pilot or an aircraft under this section. Registration shall be effected by filing with the department a written statement containing the information reasonably required by the department for such purpose. It shall not be necessary for the registrant to provide the department with originals or copies of federal certificates, permits, ratings or licenses. The department may issue certificates of registration, or such other evidences of registration or payment of fees as it may deem proper, and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences similar to the requirements of section 21-113(b), Idaho Code, for the possession and exhibition of federal airman and aircraft certificates, permits, ratings or licenses. Failure to register, if required, shall be unlawful.

(d) Exemptions. The provisions of this section shall not apply to:

(1) An aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(2) An aircraft which is owned by a bona fide nonresident of this state; provided, however, that this exemption shall not apply to such aircraft operated in the transportation of persons or property for hire, in dusting, seeding, or spraying for hire, or in any other activity for hire in this state, whether such aircraft so operated be engaged casually or continuously;

(3) An aircraft engaged principally in commercial airline or air freight flying constituting an act of interstate or foreign commerce while operating under a certificate, permit or license issued by the civil aeronautics board or other appropriate agency of the United States government;

(4) An individual piloting an aircraft owned by, and used exclu-

sively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(5) An individual piloting any aircraft registered under the laws of a foreign country;

(6) A bona fide nonresident of this state piloting aircraft in this state; provided, however, that this exemption shall not apply to any nonresident piloting an aircraft in this state for hire whether such nonresident is so engaged casually or continuously;

(7) An individual piloting an aircraft engaged principally in commercial airline or air freight flying constituting an act of interstate or foreign commerce, while such aircraft is being operated under a certificate, permit or license issued by the civil aeronautics board or other appropriate agency of the United States government;

(8) An individual operating model aircraft;

(9) An individual piloting an aircraft which is equipped with fully functioning dual controls when a properly certified pilot is in full charge of one (1) set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser.

(e) Transfer of Aircraft. When the ownership of an aircraft registered under the provisions of this section is transferred, the new owner will be required to register the aircraft under the provisions of this section. If the transferor wishes to register another aircraft he shall pay the registration fee required by this section less the amount of registration fee already paid on the aircraft which was sold, or if the transferor shall have an aircraft to be registered with a useful load less than the aircraft that was sold, he shall pay a transfer fee of one dollar ($1.00).

Approved April 4, 1984.

CHAPTER 228
(H.B. No. 525, As Amended in the Senate)

AN ACT

RELATING TO CIGARETTE PACKAGING AND SALES; AMENDING SECTION 63-2502, IDAHO CODE, TO PROVIDE A PACKAGE OF CIGARETTES MAY CONTAIN NO LESS THAN TWENTY CIGARETTES PER PACKAGE AND SHALL BE PACKAGED IN INCREMENTS OF FIVE.

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

SECTION 1. That Section 63-2502, Idaho Code, be, and the same is hereby amended to read as follows:

63-2502. DEFINITIONS. For the purpose of this act, unless otherwise required by the context:

(a) The word "wholesaler" means and includes every person who purchases, sells or distributes cigarettes to other wholesalers or to retailers for the purpose of resale.

(b) The word "retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale, or distributes cigarettes at retail, irrespective of quantity or amount, or the number of sales.

(c) The phrase "wholesale sale" means a sale of cigarettes by a wholesaler to a retailer.

(d) The word "cigarette" shall be taken in the ordinary context of that word and shall be any roll for smoking, made wholly or in part of tobacco, where such roll has a wrapper or cover made of paper or any other material, except where such wrapper is wholly or in the greater part made of tobacco.

(e) The phrase "package of cigarettes" means ~~a-packet-or-package of-twenty-(20)-cigarettes.--It-shall-be-unlawful-to-import--into--Idaho or-in-regard-to-wholesale-and-retail-to-purchase,-store,-use,-consume, handle--and--distribute,--or--sell-at-wholesale-or-retail,-packages-of cigarettes-individually-packaged-with-fewer--or--greater--number--than twenty--(20)--cigarettes.--Packages--of-cigarettes-nevertheless-may-be placed-into-larger-containers,-cartons-or-cases-for-the-convenience-of handling,-storing-or-sale~~ the individual package, box, or other container in or from which retail sales of cigarettes are normally made or intended to be made. A package shall contain no less than twenty (20) cigarettes and be packaged in increments of five (5).

Approved April 4, 1984.

CHAPTER 229
(H.B. No. 553)

AN ACT

RELATING TO NOTIFICATION OF AN ACCUSED'S RIGHT TO COUNSEL; AMENDING SECTION 19-853, IDAHO CODE, TO STRIKE THE REQUIREMENT THAT NOTIFICATION OF AN ACCUSED'S RIGHT TO COUNSEL OR WAIVER THEREOF BE WRITTEN, SIGNED AND FILED WITH THE COURT, AND TO PROVIDE CLARIFICATION REGARDING NOTIFICATION BY THE COURT OF PUBLIC DEFENDERS OR ASSIGNED ATTORNEYS.

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

SECTION 1. That Section 19-853, Idaho Code, be, and the same is hereby amended to read as follows:

19-853. DUTY TO NOTIFY ACCUSED OR DETAINED OF RIGHT TO COUNSEL -- APPOINTMENT OF COUNSEL ~~---NOTIFICATION-IN-WRITING----ACKNOWLEDGMENT-BY ACCUSED~~. (a) If a person who is being detained by a law enforcement

officer, or who is confined or who is the subject of hospitalization proceedings pursuant to sections 66-322, 66-326, 66-329 or 66-409, Idaho Code, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime, is not represented by an attorney under conditions in which a person having his own counsel would be entitled to be so represented, the law enforcement officers concerned, upon commencement of detention, or the court, upon formal charge or hearing, as the case may be, shall:

(1) clearly inform him of his right to counsel and of the right of a needy person to be represented by an attorney at public expense; and

(2) if the person detained or charged does not have an attorney, notify the public defender or trial court concerned, as the case may be, that he is not so represented. As used in this subsection, the term "commencement of detention" includes the taking into custody of a probationer.

(b) Upon commencement of any later judicial proceeding relating to the same matter, including, but not limited to, preliminary hearing, arraignment, trial, any post-conviction proceeding, or post-commitment proceeding, the presiding officer shall clearly inform the person so detained or charged of his right to counsel and of the right of a needy person to be represented by an attorney at public expense.

(c) If a court determines that the person is entitled to be represented by an attorney at public expense, it shall promptly notify the public defender or assign an attorney, as the case may be.

(d) Upon notification by the court or assignment under this section, the public defender or assigned attorney, as the case may be, shall represent the person with respect to whom the notification or assignment is made.

~~(e)--Information-given-to-a-person-under-this-section-is-effective only-if:~~

~~(1)--it-is-in-writing-or-otherwise-recorded;~~

~~(2)--he-records-his-acknowledgment-of-receipt-and-time-of-receipt; or;-if-he-refuses-to-make-this-acknowledgment;-the--person--giving the--information-records-that-he-gave-the-information-and-that-the person-informed-refused-to-acknowledge-it;-and~~

~~(3)--the-material-so-recorded-under-(1)-and-(2)-is-filed-with--the court-next-concerned.~~

Approved April 4, 1984.

CHAPTER 230
(H.B. No. 554)

AN ACT

RELATING TO SENTENCING INFORMATION; AMENDING SECTION 19-2515, IDAHO CODE, TO PROVIDE FOR RECORDING AND TRANSCRIBING THE ARGUMENTS AND COMMENTS OF COUNSEL AND THE JUDGE RELATIVE TO SENTENCING; AND

AMENDING SECTION 20-224, IDAHO CODE, TO REQUIRE SUCH INFORMATION TO BE CONSIDERED BY THE COMMISSION ON PARDONS AND PAROLE.

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

SECTION 1. That Section 19-2515, Idaho Code, be, and the same is hereby amended to read as follows:

19-2515. INQUIRY INTO MITIGATING OR AGGRAVATING CIRCUMSTANCES -- SENTENCE IN CAPITAL CASES -- STATUTORY AGGRAVATING CIRCUMSTANCES -- JUDICIAL FINDINGS. (a) After a plea or verdict of guilty, where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the oral or written suggestion of either party that there are circumstances which may be properly taken into view either in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily, at a specified time, and upon such notice to the adverse party as it may direct.

(b) Where a person is sentenced to serve a term in the penitentiary, after conviction of a crime which falls within the provisions of section 20-223, Idaho Code, except in cases where the court retains jurisdiction, the comments and arguments of the counsel for the state and the defendant relative to the sentencing and the comments of the judge relative to the sentencing shall be recorded. If the comments are recorded electronically, they need not be transcribed. Otherwise, they shall be transcribed by the court reporter.

(c) Where a person is convicted of an offense which may be punishable by death, a sentence of death shall not be imposed unless the court finds at least one (1) statutory aggravating circumstance. Where the court finds a statutory aggravating circumstance the court shall sentence the defendant to death unless the court finds that mitigating circumstances which may be presented outweigh the gravity of any aggravating circumstance found and make imposition of death unjust.

(~~c~~d) In all cases in which the death penalty may be imposed, the court shall, after conviction, order a presentence investigation to be conducted according to such procedures as are prescribed by law and shall thereafter convene a sentencing hearing for the purpose of hearing all relevant evidence and arguments of counsel in aggravation and mitigation of the offense. At such hearing, the state and the defendant shall be entitled to present all relevant evidence in aggravation and mitigation. Should any party present aggravating or mitigating evidence which has not previously been disclosed to the opposing party or parties, the court shall, upon request, adjourn the hearing until the party desiring to do so has had a reasonable opportunity to respond to such evidence. Evidence admitted at trial shall be considered and need not be repeated at the sentencing hearing. Evidence offered at trial but not admitted may be repeated or amplified if necesssary to complete the record.

(~~d~~e) Upon the conclusion of the evidence and arguments in mitigation and aggravation the court shall make written findings setting forth any statutory aggravating circumstance found. Further, the court shall set forth in writing any mitigating factors considered and, if

the court finds that mitigating circumstances outweigh the gravity of any aggravating circumstance found so as to make unjust the imposition of the death penalty, the court shall detail in writing its reasons for so finding.

(~~e~~f) Upon making the prescribed findings, the court shall impose sentence within the limits fixed by law.

(~~f~~g) The following are statutory aggravating circumstances, at least one (1) of which must be found to exist beyond a reasonable doubt before a sentence of death can be imposed:

(1) The defendant was previously convicted of another murder.

(2) At the time the murder was committed the defendant also committed another murder.

(3) The defendant knowingly created a great risk of death to many persons.

(4) The murder was committed for remuneration or the promise of remuneration or the defendant employed another to commit the murder for remuneration or the promise of remuneration.

(5) The murder was especially heinous, atrocious or cruel, manifesting exceptional depravity.

(6) By the murder, or circumstances surrounding its commission, the defendant exhibited utter disregard for human life.

(7) The murder was one defined as murder of the first degree by section 18-4003, Idaho Code, subsections (b), (c), (d), (e) or (f), and it was accompanied with the specific intent to cause the death of a human being.

(8) The defendant, by prior conduct or conduct in the commission of the murder at hand, has exhibited a propensity to commit murder which will probably constitute a continuing threat to society.

(9) The murder was committed against a former or present peace officer, executive officer, officer of the court, judicial officer or prosecuting attorney because of the exercise of official duty.

(10) The murder was committed against a witness or potential witness in a criminal or civil legal proceeding because of such proceeding.

SECTION 2. That Section 20-224, Idaho Code, be, and the same is hereby amended to read as follows:

20-224. INFORMATION REGARDING PRISONERS TO BE SECURED. Within six (6) months after his admission and at such intervals thereafter as it may determine, the board shall secure all pertinent available information regarding each prisoner, including the circumstances of his offense, his previous social history and criminal record, his conduct, employment and attitude in prison, and reports of such physical and mental examinations as have been made to assist the board in prescribing treatment for such person while in confinement and to assist the commission in its deliberations. The board and the commission shall attempt to inform themselves as to such inmate as a personality and may seek from the sentencing judge, prosecuting attorney, defense counsel and law enforcement authorities such information of which they may be possessed relative to the convicted person and the crime for

which he was committed. An electronic recording or transcript of the comments and arguments required to be recorded by section 19-2515, Idaho Code, shall be submitted to the board, made available to the commission, and shall be considered by the commission in making a parole or commutation decision with respect to the prisoner.

Approved April 4, 1984.

CHAPTER 231
(H.B. No. 558, As Amended in the Senate)

AN ACT

RELATING TO LICENSING AND INSPECTION OF NURSERIES AND FLORISTS; REPEALING CHAPTER 23, TITLE 22, IDAHO CODE; AMENDING TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE 22, IDAHO CODE; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR DUTIES OF THE DEPARTMENT; TO PROVIDE FOR A STATE NURSERY ADVISORY COMMITTEE; TO PROVIDE FOR LICENSING OF DEALERS IN NURSERY STOCK; TO PROVIDE FOR TEMPORARY NURSERY SALE LICENSING AND CONDITIONS; TO PROVIDE FOR RENEWAL OF LICENSE; TO PROVIDE FOR AGENT'S LICENSE; TO PROVIDE FOR NONTRANSFER OF LICENSE AND MOVING TO NEW PREMISES; TO PROVIDE FOR SUSPENSION, REVOCATION, OR REFUSAL OF LICENSE; TO PROVIDE FOR ISSUANCE OF SHIPPING PERMIT NUMBERS; TO PROVIDE FOR INSPECTION OF NURSERIES, SPECIAL SERVICES AND FEES THEREFOR; TO PROHIBIT SUBSTITUTION OR TRANSPORTATION OF UNINSPECTED NURSERY STOCK; TO PROHIBIT MISREPRESENTATION OF NURSERY STOCK; TO PROHIBIT SALE OF DAMAGED OR MISLABELED NURSERY STOCK; TO PROHIBIT SELLING, MOVING OR STORING INFECTED OR INFESTED NURSERY STOCK; TO PROVIDE FOR STOP-SALE ORDER AND CONDEMNATION; TO PROVIDE FOR IMPORTED NURSERY STOCK TO BEAR CERTIFICATE OF ORIGIN; TO PROVIDE FOR DISPOSITION AND USE OF MONEY RECEIVED; TO PROVIDE THAT A VIOLATION OF THE PROVISIONS OF THE CHAPTER IS A MISDEMEANOR; AND TO PROVIDE FOR SEVERABILITY.

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

SECTION 1. That Chapter 23, Title 22, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 23, Title 22, Idaho Code, and to read as follows:

CHAPTER 23
NURSERIES AND FLORISTS

22-2301. DEFINITION OF TERMS. For the purpose of this chapter:
(1) The singular and plural forms of any word or term in this

chapter shall be interchangeable and equivalent within the meaning of this chapter.

(2) "Agent" means any person only soliciting orders in this state for the purchase or sale of nursery stock for any principal who is not licensed under this chapter.

(3) "Dealer" means any person who deals in, sells, handles, consigns, or accepts on consignment, imports, stores, displays or advertises nursery stock which he has not grown. The term does not include persons whose business is located out-of-state and who import and sell such nursery stock not grown in Idaho into this state and who only solicit such nursery stock sales through salesmen or representatives or by mail or advertisement. Such a person to be exempt as a dealer must not own, lease, control, or maintain buildings, warehouses or any location or place in Idaho in which or through which such nursery stock is stored, sold, offered for sale, or held for sale or delivered therefrom. The nursery stock must be shipped direct from the out-of-state location or place of business to the grower, wholesaler, retailer, or ultimate consumer or user in Idaho.

(4) "Department" means the Idaho department of agriculture.

(5) "Director" means the director of the Idaho department of agriculture.

(6) "Florist's stock" shall include all cut flowers, foliage and ferns, all potted plants or cuttings or bedding plants, and all flowering bulbs and rooted herbaceous plants used for ornamental or decorative purposes and all corms, whether grown in boxes, benches, pots, under glass or other artificial covering, or in the field or open ground or cuttings therefrom.

(7) "Grower" means any person who grows nursery stock.

(8) "Landscape designer" shall be construed as applying to any person or persons engaged in landscaping property for which he, she, or they will furnish the plants, trees, or shrubs either from his, her, or their own nurseries or by purchase or on contract from other nurseries.

(9) "Not regularly engaged in the business" shall be construed to mean sales of nursery and/or florist's stock incident to farming and gardening operations by persons who do not display such nursery and/or florist's stock for sale by use of signboards, placards, newspapers, radio, or other circulation medium.

(10) "Nursery and/or flower shop" shall be construed to mean any grounds, buildings, greenhouses, or premises either privately or publicly owned on or in which nursery stock and/or florist's stock is propagated or grown for sale, either at the present or at some future time; or any grounds, buildings, greenhouses, vehicles, or premises on or in which nursery and/or florist's stock is being stored, packed, or offered for sale.

(11) "Nursery stock" includes all botanically classified plants or any part thereof, such as herbaceous plants, bulbs, sod, buds, corms, culms, roots, scions, grafts, cuttings, fruit pits, seeds of fruits, forest and ornamental trees, and shrubs, berry plants, and all trees, shrubs vines, and plants collected in the wild that are grown or kept for propagation or sale. The term does not include field and

forage crops, seeds of grasses, cereal grains, vegetable crops and flowers, bulbs and tubers of vegetable crops, vegetables or fruit used for food or feed, cut trees or cut flowers unless stems or other portions thereof are intended for propagation.

(12) "Nurseryman and/or florist" shall be construed to mean the person who owns, leases, manages, or is in charge of a nursery or flower shop or grows nursery and/or florist's stock on shares or on contract.

(13) "Person" includes but is not limited to each branch, store, or place of business in which or at which the business of the dealer or grower is conducted and each member of a cooperative association.

(14) "Sell" or "sale" means to offer, expose, or hold for sale, have for the purpose of sale, or to solicit orders for sale or to deliver, distribute, exchange, furnish, or supply.

22-2302. DUTIES OF THE DEPARTMENT. The department is authorized to:

(1) Inspect the nursery stock of growers, dealers, and other persons and places of business provided for under section 22-2301, Idaho Code.

(2) Issue certificates and permits and check the license and licensing of persons affected by the provisions of sections 22-2301 and 22-2312, Idaho Code.

(3) Investigate violations of the provisions of sections 22-2301 through 22-2312, Idaho Code.

(4) Disseminate information among growers relative to treatment of nursery stock for both prevention and elimination of attacks by plant pests and diseases.

(5) Issue regulations prescribing approved procedures as needed for the protection of the industry and/or to assure access to domestic and foreign markets.

22-2303. STATE NURSERY ADVISORY COMMITTEE. (1) In order to maintain close contact between the department and the nursery industry, there is hereby created a state nursery advisory committee which shall consist of six (6) members appointed by the director of the department of agriculture from a list provided by the Idaho nursery association. Said list will name at least two (2) persons as eligible for each vacancy on the committee.

(2) The members first appointed shall determine by lot the length of their terms: two (2) to serve for one (1) year, two (2) to serve for two (2) years, and two (2) to serve for three (3) years, each term beginning on July 1, 1984. Thereafter, the term of each member shall be for three (3) years beginning on July 1 of the year of appointment. A member shall continue to serve until a successor is appointed and qualified. Vacancies in office shall be filled by appointment for the unexpired term.

(3) No member of the committee shall receive any salary or other compensation, but each member of the committee shall be reimbursed for each day spent in actual attendance in meetings of the committee at the same rate as is allowed state employees for travel expenses.

(4) The functions of the committee shall be to advise and counsel with the department in the administration of the provisions of sections 22-2301 through 22-2318, Idaho Code.

(5) The committee shall meet at the call of the chairman or the director of the Idaho department of agriculture. A majority of the members present at any meeting shall constitute a quorum, and a majority vote of the quorum at any meeting shall constitute an official act of the committee.

(6) At the first meeting after July 1 in each year, the committee shall select a chairman. The dean of the school of agriculture at the University of Idaho and the director of the Idaho department of agriculture, or their representatives, shall be ex-officio members without the right to vote.

22-2304. LICENSE REQUIRED -- SCHEDULE OF FEES. (1) It shall be unlawful for any person to engage in, conduct, or carry on the business of propagating, growing, selling, dealing in, or importing into this state, for sale or distribution, any nursery and/or florist's stock, or to engage in landscape designing, or to act as agent, salesman, or solicitor for any nurseryman, florist, landscape designer, or dealer in nursery and/or florist's stock without first obtaining a license to do so from the Idaho department of agriculture, and it shall be unlawful for any person to falsely represent that he is the agent, salesman, solicitor, or representative of any nurseryman, florist, landscape designer, or dealer in nursery and/or florist's stock.

(2) The provisions of this chapter shall not apply to the sale of plants, shrubs, scions, or florist's stock by anyone not regularly engaged in that business when said sales are only incident to the seller's farming or gardening operations and the total amount of gross annual sales by such seller does not exceed fifty dollars ($50.00).

(3) Every nurseryman and/or florist, landscape designer, dealer, or importer of nursery and/or florist's stock, or collector of native plants for sale shall make application for a license therefor to the Idaho department of agriculture upon a form to be prescribed and furnished by said department, pay to said department the license fee as provided in subsection (5) of this section. No license shall be issued until the applicant therefor shall have paid the fee hereinafter provided.

(4) Class "A" nurseries shall consist of those nurserymen, florists, dealers, landscape designers, and importers of nursery and/or florist's stock, and collectors of native plants for sale, doing a gross business of over one thousand dollars ($1,000) per annum, who shall pay a license fee of fifty dollars ($50.00) for their principal place of business. Class "A" nurseries with more than one retail outlet shall identify the number and location of such additional outlets on the license application and pay an additional fifty dollars ($50.00) for each such additional outlet. The license number shall be prominently displayed in each outlet. Should the holder of a Class "A" license add one or more outlets during the license year, the department must be notified and the fifty dollar ($50.00) surcharge for each such outlet paid immediately.

(5) Class "B" nurseries shall consist of those persons doing a gross business of one thousand dollars ($1,000) or less and shall pay a fee of fifteen dollars ($15.00) per annum.

(6) Dealers shall keep accurate records of their sales and transactions involving nursery and/or florist's stock and shall produce the same at any time when so required by the Idaho department of agriculture. At any hearing in which the amount of license fee to be paid by any person is involved or any questions as to such person's claim for exemption from the provisions of this chapter, such person shall have the burden of proof to establish his claim.

(7) A license fee for an agent as defined in section 22-2301, Idaho Code, is twenty-five dollars ($25.00) per annum for each principal that the agent represents. Agents soliciting sales only from persons licensed under this chapter shall be exempt from licensing fees.

(8) The fees for nursery stock inspection and special services performed for persons not required to be licensed shall be as promulgated by the director.

22-2305. TEMPORARY NURSERY SALE LICENSE -- APPLICATION FEE -- CONDITION. (1) Upon payment of a fee of five dollars ($5.00), a temporary nursery sale license may be issued by the department for holding of a nursery stock sale conducted by or for the benefit of a duly registered nonprofit organization where such sale does not exceed seven (7) consecutive days in any calendar year.

(2) Application for a temporary nursery license shall be made on a form furnished by the department, and shall be accompanied by the license fee as required for each sale.

(3) The department may prescribe the conditions of such temporary nursery sale license, which conditions shall be stated in the license. Any such license may be revoked or suspended by the department for violation of any of the conditions stated therein.

22-2306. RENEWAL OF LICENSE. (1) The fees for the renewal of the annual license required by this chapter shall be paid with the application for license renewal before January 1 of each year.

(2) Failure to pay the fees when due forfeits the right to operate as a grower, dealer, or agent.

(3) Any person who has been previously licensed to grow or sell nursery stock and whose right to grow or sell has been forfeited shall not be issued a renewal license except upon written application to the department accompanied by a sum of money equal to the regular license fee as provided in section 22-2304, Idaho Code.

22-2307. AGENT'S LICENSE. (1) No agent's license shall be issued or valid unless the agent's principal has given the department written authorization to issue the license.

(2) An agent's license shall be automatically suspended during any period when he is not acting as an agent or the principal has withdrawn or cancelled the authorization.

(3) If his license has not expired, an agent may revive his li-

cense by giving notice to the department that he is again acting as an agent. If the agent represents a principal other than the one who gave the written authorization to issue the license, subsection (1) of this section applies.

22-2308. LICENSE NOT TRANSFERABLE -- MOVING PLACE OF BUSINESS. (1) a license is personal to the applicant and may not be transferred. A new license is necessary if the business entity of the licensee is changed or if the membership of a partnership is changed, irrespective of whether or not the business name is changed.

(2) The license issued to a grower or dealer applies to the particular premises named in the license. However, if prior approval is obtained from the department, the place of business may be moved to other premises or locations without the necessity of relicensing.

22-2309. SUSPENSION, REVOCATION, OR REFUSAL OF LICENSE. The department may suspend, revoke, or refuse to issue or renew the license of any person when it is satisfied that:

(1) The applicant or licensee has been guilty of fraud, deception, or misrepresentation in the procurement of a license; and/or

(2) The licensee was guilty of violating any of the provisions of this chapter.

22-2310. ISSUANCE OF SHIPPING PERMIT NUMBERS. (1) The department may issue a shipping permit number to any licensee who requests or requires one.

(2) When authorized or required by the department, the shipping permit number shall accompany all shipments and deliveries of nursery stock. Authorization for such use of a shipping permit number shall be renewed at least annually, subject to regulations promulgated by the director. Use of a shipping permit number without proper authorization shall constitute a violation of this chapter.

22-2311. INSPECTION OF LICENSED AND UNLICENSED NURSERIES -- ADDITIONAL INSPECTIONS AND SPECIAL SERVICES -- FEES. (1) The department shall inspect each licensed nursery at least once each year, and as often thereafter as the department considers necessary to determine and control pest, disease, and noxious weed conditions.

(2) The department may make additional inspections and perform special services as needed in addition to those in paragraph (a) of this subsection including, but not limited to:

(a) Inspections for and issuance of phytosanitary certificates and other certificates required for entrance of nursery stock into other states and foreign countries;

(b) Services performed to verify compliance with import regulations of other states and foreign countries; and

(c) Observing application of pesticides, including fumigants, on nursery stock for phytosanitary purposes.

(3) The director shall maintain a schedule of fees for such additional inspections as may be required or requested.

22-2312. SUBSTITUTION OR TRANSPORTATION OF UNINSPECTED NURSERY STOCK PROHIBITED. No person shall:

(1) Substitute other nursery stock for nursery stock covered by an inspection certificate; and/or

(2) Transport or accept for transportation within the state of Idaho nursery stock that does not carry the official inspection tag authorized by the department.

22-2313. MISREPRESENTATION OF NURSERY STOCK BY GROWER, DEALER, OR AGENT PROHIBITED -- TAGS OR LABELS REQUIRED ON FRUIT TREES -- NURSERY STOCK AS HORTICULTURAL PRODUCT. (1) No grower, dealer, or agent shall:

(a) Sell nursery stock representing it to be a name, age, or variety different from what the nursery stock actually is; and/or

(b) Represent that any nursery stock is a new variety when, in fact, it is a standard variety and has been given a new name; and/or

(c) Sell or present cormels as corms or bulblets as bulbs.

(2) In addition the grower, dealer, or agent shall attach to every bundle of fruit-bearing trees sold or shipped within this state a tag or label specifying the name of the variety of trees contained therein. If the bundle shall contain trees of different varieties, such label or tag shall be attached to each tree or group of trees of the same variety.

22-2314. KNOWINGLY SELLING, ADVERTISING, OR DISPLAYING DAMAGED, MISREPRESENTED, OR MISLABELED NURSERY STOCK PROHIBITED. (1) No person shall knowingly offer to sell, advertise, or display nursery stock:

(a) That is dead, in a dying condition, seriously broken, desiccated, frozen or damaged by freezing, or materially damaged in any way;

(b) By any methods which have the capacity and tendency or effect of deceiving any purchaser or prospective purchaser as to the quantity, size, grade, kind, species, name, age, variety, maturity, condition, vigor, hardiness, number of times transplanted, growth ability, growth characteristics, rate of growth, or time required before flowering or fruiting, price, origin, or place where grown, or in any other material respect;

(c) That fails to meet the grade with which it is labeled;

(d) By making other false or fraudulent representations in connection with the sale of nursery stock.

22-2315. KNOWINGLY SELLING, MOVING, OR STORING INFECTED OR INFESTED NURSERY STOCK PROHIBITED -- SEIZURE. (1) No person shall knowingly offer to sell nursery stock that is infected or infested.

(2) Unless the nursery stock is held for separation or treatment under the supervision of an officer, employee, or inspector of the department, no person shall advertise, display, transport, move store, or warehouse nursery stock that is infected or infested.

(3) Any infected or infested nursery stock may be seized.

(a) As used in this section, "infected" means any appearance of a disease symptom or causal agent that may, in the opinion of the

department, be a menace to other nursery stock or any products or properties.

(b) As used in this section, "infested" means when the mature or immature form of any plant pest, including noxious weeds as defined by the department, is found in such numbers as, in the opinion of the department, to be a menace to other nursery stock or any product or properties.

22-2316. STOP SALE ORDER -- CONDEMNATION. (1) The department may issue and enforce a written or printed "stop-sale" order to any dealer, agent, grower, or other person who is the owner or custodian of any nursery and/or florist's stock when the department finds such nursery and/or florist's stock is being offered for sale in violation of any of the provisions of this chapter.

(2) The "stop-sale" order shall be in effect until the provisions of this chapter have been complied with and said nursery and/or florist's stock is released by order, in writing, of the department. If the nursery stock under "stop-sale" order is determined after a reasonable period to be in such condition that neither treatment nor passage of time will enable it to meet the requirements of this chapter for sale, the department may order such nursery stock destroyed.

22-2317. IMPORTED NURSERY STOCK TO BEAR CERTIFICATE OF ORIGIN -- CONTENTS. Nursery stock imported into Idaho must be accompanied by a certificate from the place of origin, signed by an authorized agent or representative of the agency supervising and responsible for carrying out the nursery stock laws of such originating state or country. The certificate shall contain additional information as may be required by the department to carry out and enforce the provisions of sections 22-2301 through 22-2318, Idaho Code.

22-2318. DISPOSITION AND USE OF MONEY RECEIVED. Fees so collected shall be paid into the state treasury and credited to the agriculture inspection account created by section 22-104, Idaho Code, and such fees shall be used only to carry out the provisions of this chapter.

22-2319. VIOLATION. Any person who shall violate or fail to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

22-2320. 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.

Approved April 4, 1984.

CHAPTER 232
(H.B. No. 570)

AN ACT

RELATING TO TRADE PRACTICES BETWEEN WHOLESALERS AND RETAILERS OF BEER AND WINE; AMENDING SECTION 23-1033, IDAHO CODE, TO CLARIFY LANGUAGE RELATING TO THE STOCKING, ROTATION AND RESTOCKING OF BEER ON THE SHELVES OF THE RETAILER; AMENDING CHAPTER 13, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 23-1325A, IDAHO CODE, TO CLARIFY LANGUAGE CONTAINED IN SECTION 23-1325, IDAHO CODE, RELATING TO THE STOCKING, ROTATION AND RESTOCKING OF WINE ON THE SHELVES OF A RETAILER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 23-1033, Idaho Code, be, and the same is hereby amended to read as follows:

23-1033. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) It shall be unlawful for any brewer, dealer, wholesaler, or the holder of any certificate of approval, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee, to have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except such property as shall have been so owned or controlled continuously for more than one (1) year prior to the effective date of this act; or, directly or indirectly, to aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of beer, or by furnishing, giving, renting, lending or selling any equipment, signs, supplies, services, or other thing of value, except as expressly permitted by this act; or, to enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer, or to provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space; provided, however, that at the request of or with the consent of a licensed retailer, a brewer, dealer, or wholesaler as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may:

(a) Furnish to a retailer, under the conditions and within the limitations prescribed herein, certain equipment, signs, supplies and services, such as furnishing to retailers with or without charge the following items:

(1) tapping device
(2) valve
(3) beer hose
(4) washers
(5) couplings
(6) clamps
(7) air hose

(8) vents
(9) faucets
(10) CO^2 gas regulators
(11) picnic or party pumps

(b) In addition, signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment may be given, granted, loaned or sold to a retailer by an industry member engaged in business or as a brewer importer or wholesaler of malt beverages. The industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

(c) Furnish to a licensed retailer CO^2 gas, when the same is furnished at the going retail price and as a bona fide sale in the regular course of business;

(d) However, consumer advertising specialties such as ash trays, bottle or can openers, corkscrews, paper bags, matches, printed recipes, wine lists, leaflets, blotters, postcards, pencils, napkins, coasters, clothing, glassware and other containers which bear advertising matter may not be furnished or sold to a retailer;

(e) Newspaper cuts, mats or engraved blocks for use in retailer's advertisements may be furnished, given, rented, loaned or sold by an industry member to a retailer selling his product;

(f) Perform services incident to the stocking, rotation and restocking of beer sold and delivered to such licensed retailer on or in such licensed retailer's storeroom, salesroom shelves or refrigerating units to the marking of containers of such beer to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section. For the purposes of this paragraph, a wholesaler may, with the permission of the retailer, and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all beer upon the shelves of the retailer. Labor performed or schematics prepared by the wholesaler relating to conduct authorized pursuant to this paragraph shall not constitute prohibited conduct or unlawful aid to a retailer;

(g) Perform services in connection with:

1. The inspection of a licensed retailer's draught equipment to insure sanitation and quality control;

2. The instruction of licensed retailers in the proper use, maintenance and care of draught equipment, glasses and products used in the sale and dispensing of beer and the preparation and distribution of written information or instructions to licensed retailers with respect thereto;

3. The tapping of kegs.

(2) When any advertising materials, equipment, supplies, tap markers, illuminated signs or other property shall be furnished by a brewer, dealer or wholesaler to a retailer as permitted herein, a charge therefor or for services incident to installation may, upon

request of a brewer, dealer or wholesaler, be paid by such retailer, at a price not less than the cost thereof to the industry member providing such property or services.

(3) The word "ale" or "malt liquor" may be substituted for "beer" on any sign used in connection with any advertising herein permitted, provided reference shall be to ale or malt liquor which has an alcoholic content not greater than the limitation prescribed in section 23-1002, Idaho Code.

(4) Every violation of the provisions of this section by a dealer, brewer or wholesaler, in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

SECTION 2. That Chapter 13, Title 23, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 23-1325A, Idaho Code, and to read as follows:

23-1325A. SERVICES PERMITTED INCIDENT TO STOCKING, ROTATION AND RESTOCKING OF WINE. For the purposes of section 23-1325(1)(e), Idaho Code, a distributor may, with the permission of the retailer, and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all wine upon the shelves of the retailer. Labor performed or schematics prepared by the distributor relating to conduct authorized pursuant to the provisions of this section shall not constitute prohibited conduct or unlawful aid to a retailer.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1984.

CHAPTER 233
(H.B. No. 572)

AN ACT

RELATING TO ILLEGAL OR UNAUTHORIZED PARKING OF VEHICLES IN STATE PARKS; AMENDING CHAPTER 42, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4237, IDAHO CODE, TO PROVIDE FOR CITATIONS FOR VEHICLES ILLEGALLY PARKED, TO PROVIDE FOR ENFORCEMENT, AND TO PROVIDE THAT A VIOLATION SHALL BE AN INFRACTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 42, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 67-4237, Idaho Code, and to read as follows:

67-4237. PARKING VIOLATIONS. (1) If any vehicle, as defined in chapter 1, title 49, Idaho Code, is stopped, standing, or parked in an illegal or unauthorized manner within a state park and the operator cannot be identified readily, the fact that the vehicle is registered or leased in the name of a person shall be prima facie evidence that such person was in control of the vehicle at the time it was parked, unless that person can prove to the satisfaction of the court the vehicle was driven and stopped, placed or parked by an unauthorized person.

(2) The provisions of this section shall be enforced by commissioned peace officers of the department of law enforcement, employees of the department of parks and recreation authorized by the director of the department of law enforcement, the sheriff and his deputies of any county in the state and any peace officer of the state of Idaho.

(3) Any violation of the provisions of this section shall be an infraction and punishable as provided in section 18-113A, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1984.

CHAPTER 234
(H.B. No. 602)

AN ACT

RELATING TO VALUE OF A HOMESTEAD; AMENDING SECTION 55-1201, IDAHO CODE, TO INCREASE THE VALUE OF A HOMESTEAD FOR ANY OTHER PERSON NOT A "HEAD OF A FAMILY."

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

SECTION 1. That Section 55-1201, Idaho Code, be, and the same is hereby amended to read as follows:

55-1201. VALUE OF HOMESTEAD. Homesteads may be selected and claimed of values, in excess of mortgages, deeds of trust and liens of record as follows:

1. Of not exceeding twenty-five thousand dollars ($25,000) in value by any head of a family.

2. Of not exceeding ~~twelve~~ twenty-five thousand dollars ($~~12~~25,000) in value by any other person.

Approved April 4, 1984.

CHAPTER 235
(H.B. No. 607)

AN ACT

RELATING TO MISDEMEANORS FOR MOTOR VEHICLE REGISTRATION VIOLATIONS; AMENDING SECTION 49-147, IDAHO CODE, TO PROVIDE THAT A VIOLATION OF THE PROVISIONS OF SUBSECTION a. OF SECTION 49-107, IDAHO CODE, SHALL NOT BE A MISDEMEANOR; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-147, Idaho Code, be, and the same is hereby amended to read as follows:

49-147. PENALTY FOR MISDEMEANOR. a. It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this chapter, with the exception of the provisions of subsection a. of section 49-107, Idaho Code, unless such the violation is by this chapter or other law of this state declared to be a felony.

b. Every person convicted of a misdemeanor for the violation of any provision of this chapter shall be punished by a fine of not more than three hundred dollars ($300) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1984.

CHAPTER 236
(H.B. No. 608)

AN ACT

RELATING TO OPERATOR'S AND CHAUFFEUR'S LICENSE FEES; AMENDING SECTION 40-2210, IDAHO CODE, TO PROVIDE FOR AN INCREASE OF ONE DOLLAR OF THE OPERATOR'S AND CHAUFFEUR'S LICENSE FEES TO THE STATE HIGHWAY ACCOUNT; AMENDING SECTION 49-312, IDAHO CODE, TO PROVIDE FOR AN INCREASE OF TWO DOLLARS IN THE FEES FOR OPERATOR'S AND CHAUFFEUR'S LICENSES; AND AMENDING SECTION 49-349, IDAHO CODE, TO PROVIDE FOR AN INCREASE OF ONE DOLLAR OF THE OPERATOR'S AND CHAUFFEUR'S LICENSE FEES TO THE COUNTY CURRENT EXPENSE FUND; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 40-2210, Idaho Code, be, and the same is hereby amended to read as follows:

40-2210. STATE HIGHWAY ACCOUNT -- CREATION. For the purpose of carrying out the provisions of this chapter, there is hereby created in the office of the state treasurer a separate account to be known as the state highway account, which account shall include:

1. All moneys received by the state treasurer for deposit to the state highway account, which amount shall include one dollar ($1.00) for each instruction permit issued, ~~one~~ two dollars and ninety-five cents ($~~1~~2.95) for each operator's license issued, ~~three~~ four dollars and ninety-five cents ($~~3~~4.95) for each chauffeur's license issued, and two-thirds (2/3) of all moneys collected for licenses issued by the Idaho transportation department for motor vehicles in conformance with the provisions of chapter 1, title 49, Idaho Code.

2. All fines, penalties and forfeitures incurred and collected for violations of the provisions of this chapter, as hereinafter provided.

3. All donations to the state from any source for the construction and improvement of highways.

4. All funds received from local boards under joint contracts for the construction of state highways, as hereinbefore in this chapter provided; and,

5. Other funds which have heretofore or may hereafter be provided by law for the construction and improvement of state highways.

SECTION 2. That Section 49-312, Idaho Code, be, and the same is hereby amended to read as follows:

49-312. APPLICATION FOR LICENSE OR INSTRUCTION PERMIT. (a) Every application for an instruction permit or for an operator's or chauffeur's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths, and officers and employees of the department and sheriffs and their deputies are hereby authorized to administer such oaths without charge. Every application for a permit or license shall be accompanied by the required fee, to-wit: Application for instruction permit, four dollars ($4.00); application for operator's license, ~~ten~~ twelve dollars ($1~~0~~2.00); application for chauffeur's license, ~~twelve~~ fourteen dollars ($1~~2~~4.00). Every applicant for an instruction permit or operator's license who is required to take or who elects to take a driver training course in a public school in this state shall be required to pay an additional fee of twenty-five dollars ($25.00) for deposit to the driver training account.

(b) Every said application shall state the full name, date of birth, sex, residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as an operator or chauffeur, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal, and the applicant may be required to submit proof of date of birth sufficient to satisfy the issuing officer.

(c) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the operator's record from such other jurisdiction. When received, the operator's record shall become a part of the operator's record in this state with the same force and effect as though entered on the operator's record in this state in the original instance.

(d) Whenever the department receives a request for an operator's record from another licensing jurisdiction, the record shall be forwarded without charge.

SECTION 3. That Section 49-349, Idaho Code, be, and the same is hereby amended to read as follows:

49-349. REMITTANCE OF FEES. All moneys or fees which shall be paid to or collected by the sheriff of any county of the state of Idaho for receiving applications for or renewals of motor vehicle operators' licenses and motor vehicle chauffeurs' licenses shall, not later than the end of each and every month, be paid to the county treasurer wherein said fees were collected and the county treasurer shall deposit ~~one~~ two dollars and five cents ($~~1~~2.05) from each of said fees and one dollar and fifty cents ($1.50) from the fees charged for applications for duplicates of each license to the credit of the current expense fund and shall, at least monthly, remit the remainder of all of said fees to the department for deposit with the state treasurer to the law enforcement account as provided by section 49-1301, Idaho Code, to the driver training account as provided by section 49-346, Idaho Code, and to the state highway account as provided by section 40-2210, Idaho Code.

SECTION 4. This act shall be in full force and effect on and after September 1, 1984.

Approved April 4, 1984.

CHAPTER 237
(H.B. No. 653)

AN ACT

RELATING TO THE TAXATION OF FOREST LANDS AND FOREST PRODUCTS; AMENDING SECTION 63-1703, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR CERTAIN LANDS DESIGNATED AS SUBJECT TO THE YIELD TAX, AND TO PROVIDE THAT CERTAIN FOREST PRODUCTS OR TIMBER HARVESTED FROM LANDS NOT DESIGNATED SHALL BE SUBJECT TO THE YIELD TAX; AMENDING SECTION 63-1705, IDAHO CODE, TO PROVIDE FOR THE ADOPTION OF RULES AND REGULATIONS; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-1703, Idaho Code, be, and the same is

hereby amended to read as follows:

63-1703. CERTAIN FOREST LANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS. For the purposes of appraisal, assessment and taxation under the provisions of this chapter, all forest lands in parcels of five (5) or more acres but less than two thousand (2,000), whether contiguous or not, as long as such parcels are held in common ownership, must be designated by the forest landowner to be subject to the provisions of either paragraph (a) or (b) of this section. If the forest landowner fails to make a designation, his forest lands shall be subject to appraisal, assessment and taxation under the provisions of section 63-1702, Idaho Code. Once a designation is made by the forest landowner, such designation must remain in effect for a minimum period of ten (10) years unless the forest lands are transferred to another owner in a different taxing category; in such case, the taxing category of the forest lands shall be the same as that maintained by the new owner. Any substantial change in the use of forest lands not conforming with the definition of forest land in section 63-1701, Idaho Code, during such ten (10) year period under the designations made by paragraph (a) or (b) shall be reported by the landowner to the county assessor within thirty (30) days of the change in use. Upon notification of the change in use, the assessor shall appraise, assess and tax those acres as provided by applicable laws, rules and regulations. Failure to notify the assessor of the change in use when forest lands have been designated as subject to the provisions of paragraph (a) or (b) shall cause forfeiture of such designation, and cause that property to be appraised, assessed and taxed as provided in section 63-1702, Idaho Code.

Forest lands designated for assessment pursuant to the provisions of section 63-1706, Idaho Code, shall be subject to the recapture of deferred taxes upon removal of such designation, a substantial change in use, or ownership transfer, except that there shall be no recapture initiated upon ownership transfer of forest lands designated as subject to the provisions of section 63-1706, Idaho Code, to a landowner with forest lands already designated as subject to the provisions of section 63-1706, Idaho Code, prior to the transfer, or who so designates his lands to be subject to the provisions of section 63-1706, Idaho Code.

The dollar amount of deferred taxes subject to recapture shall be determined by the county assessor by applying current tax levies against the current values that would have been in effect if the lands were subject to appraisal and assessment during the current year under the provisions of section 63-1705 or section 63-1702, Idaho Code, which amount shall be multiplied by the number of years that the lands have been subject to the designation under section 63-1706, Idaho Code. A credit shall be allowed for taxes actually paid under the provisions of section 63-1706, Idaho Code, if such taxes are less than the amount of the deferred taxes. All deferred amounts shall be a lien against the land. The county recorder shall certify the amount of any deferred taxes to the treasurer for collection.

(a) A forest landowner may choose to have his forest land

assessed, appraised and taxed under the provisions of section 63-1705, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1705, Idaho Code, shall become effective the first day of January following the year of designation.

(b) A forest landowner may choose to have his forest land assessed, appraised and taxed under the provisions of section 63-1706, Idaho Code, by filing such choice with the county assessor on a form prescribed by the state tax commission. Designation filed pursuant to section 63-1706, Idaho Code, shall become effective the first day of January following the year of designation.

(c) All forest products or timber harvested from investment lands not designated as subject to the provisions of section 63-1702, 63-1705 or 63-1706, Idaho Code, and delivered to a point of utilization as logs or semiprocessed forest products (except those forest products harvested for the domestic use of the landowner under the provisions of section 63-1708, Idaho Code) shall be subject to the yield tax at the time of harvest in the same manner provided for in section 63-1706, Idaho Code.

SECTION 2. That Section 63-1705, Idaho Code, be, and the same is hereby amended to read as follows:

63-1705. TAXATION OF LARGE-SIZE FOREST TRACTS. (1) In order to encourage private forest landowners to retain and improve their holdings of forest lands and to promote better forest management, large-sized forest tracts shall be appraised, assessed and taxed as real property under the provisions of this section.

(2) The inventory of timber and other forest products growing on large-sized forest tracts shall not be included as a part of the total forest asset. The forest value shall be determined by an income approach which capitalizes the value of the average annual net wood production over a reasonable rotation period plus other agricultural-related income, if any, less annualized expenses including, but not limited to, the establishment, protection, maintenance, improvement and management of the crop over the rotation period.

(3) The market value for assessment purposes shall be determined by the county assessor under rules and regulations prescribed by the state tax commission. In prescribing such rules and regulations, the tax commission shall:

(a) Divide the state into appropriate forest valuation zones, with each zone designated so as to recognize the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors of that zone; and

(b) Establish a uniform system of forest land classification which considers the productive capacity of the soil to grow forest products and furnish other associated agricultural uses.

(4) The state tax commission shall by March 1 of each year, furnish the county assessor for each value zone the capitalization rate, stumpage value, agricultural-related income, if any, and expense component to be used in determining the forest value. The capitaliza-

tion rate shall be determined in accordance with the procedures prescribed for the determining of the capitalization rate for agricultural lands by section 63-105CC, Idaho Code. Stumpage values shall be based upon the preceding five (5) year rolling average value of timber harvested within the forest value zone from state timber sales and/or the best available data for the same five (5) year period. Average agricultural-related income and the average expense component for each forest value zone shall be determined for the same time period as the period used to determine average stumpage values.

(5) Forest lands upon which, at any time after January 1, 1982, the trees are destroyed by fire, disease, insect infestation or other natural disaster such that the lands affected will not meet minimum stocking requirements under rules and regulations adopted pursuant to chapter 13, title 38, Idaho Code, shall be eligible for a reduction in value for the first ten (10) property tax years following the loss. The amount of reduction shall be determined by dividing the average age of the trees destroyed by the rotation age for the specific forest value zone in which the property is located. In no instance shall the annual reduction exceed eighty percent (80%) of the original forest value per year. In order to obtain a reduction, the landowner shall on or before January 1 following the destruction, make written application to the assessor indicating the legal description of the lands in question and stating all pertinent facts. The assessor may investigate the facts and may request assistance from the state tax commission in performing such investigations. If the requirements are met, such forest lands shall be assessed and taxed on the reduced basis herein provided.

(6) Buildings and other improvements, other than roads, located on forest lands shall be appraised, assessed and taxed as provided by applicable laws, rules and regulations.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1984.

Approved April 4, 1984.

CHAPTER 238
(H.B. No. 671)

AN ACT

RELATING TO THE PERSONNEL SYSTEM; AMENDING SECTION 67-5314, IDAHO CODE, TO PROVIDE FOR PAYMENTS TO THE PERSONNEL COMMISSION ACCOUNT.

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

SECTION 1. That Section 67-5314, Idaho Code, be, and the same is hereby amended to read as follows:

67-5314. METHOD OF FINANCING. (1) There is hereby created in the state operating fund in the state treasury the personnel commission account. All participating departments are hereby authorized and directed to pay out of their funds to the state treasurer their respective shares of the authorized budget of the commission. All moneys placed in said account are hereby perpetually appropriated to the commission for the administrative purposes of this act. All expenditures from said account shall be paid out in warrants drawn by the state auditor upon presentation of proper vouchers from the commission.

(2) The commission shall allocate costs of its operation to each participating department in the same proportion that the amount of the payroll for classified employees of the department bears to the total amount of the payroll for classified employees of all departments ~~under-the-personnel-system-as-of-April-1-and-October-1-of--each--year,~~ combined and averaged as to the basis for allocation of costs.

(3) Each participating department shall deposit to said account on ~~January-1-and-July-1-of-each-year,-commencing-July-1,--1965~~ a pay period basis as prescribed by the state auditor, an amount equal to its share of costs of operation of personnel commission according to the costs allocation formula set forth above. Departmental deposits for each succeeding fiscal year shall be at a percentage rate of salaries and wages for positions subject to this act, computed to be sufficient to carry out the intent and all provisions of this act as directed by the legislature.

Approved April 4, 1984.

CHAPTER 239
(H.B. No. 680, As Amended in the Senate)

AN ACT

RELATING TO EXEMPTIONS FROM SALES AND USE TAX; AMENDING SECTION 63-3622, IDAHO CODE, TO STRIKE REFERENCE TO EXEMPTIONS; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 63-3622A, 63-3622B, 63-3622C, 63-3622D, 63-3622E, 63-3622F, 63-3622G, 63-3622H, 63-3622I, 63-3622J, 63-3622K, 63-3622L, 63-3622M, 63-3622N, 63-3622O, 63-3622P, 63-3622Q, 63-3622R, 63-3622S, 63-3622T, 63-3622U, 63-3622V, 63-3622W, 63-3622X AND 63-3622Y, IDAHO CODE, TO PROVIDE THAT SALES AND USE TAXES SHALL NOT BE COLLECTED WHEN PROHIBITED UNDER THE CONSTITUTION OF THE UNITED STATES; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON OUT-OF-STATE CONTRACTS; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON MOTOR FUELS OTHERWISE SUBJECT TO TAX; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON CERTAIN ITEMS USED IN PRODUCTION; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON CONTAINERS; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON GAS, ELECTRICITY AND WATER; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON HEATING MATERIALS; TO

PROVIDE EXEMPTION FROM SALES AND USE TAX ON HOME YARD SALES; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON RELIGIOUS MATERIALS; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON SCHOOL, CHURCH AND SENIOR CITIZEN MEALS; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON OCCASIONAL SALES; TO PROVIDE EXEMPTION FROM SALES AND USE TAX FROM CERTAIN SALES THROUGH A VENDING MACHINE; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON CERTAIN LIQUOR SALES; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON PRESCRIPTIONS; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON CERTAIN NONPROFIT ORGANIZATIONS; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON OUT-OF-STATE SHIPMENTS BY A COMMON CARRIER; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON OUT-OF-STATE SHIPMENTS; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON CERTAIN MOTOR VEHICLES AND USED MOBILE HOMES; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON RADIO AND TELEVISION BROADCASTING EQUIPMENT; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON EQUIPMENT TO PRODUCE CERTAIN NEWSPAPERS; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON FUNERAL SERVICES; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON BULLION; TO PROVIDE EXEMPTION FROM SALES AND USE TAX ON IRRIGATION EQUIPMENT AND SUPPLIES; TO PROVIDE EXEMPTION FROM SALES AND USE TAX FOR POLLUTION CONTROL EQUIPMENT; TO PROVIDE EXEMPTION FROM SALES AND USE TAX FOR BOY SCOUT ENCAMPMENTS; AND AMENDING SECTION 63-3615, IDAHO CODE, TO STRIKE REFERENCE TO A USE TAX EXEMPTION FOR PROCESSING SPECIAL NUCLEAR MATERIAL AT THE IDAHO NATIONAL REACTOR TESTING STATION.

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

SECTION 1. That Section 63-3622, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622. EXEMPTIONS -- EXEMPTION CERTIFICATES. ~~There-are-exempted from-the-taxes-imposed-by-this-act-the-following:~~

~~(a)--The-sale-at-retail,-storage,-use,--or--other--consumption--of tangible--personal-property-which-this-state-is-prohibited-from-taxing under-the-Constitution-of-the-United-States;~~

~~(b)--The-sale-of-tangible-personal-property-to--resident--contractors--for--subsequent--incorporation--into--real-property-outside-this state-in-the-performance-of-a-contract--to--improve--the--out-of-state realty--unless--this-provision-would-result-in-subjection-of-said-contractor-to-a-use-or-similar-excise-tax-in-another-state;~~

~~(c)--Purchases-which-are-subject-to-the-motor-fuels-tax-imposed-by chapter-12,-title-49,-Idaho-Code,-motor-fuels--subject--to--tax--under section--49-127(d),--Idaho--Code,--and--the-motor-fuels-tax-imposed-by chapter-24,-title-63,-Idaho-Code;~~

~~(d)--Receipts-from-the-sale,-storage,-use-or-other-consumption--in this--state--of--tangible--personal-property-which-will-enter-into-and become-an-ingredient-or-component-part-of-tangible--personal--property manufactured,--processed,--mined,--produced-or-fabricated-for-ultimate sale-at-retail-within-or-without-this--state,--and--tangible--personal property--primarily--and--directly--used-or-consumed-in-or-during-such manufacturing,-processing,-mining,-farming,-or-fabricating--operations~~

by--a--business-or-segment-of-a-business-which-is-primarily-devoted-to such-operation-or-operations,-provided-that-the-use-or-consumption--of such--tangible-personal-property-is-necessary-or-essential-to-the-performance-of-such-operation.-Chemicals,-catalysts,-and-other--materials which--are-used-for-the-purpose-of-producing-or-inducing-a-chemical-or physical-change-or-for-removing--impurities--or--otherwise--placing--a product-in-a-more-marketable-condition-are-included-within-this-exemption,--as-are-other-articles-of-tangible-personal-property-used-in-the actual-manufacturing,-processing,-mining,-farming-or-fabricating-operations.-This-exemption-does-not-include--machinery,--equipment,--materials-and-supplies-used-in-a-manner-that-is-incidental-to-the-manufacturing,--processing,-mining,-farming-or-fabricating-operations-such-as maintenance-and-janitorial-equipment-and-supplies,-and-hand-tools-with a-unit-purchase-price-not-in-excess-of-one-hundred-dollars-($100),-nor does-it-include-tangible-personal--property--used--in--any--activities other--than--the--actual-manufacturing,-processing,-mining,-farming-or fabricating-operations-such-as-office-equipment-and--supplies,--equipment--and--supplies--used--in--selling--or-distributing-activities,-in research,-or-in-transportation-activities,-nor--shall--this--exemption include-motor-vehicles-licensed-or-required-to-be-licensed-by-the-laws of--this-state,-without-regard-to-the-use-to-which-such-motor-vehicles are-put,-nor-shall-this-exemption-include-tangible--personal--property used-or-consumed-in-processing,-producing-or-fabricating-tangible-personal-property-exempted-from-this-act-by-subsections-(h),-(k),-(l)-and (p)-of-this-section.

(e)--The--sale,--use--or--purchase--of-tangible-personal-property, which-property-is-pollution-control-equipment--required--in--order--to meet-air-and-water-quality-standards-of-a-state-or-federal-agency-having-authority-to-regulate-and-set-air-and-water-quality-emission-standards.---This-exemption-does-not-include-motor-vehicles-required-to-be licensed-by-the-laws-of-this-state,-without-regard-to-the-use-to-which such-motor-vehicles-are-put.

(f)--All-sales-of-irrigation-equipment-and-supplies,--except--hand tools--as--defined--in--subsection-(d)-of-this-section,-to-be-used-for agricultural-production-purposes,-whether-or-not--such--equipment--and supplies--are--to--become--a--part--of--real-estate-and-whether-or-not installed-by-the-farmer,-a-contractor-or-subcontractor.

(g)--The-sale-or-purchase-of-containers--in--the--following--categories:

1.--Nonreturnable--containers--when--sold--without-the-contents-to persons-who-place-the-contents-in-the-container-and-sell-the--contents-together-with-the-container.

2.--Containers--when--sold-with-the-contents-if-the-sales-price-of the-contents-is-not-required-to-be-included-in-the-measure-of--the taxes-imposed-by-this-act.

3.--Returnable--containers--when-sold-with-the-contents-in-connection-with-a-retail-sale-of-the-contents-or-when-resold--for--filling.

(h)--The--sale--or--purchase--of--gas,-electricity,-and-water-when delivered-to-consumers.

(i)--The-sale-or-purchase-of-any-matter-used-to--produce--heat--by

burning,-including-wood,-coal,-petroleum-and-gas.

(j)--The--sale--or--purchase-of-tangible-personal-property-at-home yard-sales;-provided,-however,-that-no-more-than--two--(2)--such--home yard-sales-per-individual-per-calendar-year-shall-be-exempt.

(k)--The--sale--or-purchase-of-tangible-personal-property-used-for the-performance-of-a-written-contract-entered-into-prior-to--the--passage--and--approval--of-this-act,-but-such-exemption-shall-extend-only until-July-1,-1967.

(l)--The-sale-or-purchase,-or-the-storage,-use-or--other--consumption-of-religious-literature,-pamphlets,-periodicals,-tracts-and-books published-and-sold-by-a-bona-fide-church-or-religious-denomination,-no part-of-the-net-earnings-of-which-inures-to-the-benefit-of-any-private individual-or-shareholder.

(m)--The-sale-of-meals-by-public-or-private-schools-under-the-federal--school--lunch-program-or-under-programs-that-provide-nutritional meals-for-the-aging-(Title-VII-of-the-Older-Americans--Act,--PL93-29), and-the-sale-of-meals-by-a-church-to-its-members-at-a-church-function.

(n)--Occasional--sales--of--tangible--personal-property,-including sales-of-animals-by-any-4-H-Club-or-FFA-Club-held-in-conjunction--with a-fair-or-the-western-Idaho-spring-lamb-sale,-providing,-however,-that this--exemption-shall-not-apply-to-the-sale,-purchase,-or-use-of-self-propelled-motor-vehicles-unless-they-are-transferred-in-a--transaction falling--within-the-scope-of-section-63-3612A(b),-Idaho-Code,-a-change in-the-form-of-doing-business,-or-section-63-3612A(c),-Idaho-Code,-the sale-of-a-going-business,-or-section-63-3612A(f),-Idaho-Code,-the-sale of-motor-vehicles-between-family-members.

(o)--The-sale-of-articles-through-a-coin-operated-vending--machine for--a--total--consideration-of-fifteen-cents-($.15)-or-less-and-individual-transactions-involving-a-total-sales-price-of-less-than-fifteen cents-($.15).

(p)--Sales-of-liquor-by-the-state-liquor-dispensary--to--a--person licensed-under-the-provisions-of-chapter-9,-title-23,-Idaho-Code.

(q)--Sales--of-prescription-drugs-and-the-sale-of-oxygen,-all-upon the-prescription-of-a-practitioner--licensed--to--prescribe--drugs--to human--beings--in-the-course-of-his-professional-practice,-the-sale-of artificial-limbs,--prescription--braces,--wheelchairs,--hearing--aids, crutches--and--other--prosthetic--devices-except-eyeglasses-and-dental bridgework.

(r)--Sales-to-the-Boy-Scouts-of-America-of-supplies-and--materials for--national--and-international-encampments-within-the-state-of-Idaho and-sales-by-the-Boy-Scouts-of-America-to-participants-in-national-and international-encampments-within-the-state-of-Idaho-if-such-sales--are made-within-the-confines-of-Farragut-State-Park.

(s)--Sales-to-and-purchases-by-hospitals,-health-related-entities, educational--institutions,--forest--protective--associations-and-canal companies-which-are-nonprofit-organizations.--As-used-in--this--subsection,-these-words-shall-have-the-following-meanings:

1.--Educational--institution--shall--mean--resident-nonprofit-colleges,-universities,-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.

2.--Hospital--as--used-herein-shall-include-nonprofit-institutions licensed-by-the-state-for-the-care-of-ill-persons.--It--shall--not extend--to-nursing-homes-or-similar-institutions-or-organizations.

3.--Health-related-entities-as-used-herein-shall--mean--the--Idaho Cystic--Fibrosis--Foundation,--March--of--Dimes,--American--Cancer Society,-Mental-Health-Association,-Idaho-Association-of--Retarded Citizens,--Idaho-Heart-Association,-United-Cerebral-Palsy,-Arthritis-Foundation,-Muscular-Dystrophy-Foundation,--National--Multiple Sclerosis--Society,--Rocky--Mountain--Kidney-Association,-American Diabetes-Association,-and-Easter-Seals,-together-with--said--entities'-local-or-regional-chapters-or-divisions.

4.--Canal--companies--as--used-herein-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.

5.--Forest-protective-associations-as-used-herein-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.

(t)--The-sale-or-purchase-of-tangible-personal-property-shipped-by the-seller-via-the-purchasing-carrier-under-a-bill-of--lading--whether the--freight--is--paid--in--advance,--or--the-shipment-is-made-freight charges-collect,-to-a-point-outside-this--state--if--the--property--is actually--transported--to--the-out-of-state-destination-for-use-by-the carrier-in-the-conduct-of-its-business-as-a-common-carrier.

(u)--The-sale-or-purchase-of-tangible-personal-property--which--is shipped--to-a-point-outside-this-state-for-use-outside-this-state-pursuant-to-a-contract-of-sale-by-delivery-by-the-vendor-to-such-point-by means-of-(1)-facilities-operated-by-the-vendor,-(2)--delivery--by--the vendor--to-a-carrier-for-shipment-to-a-consignee-at-such-point,-or-(3) delivery-by-the-vendor-to-a-customs-broker--or--forwarding--agent--for shipment-outside-this-state.

(v)--Sales--of-motor-vehicles-and-trailers-for-use-outside-of-this state,-even-though-delivery-be-made-within-this-state,-but--only--when (1)--the-vehicles-or-trailers-will-be-taken-from-the-point-of-delivery in-this-state-directly-to-a-point-outside--this--state--and--(2)--said motor--vehicles--and--trailers-will-be-titled-and-licensed-immediately under-the-laws-of-another-state,-will-not-be-used-in-this--state--more than--twenty-five--percent--(25%)-of-the-mileage-in-any-calendar-year, and-will-not-be-required-to-be-titled-under-the-laws--of--this--state; the--sale-of-motor-vehicles-and-motor-equipment-not-required-to-be-li-

eensed-and-used-as-log-jammers,-log-loaders,-farm-tractors-and--implements--of-husbandry;-and-the-sale-of-used-mobile-homes,-whether-or-not such-used-mobile-homes-are--sold--for--use--outside--this--state,--and whether--or--not--such--used--mobile-homes-are-sold-by-a-dealer.-Every mobile-home-sale-after-its-sale-as-a-"new-mobile-home,"-as-defined--in section-63-3606,-Idaho-Code,-is-a-sale-as-a-used-mobile-home.

(w)--Receipts--from-the-sale,-storage,-use-or-other-consumption-in this-state-of-tangible-personal-property-directly-used-and-consumed-in the-production-and-broadcasting-of-radio-and-television-programs--when the--purchase,--storage,--use-or-other-consumption-is-by-a-business-or segment-of-a-business-which-is-primarily-devoted--to--such--production and--broadcasting,--provided,-that-the-use-or-consumption-of-such-tangible-personal-property-is-necessary-or-essential-to--the--performance of--such--operation.-This-exemption-does-not-include-machinery,-equipment,-materials-and-supplies-used-in-a-manner-that--is--incidental--to the--production--and--broadcasting--operation,-such-as-maintenance-and janitorial-equipment-and-supplies-and-hand-tools-with-a-unit-price-not in-excess-of-one-hundred-dollars-($100),-nor-does-it-include--tangible personal--property-used-in-any-activities-other-than-actual-production and-broadcasting-operation-such--as--office--equipment--and--supplies, equipment-and-supplies-used-in-selling-and-distributing-activities,-in research,--or--in--transportation-activities,-nor-shall-this-exemption include-motor-vehicles-required-to-be-licensed-by--the--laws--of--this state,-without-regard-to-the-use-to-which-such-motor-vehicles-are-put.

(x)--Receipts--from-the-sale,-storage,-use-or-other-consumption-in this-state-of-tangible-personal-property-directly-used-and-consumed-in the-production-of-publications-in-a-newspaper-format--which--are--distributed--to-the-public-at-large-and-which-rely-on-advertising-revenue as-their-primary-source-of-income,-provided,-that-the-purchase,--storage,--use--or-other-consumption-is-by-a-business-or-segment-of-a-business-which-is-primarily-devoted-to--such--production--of--said--publications,--provided,--further,-that-the-use-or-consumption-of-such-tangible-personal-property-is-necessary-or-essential-to--the--performance of--such-publication-business.-This-exemption-does-not-include-machinery,-equipment,-materials-and-supplies-used-in-a-manner-that-is--incidental-to-the-production-of-said-publications,-such-as-maintenance-and janitorial-equipment-and-supplies-and-hand-tools-with-a-unit-price-not in--excess-of-one-hundred-dollars-($100),-nor-does-it-include-tangible personal-property-used-in-any-activities-other-than-the-actual-production-of-the-publication-and-shall-not-include-property-such-as--office equipment--and--supplies,--equipment--and-supplies-used-in-selling-and distributing-activities,-in-research-or-in-transportation--activities, nor--shall--this--exemption--include-motor-vehicles-required-to-be-licensed-by-the-laws-of-this-state-without-regard-to-the--use--to--which such-motor-vehicles-are-put.

Provided,-further,-that-this-exemption-shall-apply-when-the-publication-referred-to-herein-is-distributed-to-the-public-free-of-charge.

Provided,--further,-that-in-order-for-the-exemption-to-be-applicable,-at-least-ten-percent-(10%)-of-the-total-publication,-computed--on an--average--annual--column--inch-basis,-must-be-devoted-to-the-publication-of-nonincome-producing-informative-material.

~~(y)--The-sale-of-tangible-personal-property--relating--to--funeral services-by-a-licensed-funeral-establishment.~~

~~(z)--The--sale--of-precious-metal-bullion-or-the-sale-of-monetized bullion.--For-purposes-of-this-section,-"precious-metal-bullion"-means any-elementary-precious-metal-which-has-been-put-through-a-process--of smelting--or--refining--including,--but--not-limited-to,-gold,-silver, platinum,-rhodium,-and-chromium,-and-which-is-in-such-state-or--condition--that--its-value-depends-upon-its-contents-and-not-upon-its-form. For-purposes-of-this-section,-"monetized-bullion"-means-coins-or-other forms-of-money-manufactured-from-gold,-silver,--or--other--metals--and heretofore,--now,--or-hereafter-used-as-a-medium-of-exchange-under-the laws-of-this-state,-the-United-States,--or--any--foreign--nation,--but shall--not-include-coins-or-money-sold-to-be-manufactured-into-jewelry or-works-of-art.~~

(aa) To prevent evasion of the sales and use tax, it shall be presumed that all articles are subject to the taxes imposed by this act and the retailer shall have the burden of establishing the facts giving rise to such exemption by clear and convincing evidence unless the purchaser delivers to the retailer an exemption certificate in such form as the tax commission may prescribe, signed by the purchaser and setting forth the reason for the claimed exemption.

(bb) Any person who gives an exemption certificate with the intention of evading payment of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000) or imprisonment for not more than one (1) year or by both such fine and imprisonment.

SECTION 2. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622A, Idaho Code, and to read as follows:

36-3622A. PROHIBITED TAXES. There is exempted from the taxes imposed by this chapter the sale at retail, storage, use or other consumption of tangible personal property or taxable services which this state is prohibited from taxing under the constitution of the United States.

SECTION 3. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622B, Idaho Code, and to read as follows:

63-3622B. OUT-OF-STATE CONTRACTS. There is exempted from the taxes imposed by this chapter the sale of tangible personal property to resident contractors for subsequent incorporation into real property outside this state in the performance of a contract to improve the out-of-state realty unless this provision would result in subjection of said contractor to a use or similar excise tax in another state.

SECTION 4. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622C, Idaho Code, and to read as follows:

63-3622C. MOTOR FUELS SUBJECT TO TAX. There are exempted from the taxes imposed by this chapter purchases which are subject to the motor fuels tax imposed by chapter 24, title 63, Idaho Code.

SECTION 5. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622D, Idaho Code, and to read as follows:

63-3622D. PRODUCTION EXEMPTION. There are exempted from the taxes imposed by this chapter:

(1) The sale at retail, storage, use or other consumption in this state of tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for ultimate sale at retail within or without this state, and tangible personal property primarily and directly used or consumed in or during such manufacturing, processing, mining, farming, or fabricating operations by a business or segment of a business which is primarily devoted to such operation or operations, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

(2) Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change or for removing impurities or otherwise placing a product in a more marketable condition are included within the exemption allowed by paragraph (1) above, as are other articles of tangible personal property used in the actual manufacturing, processing, mining, farming or fabricating operations.

(3) The exemption allowed by paragraphs (1) and (2) above does not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies, and hand tools with a unit purchase price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles licensed or required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put; nor shall this exemption include tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from tax under this act by sections 63-3622F, 63-3622G, 63-3622I and 63-3622M, Idaho Code.

SECTION 6. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622E, Idaho Code, and to read as follows:

63-3622E. CONTAINERS. There is exempted from the taxes imposed by this chapter the sale or purchase of containers in the following categories:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(b) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this act.

(c) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for filling.

SECTION 7. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622F, Idaho Code, and to read as follows:

63-3622F. UTILITIES. There is exempted from the taxes imposed by this chapter the sale or purchase of gas, electricity, and water when delivered to consumers.

SECTION 8. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622G, Idaho Code, and to read as follows:

63-3622G. HEATING MATERIALS. There is exempted from the taxes imposed by this chapter the sale or purchase of any matter used to produce heat by burning, for the purpose of providing heat to any building or for domestic home use, including wood, coal, petroleum and gas.

SECTION 9. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622H, Idaho Code, and to read as follows:

63-3622H. HOME YARD SALES. There is exempted from the taxes imposed by this chapter the sale or purchase of tangible personal property at home yard sales; provided, however, that no more than two (2) such home yard sales per individual per calendar year shall be exempt.

SECTION 10. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 63-3622I, Idaho Code, and to read as follows:

63-3622I. RELIGIOUS LITERATURE. There is exempted from the taxes imposed by this chapter the sale or purchase, or the storage, use or other consumption of religious literature, pamphlets, periodicals, tracts and books published and sold by a bona fide church or religious denomination; no part of the net earnings of which inures to the benefit of a private individual or shareholder.

SECTION 11. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622J, Idaho Code, and to read as follows:

63-3622J. SCHOOL, CHURCH AND SENIOR CITIZEN MEALS. There is exempted from the taxes imposed by this chapter the sale of meals by public or private schools under the federal school lunch program or under programs that provide nutritional meals for the aging (Title VII of the Older Americans Act, P.L. 93-29), and the sale of meals by a church to its members at a church function.

SECTION 12. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622K, Idaho Code, and to read as follows:

63-3622K. OCCASIONAL SALES. There are exempted from the taxes imposed by this chapter occasional sales of tangible personal property, including sales of animals by any 4-H Club or FFA Club held in conjunction with a fair or the western Idaho spring lamb sale; providing, however, that this exemption shall not apply to the sale, purchase, or use of self-propelled motor vehicles unless they are transferred in a transaction falling within the scope of section 63-3612A(b), Idaho Code, a change in the form of doing business, or section 63-3612A(c), Idaho Code, the sale of a going business, or section 63-3612A(f), Idaho Code, the sale of motor vehicles between family members.

SECTION 13. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622L, Idaho Code, and to read as follows:

63-3622L. VENDING MACHINES. There is exempted from the taxes imposed by this chapter the sale of articles through a coin-operated vending machine for a total consideration of fifteen cents ($.15) or less and individual transactions involving a total sales price of fifteen cents ($.15) or less.

SECTION 14. That Chapter 36, Title 63, Idaho Code, be, and the

same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622M, Idaho Code, and to read as follows:

63-3622M. LIQUOR SALES. There are exempted from the taxes imposed by this chapter sales of liquor by the state liquor dispensary to a person licensed under the provisions of chapter 9, title 23, Idaho Code, for resale as liquor by-the-drink.

SECTION 15. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622N, Idaho Code, and to read as follows:

63-3622N. PRESCRIPTIONS. There are exempted from the taxes imposed by this chapter sales of prescription drugs and the sale of oxygen, all upon the prescription of a practitioner licensed to prescribe drugs to human beings in the course of his professional practice, the sale of artificial limbs, prescription braces, wheelchairs, hearing aids, crutches and other prosthetic devices except eyeglasses and dental bridgework.

SECTION 16. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-36220, Idaho Code, and to read as follows:

63-36220. NONPROFIT ORGANIZATIONS. There are exempted from the taxes imposed by this chapter sales to and purchases by hospitals, health-related entities, educational institutions, forest-protective associations and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

(a) "Educational institution" shall mean resident nonprofit colleges, universities, 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, March of Dimes, American Cancer Society, Mental Health Association, Idaho Association of Retarded Citizens, Idaho Heart Association, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, and Easter

Seals, 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.

SECTION 17. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622P, Idaho Code, and to read as follows:

63-3622P. PURCHASES SHIPPED OUT-OF-STATE BY A COMMON CARRIER. There is exempted from the taxes imposed by this chapter the sale or purchase of tangible personal property shipped by the seller via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state if the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

SECTION 18. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622Q, Idaho Code, and to read as follows:

63-3622Q. OUT-OF-STATE SHIPMENTS. There is exempted from the taxes imposed by this chapter the sale or purchase of tangible personal property which is shipped to a point outside this state for use outside this state pursuant to a contract of sale by delivery by the vendor to such point by means of:

(a) Facilities operated by the vendor;

(b) Delivery by the vendor to a carrier for shipment to a consignee at such point; or

(c) Delivery by the vendor to a customs broker or forwarding agent for shipment outside this state.

SECTION 19. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622R, Idaho Code, and to read as follows:

63-3622R. MOTOR VEHICLES AND USED MOBILE HOMES. There are exempted from the taxes imposed by this chapter:

(a) Sales of motor vehicles and trailers for use outside of this

state, even though delivery be made within this state, but only when:

(1) The vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state; and

(2) Said motor vehicles and trailers will be titled and licensed immediately under the laws of another state, will not be used in this state more than twenty-five percent (25%) of the mileage in any calendar year, and will not be required to be titled under the laws of this state.

(b) Sale of motor vehicles and motor equipment not required to be licensed and used as log jammers, log loaders, farm tractors and implements of husbandry.

(c) Sale of used mobile homes, whether or not such used mobile homes are sold for use outside this state, and whether or not such used mobile homes are sold by a dealer. Every mobile home sale after its sale as a "new mobile home," as defined in section 63-3606, Idaho Code, is a sale as a used mobile home.

SECTION 20. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622S, Idaho Code, and to read as follows:

63-3622S. RADIO AND TELEVISION BROADCASTING EQUIPMENT. There are exempted from the taxes imposed by this chapter receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production and broadcasting of radio and television programs when the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production and broadcasting, provided, that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production and broadcasting operation, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than actual production and broadcasting operation such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put.

SECTION 21. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622T, Idaho Code, and to read as follows:

63-3622T. EQUIPMENT TO PRODUCE CERTAIN NEWSPAPERS. There are exempted from the taxes imposed by this chapter:

(a) Receipts from the sale, storage, use or other consumption in

this state of tangible personal property directly used and consumed in the production of publications in a newspaper format which are distributed to the public at large and which rely on advertising revenue as their primary source of income; provided, that the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production of said publications; provided, further, that the use or consumption of such tangible personal property is necessary or essential to the performance of such publication business. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production of said publications, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual production of the publication and shall not include property such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state without regard to the use to which such motor vehicles are put.

(b) Provided, further, that this exemption shall apply when the publication referred to herein is distributed to the public free of charge.

(c) Provided, further, that in order for the exemption to be applicable, at least ten percent (10%) of the total publication, computed on an average annual column inch basis, must be devoted to the publication of nonincome producing informative material.

SECTION 22. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622U, Idaho Code, and to read as follows:

63-3622U. FUNERAL SERVICES. There is exempted from the taxes imposed by this chapter the sale of tangible personal property relating to funeral services by a licensed funeral establishment.

SECTION 23. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622V, Idaho Code, and to read as follows:

63-3622V. BULLION. There is exempted from the taxes imposed by this chapter:

(a) The sale of precious metal bullion or the sale of monetized bullion.

(b) For purposes of this section, "precious metal bullion" means any elementary precious metal which has been put through a process of smelting or refining including, but not limited to, gold, silver, platinum, rhodium, and chromium, and which is in such state or condition that its value depends upon its contents and not upon its form.

(c) For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but shall not include coins or money sold to be manufactured into jewelry or works of art.

SECTION 24. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622W, Idaho Code, and to read as follows:

63-3622W. IRRIGATION EQUIPMENT AND SUPPLIES. There are exempted from the taxes imposed by this chapter, all sales of irrigation equipment and supplies, except hand tools as defined in section 63-3622D, Idaho Code, to be used for agricultural production purposes, whether or not such equipment and supplies are to become a part of real estate and whether or not installed by the farmer, a contractor or subcontractor.

SECTION 25. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622X, Idaho Code, and to read as follows:

63-3622X. POLLUTION CONTROL EQUIPMENT. There is hereby exempted from the taxes imposed by this chapter the sale, use or purchase of tangible personal property, which property is pollution control equipment required to meet air and water quality standards of a state or federal agency having authority to regulate and set air and water quality emission standards. This exemption does not include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put.

SECTION 26. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622Y, Idaho Code, and to read as follows:

63-3622Y. BOY SCOUT ENCAMPMENTS. There is hereby exempted from the taxes imposed by this chapter sales to the Boy Scouts of America of supplies and materials for national and international encampments within the state of Idaho and sales by the Boy Scouts of America to participants in national and international encampments within the state of Idaho if such sales are made within the confines of Farragut State Park.

SECTION 27. That Section 63-3615, Idaho Code, be, and the same is hereby amended to read as follows:

63-3615. STORAGE -- USE. (a) The term "storage" includes any

keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(b) The term "use" includes the exercise of any right or power over tangible personal property incident to the ownership or the leasing of that property or the exercise of any right or power over tangible personal property by any person in the performance of a contract, or to fulfill contract or subcontract obligations, whether the title of such property be in the subcontractor, contractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to the sales or use tax, unless such property would be exempt to the titleholder under section 63-3622(d), Idaho Code, except that the term "use" does not include the sale of that property in the regular course of business or the use of that property primarily or directly used or consumed in connection with ~~the following items~~ research, development, experimental and testing activities when exclusively financed by the United States in connection with the Idaho national reactor testing station~~:~~

~~(1) research, development, experimental and testing activities and/or~~

~~(2) the reprocessing of special nuclear material and the use of such properties shall be an exempt use.~~

(c) "Storage" and "use" do not include the keeping, retaining, or exercising of any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside the state, and thereafter used solely outside the state.

Approved April 4, 1984.

CHAPTER 240
(H.B. No. 684)

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; AMENDING CHAPTER 31, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3127, IDAHO CODE, TO PROVIDE FOR THE EXCLUSION OF A DIVISION FROM A FLOOD CONTROL DISTRICT, AND TO ALLOW AN EXCLUDED DIVISION TO FORM A NEW DISTRICT OR TO JOIN ANOTHER EXISTING DISTRICT; AND AMENDING CHAPTER 31, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3128, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION OF ASSETS AND LIABILITIES BETWEEN THE DISTRICT AND THE EXCLUDED DIVISION.

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

SECTION 1. That Chapter 31, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be

known and designated as Section 42-3127, Idaho Code, and to read as follows:

42-3127. EXCLUSION OF A DIVISION. The qualified electors residing in a division of a flood control district may petition the director of the department of water resources requesting to be excluded from a district. Said petition must be signed by one-third (1/3) or more of the qualified electors residing within the territory of the division and the petition must:

(1) Show that the division either plans to join another existing district or form a new district.

(2) Describe the impacts on the remainder of the district after the division is excluded.

(3) Describe the benefits to the division that will result from its exclusion from the original district.

(4) Be in proper form as required by section 42-3105, Idaho Code, to proceed with the formation of a new district or be in proper form as required by section 42-3120, Idaho Code, to proceed with the addition of the division to an already existing district.

(5) Present an equitable division of assets and liabilities between the division and the remaining district.

Upon receipt, the director shall examine the petition, and if in proper form and if it appears that an equitable distribution of assets and liabilities can be made, the director shall proceed with the publication of notice, as described in section 42-3107, Idaho Code. The director shall, at the hearing, permit any person or corporation interested in the exclusion of the division to appear and present testimony and evidence in support of or against exclusion of the division. The director shall base his findings upon allegations in the petition, testimony and evidence presented at the hearing and any other facts necessary for the determination of the practicability and feasibility of exclusion of the division.

If the director shall recommend that a division should be excluded, he shall make and enter his findings in the form of a petition to the district court for the county in which the largest portion of the division is located. The district court may then order the exclusion of a division.

If the director shall determine that a division should not be excluded, nothing further shall be done, unless a new petition is filed in a similar manner as described above.

At such time as the division is excluded by the district court, the new district or enlargement of an existing district shall be ordered by the director in accordance with section 42-3108, Idaho Code.

The director may redivide the district from which the division was excluded in order to meet the requirements of section 42-3106, Idaho Code.

SECTION 2. That Chapter 31, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-3128, Idaho Code, and to read as

follows:

42-3128. EXCLUSION OF A DIVISION -- DISBURSEMENT OF ASSETS AND LIABILITIES. The distribution of assets and liabilities made necessary by the exclusion of a division from a flood control district pursuant to section 42-3127, Idaho Code, shall be established by decree of the district court. In order to establish the distribution of assets and liabilities between the remaining district and the excluded division, the court may consider the director's findings and recommendations, county tax records and district records.

Approved April 4, 1984.

CHAPTER 241
(H.B. No. 686)

AN ACT

RELATING TO COUNTY MUTUAL INSURERS; AMENDING SECTION 41-3114, IDAHO CODE, TO ALLOW COUNTY MUTUAL INSURERS TO INVEST IN CERTAIN SECURITIES.

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

SECTION 1. That Section 41-3114, Idaho Code, be, and the same is hereby amended to read as follows:

41-3114. INVESTMENTS. (1) The insurer may invest and have invested such funds as it may have on hand pursuant to this chapter but not necessary to expend for current expenses and losses, in investments as authorized by the following sections of the Idaho Code only:

(a) Section 41-707 (public obligations);

(b) Section 41-708 (obligations, stock of certain federal agencies);

(c) Section 41-709 (irrigation district bonds);

(d) Section 41-716 (investment trust securities);

(e) Section 41-720 (savings and share accounts);

(~~e~~f) Sections 41-721 through 41-725 (mortgage loans), as to mortgage loans on Grange halls only; and

(~~f~~g) Section 41-3115 (site for head office).

(2) The following sections of the Idaho Code shall to the extent applicable, also apply with respect to such an insurer:

(a) Section 41-702 (eligible investments);

(b) Section 41-703 (general qualifications);

(c) Section 41-704 (authorization of investments);

(d) Section 41-705 (record of investments);

(e) Section 41-706(1) (diversification of investments in securities, etc. of any one person);

(f) Section 41-730 (disposal of ineligible property and securities); and

(g) Section 41-731 (prohibited investments and investment underwriting).

Approved April 4, 1984.

CHAPTER 242
(H.B. No. 688)

AN ACT

RELATING TO MINIMUM MEDICAL AND HEALTH STANDARDS FOR PAID FIREMEN; AMENDING SECTION 72-1428, IDAHO CODE, TO PROVIDE THAT MINIMUM MEDICAL AND HEALTH STANDARDS FOR PAID FIREMEN SHALL BE ADOPTED BY THE DIRECTOR OF THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES RATHER THAN BY THE PUBLIC EMPLOYEE RETIREMENT SYSTEM BOARD.

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

SECTION 1. That Section 72-1428, Idaho Code, be, and the same is hereby amended to read as follows:

72-1428. MINIMUM MEDICAL AND HEALTH STANDARDS FOR PAID FIREMEN. (1) The term "minimum medical and health standards" means minimum medical and health standards adopted by the ~~public-employee-retirement system-board~~ director of the department of labor and industrial services pursuant to this section.

(2) From and after January 1, 1975, no paid fireman as defined in section 72-1402(A), Idaho Code, whether covered under the provisions of chapter 14, title 72, Idaho Code, or under the provisions of chapter 13, title 59, Idaho Code, may be employed until he:

(a) Has met and has been certified as having met minimum medical and health standards;

(b) Has successfully passed a physical agility test conducted by an examining physician;

(c) Is at least nineteen (19) years of age at the time of appointment; and

(d) Has met prescribed physical performance standards as promulgated by the ~~public-employee-retirement-system-board~~ director of the department of labor and industrial services.

(3) A true copy of the medical history and physical agility test of the applicant, completed and signed by the examining physician shall accompany employer certification to the ~~public-employees-retirement-system-board~~ director of the department of labor and industrial services. Such records shall be furnished prior to the date of active employment of the applicant.

(4) Physical examination records shall be a part of the permanent file of the employer ~~and-shall-be-available-upon-request-to-the-public employee-retirement-system-board~~.

(5) By October 1, 198~~0~~4, the ~~public-employee-retirement-system board~~ director of the department of labor and industrial services shall adopt minimum medical and health standards for employment as a

paid fireman, and shall select an examining physician for each city, county and fire district. In adopting such standards the ~~board~~ director shall consider existing standards recommended by the professional firefighters of Idaho ~~state-council-of-fire-fighters~~, and shall adopt equal or higher standards, together with appropriate standards and procedures to insure uniform compliance with this section. The standards when adopted shall be published and distributed to each employer. The cost of the medical examination contemplated by this section is to be paid by the employer.

(6) Nothing in this section shall apply to paid firemen who are employed as such on or before October 1, 1980, as long as they continue in such employment; nor to promotional appointments after becoming a member of a fire department of any employer; nor to the reemployment of a paid fireman by the same or a different employer within two (2) years after the termination of his employment; nor to the reinstatement of a paid fireman who has been on military or disability leave, disability retirement status, or who was terminated because of a reduction in force or leave of absence status.

~~(7)--Nothing--in--this--section-shall-apply-to-the-chief-or-supervisor-of-a-volunteer-fire-department-employed-on-or-before-October--1,-1980,--when-that-department-becomes-a-paid-department-if-such-chief-or-supervisor-fails-to-meet-the-standards-of-this--section;--however,--if such--chief--or-supervisor-meets-all-applicable-standards-he-may,-with the-approval-of-the-board,-make-contributions-to-and-receive--benefits under-the-provisions-of-chapter-14,-title-72,-Idaho-Code,-and,-in-such event,--the--employing--fire-department-shall-be-required-to-make-contributions-under-the-provisions-of-chapter-14,-title-72,--Idaho--Code, for--such--chief--or--supervisor.-If-such-chief-or-supervisor-fails-to meet-the-standards-of-this-section,-he-shall-not-be-eligible--to--contribute--to--or--receive--benefits-under-the-provisions-of-chapter-14, title-72,-Idaho-Code,-and,-in-that-event,-the-employing--fire--department--shall-not-be-required-to-make-contributions-under-the-provisions of-chapter-14,-title-72,-Idaho-Code,-for-such-chief-or-supervisor.~~

~~(8)--Subject-to-the-provisions-of-subsections-(6)-and-(7)-of--this section,--when--an--individual-who-has-attained-or-exceeded-the-age-of thirty-four-(34)-years-at-the-time-of-employment-is-employed-as-a-paid fire-chief,-the-employing-fire-department-shall-be-required-to-either:~~

~~(a)--In-addition-to--any--other--contributions--required--by--this chapter,--make--contributions-in-an-amount-equal-to-the-sum-of-the amounts-that-would-have-been-contributed--by--the--fire--chief--in accordance--with-section-72-1411,-Idaho-Code,-and-by-the-employing fire-department-in-accordance-with-section--72-1412,--Idaho--Code, for--each--year--of-the-fire-chief's-age-at-the-time-of-employment beyond-thirty-three-(33)-years-of-age;-or~~

~~(b)--Enroll-the-fire-chief--in--the--public--employees--retirement system--under--the-conditions-of-chapter-13,-title-59,-Idaho-Code, and-the--rules--and--regulations--established--thereunder--by--the retirement-board-of-such-system.~~

Approved April 4, 1984.

CHAPTER 243
(H.B. No. 690)

AN ACT

RELATING TO FIREARMS; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-872, IDAHO CODE, TO PROHIBIT COUNTIES FROM CONTROLLING, AT THE COUNTY LEVEL, THE POSSESSION AND OWNERSHIP OF FIREARMS; AMENDING CHAPTER 3, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-343, IDAHO CODE, TO PROHIBIT CITIES FROM CONTROLLING, AT THE CITY LEVEL, THE POSSESSION AND OWNERSHIP OF FIREARMS.

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

SECTION 1. That Chapter 8, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-872, Idaho Code, and to read as follows:

31-872. REGULATION OF FIREARMS -- CONTROL BY STATE. No board of county commissioners of any county may in any manner regulate the lawful ownership, possession or transportation of firearms when carried or transported for purposes not prohibited by the laws of the state of Idaho.

SECTION 2. That Chapter 3, Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 50-343, Idaho Code, and to read as follows:

50-343. REGULATION OF FIREARMS -- CONTROL BY STATE. No city may in any manner regulate the lawful ownership, possession or transportation of firearms when carried or transported for purposes not prohibited by the laws of the state of Idaho.

Approved April 4, 1984.

CHAPTER 244
(H.B. No. 704, As Amended)

AN ACT

RELATING TO RETAIL LIQUOR LICENSES; AMENDING SECTION 23-903, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A LICENSE TO RETAIL LIQUOR TO THE OWNER, OPERATOR OR LESSEE OF CERTAIN EQUESTRIAN FACILITIES, WHICH LICENSE SHALL NOT BE TRANSFERABLE TO ANY OTHER LOCATION, AND PROVIDING FOR A FEE.

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

SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby amended to read as follows:

23-903. LICENSE TO RETAIL LIQUOR. The director of the department of law enforcement is hereby empowered, authorized, and directed to issue licenses to qualified applicants, as herein provided, whereby the licensee shall be authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the rules and regulations promulgated by the director and the provisions of this chapter. No license shall be issued for the sale of liquor on any premises outside the incorporated limits of any city except as provided in this chapter and the number of licenses so issued for any city shall not exceed one (1) license for each one thousand five hundred (1,500) of population of said city or fraction thereof, as established in the last preceding census, or any subsequent special census conducted by the United States bureau of the census, except that upon proper application thereof not more than two (2) licenses may be issued for each incorporated city with a population of one thousand five hundred (1,500) or less, unless the retail licensing of liquor by the drink has been previously disapproved under the provisions of sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided, however, that any license heretofore issued may be renewed from year to year without regard to the population of the city for which such license is issued. Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide golf course, or ski resort, or to the lessee of any premises situate thereon, no part of which said golf course or ski resort or the premises thereon is situate within the incorporated limits of any city. For the purpose of this section a golf course shall comprise an actual, bona fide golf course, which is regularly used for the playing of the game of golf, and having not less than nine (9) tees, fairways and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a total yardage of at least one thousand (1,000) yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members, or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof. Also for the purpose of this section a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator, or lessee of the ski

resort has made available himself, or through others, including but not limited to the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs, and which real property is regularly operated as a ski resort in the winter time, and where the owner, operator, or lessee of the ski resort is also the owner, operator, or lessee of the area served by a bona fide chair ski lift facility or facilities. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual, bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1) licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. The license shall be solely for the equestrian facility and shall not be transferred to any other location. The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

Nothing herein contained shall prohibit the issuance of a license to the owner, operator, or lessee of a restaurant operated on an airport owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States of America. Not more than one (1) license shall be issued on any airport.

Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club which possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of

five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (a), (b) and (c) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(f), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual, bona fide convention center which is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room which will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (c) of section 23-904, Idaho Code. No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall the holder of a convention center license be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of this section, the term holder shall include an owner, operator or lessee and shall include a stockholder, director, or officer of a corporation, or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

Approved April 4, 1984.

CHAPTER 245
(H.B. No. 742)

AN ACT
APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION FOR THE BLIND, FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Office of the

Governor for the Commission for the Blind the following amounts, to be expended according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$354,500	$ 56,200	$15,000	$ 205,200	$ 630,900
Blind Commission Account	276,400	106,800		115,900	499,100
Interagency Billing and Receipts Account		13,100		32,400	45,500
TOTAL	$630,900	$176,100	$15,000	$ 353,500	$1,175,500

Approved April 4, 1984.

CHAPTER 246
(H.B. No. 743)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION ON HUMAN RIGHTS, FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Commission on Human Rights the following amounts, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:	$111,300	$ 64,400	$175,700
General Account			
Human Rights Account	58,700	24,200	82,900
TOTAL	$170,000	$ 88,600	$258,600

Approved April 4, 1984.

CHAPTER 247
(H.B. No. 744)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE OFFICE ON AGING, FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Office on Aging the following amounts, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$ 94,600	$ 45,600	$ 566,100	$ 706,300
Office on Aging Account	302,800	125,400	3,866,300	4,294,500
TOTAL	$397,400	$171,000	$4,432,400	$5,000,800

Approved April 4, 1984.

CHAPTER 248
(H.B. No. 745)

AN ACT

APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR SPECIAL FUELS TAX ADMINISTRATION FOR FISCAL YEAR 1984; AND DECLARING AN EMERGENCY.

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

SECTION 1. In addition to the appropriation contained in Section 2, Chapter 228, Laws of 1983, there is hereby appropriated $45,000 from the Special Fuels Permits Account to the State Tax Commission, Audit and Collection Program for Special Fuels Tax Administration for operating expenditures for the period July 1, 1983, through June 30, 1984.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1984.

CHAPTER 249
(H.B. No. 747)

AN ACT

RELATING TO APPROPRIATIONS FOR VARIOUS STATE DEPARTMENTS AND AGENCIES; APPROPRIATING MONEYS FOR DEPOSIT IN THE WATER CONSERVATION AND DEVELOPMENT ACCOUNT; APPROPRIATING MONEYS FOR DEPOSIT IN THE WATER MANAGEMENT ACCOUNT; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES; APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE; PROVIDING THAT THE STATE AUDITOR SHALL MAKE CERTAIN TRANSFERS FROM THE GENERAL ACCOUNT; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS; APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE; APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE; APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO; AMENDING CHAPTER 8, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-814, CREATING THE BUDGET RESERVE ACCOUNT; APPROPRIATING THE BALANCE OF ANY UNEXPENDED AND UNENCUMBERED MONEYS IN THE GENERAL ACCOUNT AS OF JUNE 30, 1984; APPROPRIATING MONEYS FROM THE BUDGET RESERVE ACCOUNT; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the General Account for deposit in the Water Conservation and Development Account the sum of $134,200.

SECTION 2. There is hereby appropriated from the General Account for deposit in the Water Management Account the sum of $115,800.

SECTION 3. There is hereby appropriated to the Department of Water Resources the following amounts, to be expended for the designated programs according to designated expense classes from the listed accounts for the period from the effective date of this act, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. RESOURCES ANALYSIS:					
FROM:					
Water Conservation and Development Account	$91,900	$36,800	$500	$5,000	$134,200
B. ENERGY RESOURCES:					
FROM:					
General Account	$125,000	$20,000			$145,000

SECTION 4. There is hereby appropriated from the General Account to the Department of Parks and Recreation for the designated purpose for the period from the effective date of this act, through June 30, 1985:

FOR:	
Farragut State Park Improvements	$75,000
FROM:	
General Account	$75,000

SECTION 5. There is hereby appropriated from the General Account to the Department of Health and Welfare for the designated purposes for the period from the effective date of this act, through June 30, 1985:

FOR:	
A. CAPITAL OUTLAY	$450,000
B. WATER QUALITY AND HAZARDOUS MATERIALS PROGRAM	75,000
TOTAL	$525,000
FROM:	
General Account	$525,000

SECTION 6. The State Auditor shall make transfers of the General Account moneys appropriated in Section 5 of this act to the Cooperative Welfare Account, periodically as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amount provided herein.

SECTION 7. There is hereby appropriated from the General Account to the Attorney General for the designated program for the period from the effective date of this act, through June 30, 1985:

FOR:	
State Legal Services Program	$85,000
FROM:	
General Account	$85,000

SECTION 8. There is hereby appropriated from the General Account to the Permanent Building Fund Advisory Council and the Division of Public Works the following amounts, or so much thereof as in each case may be necessary, for the purpose of paying the cost of any land, building, equipment, or the rebuilding, renovation or repair, of the following buildings, installations, facilities or structures at the places, institutions and agencies, or their successors, named and listed in this section. The Permanent Building Fund Advisory Council is hereby authorized and directed to anticipate revenues accruing to the Permanent Building Account for the purpose of undertaking the construction, renovation, repair and acquisitions herein authorized, without delay, and to determine the priority of construction pursuant to which the work hereunder will be undertaken.

A. PREVENTIVE MAINTENANCE PROJECTS:

Office of the Governor:

Commission for the Blind	$ 49,000

Department of Correction	57,900
State Board of Education	620,300
Department of Health and Welfare	442,000
SUBTOTAL	$1,169,200
B. STATE BOARD OF EDUCATION:	
University of Idaho:	
Life Science Addition and Remodel	$1,000,000
North Idaho College:	
Preliminary Programming and Design, Library/Computer Science Building	$ 100,000
C. Department of Correction:	
Facility Improvements	$ 600,000
Preliminary Programming and Design, Maximum Security Unit	$ 50,000
D. Office of the Governor:	
Military Division, Office Addition	$ 200,000
E. Department of Health and Welfare:	
Idaho State School and Hospital:	
Construction Documents, 48-bed Facility	$ 60,000
GRAND TOTAL	$3,179,200

SECTION 9. There is hereby appropriated to the Department of Finance the following amount, to be expended according to the designated expense class from the listed account for the period from the effective date of this act, through June 30, 1985:

FOR:	
Personnel Costs	$71,100
FROM:	
General Account	$71,100

SECTION 10. There is hereby appropriated to the Department of Insurance the following amount, to be expended according to the designated expense class from the listed account for the period from the effective date of this act, through June 30, 1985:

FOR:	
Operating Expenditures	$65,000
FROM:	
General Account	$65,000

SECTION 11. There is hereby appropriated to the Department of Correction the following amount, to be expended for the named program from the listed accounts for the period from the effective date of this act, through June 30, 1985:

A. PROBATION AND PAROLE:	
FROM:	
General Account	$223,800
Interagency Billing and Receipts Account	223,800
TOTAL	$447,600

SECTION 12. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the

following amount, to be expended from the General Account for the designated programs for the designated purposes, for the period from the effective date of this act, through June 30, 1985:

FOR:	
Idaho State School for the Deaf and the Blind	
Equipment Acquisition	$ 45,000
Public School Support	
Instructional Material Acquisition	2,000,000
Colleges and Universities	
Equipment Acquisition and Library Materials	1,800,000
Boise State University	
Morrison Center Furnishings	200,000
Junior College Support	
Equipment Acquisition	100,000
Vocational Education	
Equipment Acquisition	250,000
TOTAL	$4,395,000
FROM:	
General Account	$4,395,000

SECTION 13. That Chapter 8, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-814, Idaho Code, and to read as follows:

57-814. BUDGET RESERVE ACCOUNT. There is hereby created in the agency asset fund the budget reserve account, to which shall be deposited such appropriations as may be made by law.

SECTION 14. The balance of any surplus or unexpended and unencumbered moneys in the General Account as of June 30, 1984, as determined by the State Auditor, is hereby appropriated for deposit in the Budget Reserve Account.

SECTION 15. There is hereby appropriated from the Budget Reserve Account, the first $6,000,000 deposited therein, for the purpose of returning the state accounting for personnel costs to the accrual method.

SECTION 16. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1984.

CHAPTER 250
(H.B. No. 750)

AN ACT

RELATING TO LEGISLATIVE DISTRICTS; AMENDING SECTION 67-202A, IDAHO CODE, AS ENACTED BY SECTION 2 OF HOUSE BILL NO. 746, SECOND REGULAR SESSION, FORTY-SEVENTH IDAHO LEGISLATURE, BY STRIKING A PRECINCT AND ADDING A PRECINCT IN LEGISLATIVE DISTRICTS NO. 18 AND NO. 19; AND DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 67-202A, Idaho Code, as enacted by Section 2 of House Bill No. 746, Second Regular Session, Forty-seventh Idaho Legislature, be, and the same is hereby amended to read as follows:

67-202A. LEGISLATIVE DISTRICTS -- SENATORS ELECTED -- REPRESENTATIVES ELECTED. Notwithstanding the provisions of section 67-202, Idaho Code, the state is divided into thirty-six (36) legislative districts. One (1) senator shall be elected from each legislative district. Two (2) representatives shall be elected from each legislative district. The names, numbers and boundaries of the precincts and counties herein referred to in describing the area included within the legislative districts shall be as the same existed on November 4, 1980. The counties and precincts constituting the legislative districts are as follows:

(1) Legislative District No. 1 shall include all the area contained within Bonner and Boundary Counties.

(2) Legislative District No. 2 shall include all the area contained within Kootenai County.

(3) Legislative District No. 3 shall include all the area contained within Kootenai County.

(4) Legislative District No. 4 shall include all the area contained within Benewah and Shoshone Counties.

(5) Legislative District No. 5 shall include all the area contained within Latah County.

(6) Legislative District No. 6 shall include all the area contained within Nez Perce County.

(7) Legislative District No. 7 shall include all the area contained within Clearwater, Idaho and Lewis Counties.

(8) Legislative District No. 8 shall include all the area contained within Clearwater, Idaho, Latah, Lewis and Nez Perce Counties.

(9) Legislative District No. 9 shall include all the area contained within Adams, Boise, Gem and Valley Counties.

(10) Legislative District No. 10 shall include all the area contained within Payette and Washington Counties.

(11) Legislative District No. 11 shall include all the area contained within the following precincts of Canyon County: No. 1, No. 4,

No. 5, No. 6, No. 10, No. 12, No. 15, No. 21, No. 29, No. 51, No. 52, No. 55, No. 56, No. 57 and No. 62.

(12) Legislative District No. 12 shall include all the area contained within the following precincts of Canyon County: No. 8, No. 9, No. 18, No. 20, No. 27, No. 30, No. 32, No. 33, No. 38, No. 44, No. 45 and No. 46.

(13) Legislative District No. 13 shall include all the area contained within the following precincts of Canyon County: No. 3, No. 19, No. 22, No. 23, No. 25, No. 28, No. 34, No. 35, No. 36, No. 40, No. 42, No. 49, No. 50, No. 54, No. 59 and No. 60.

(14) Legislative District No. 14 shall include all the area contained within the following precincts of Ada County: No. 34, No. 42, No. 52, No. 55, No. 65, No. 67, No. 74, No. 75, No. 76, No. 88, that portion of No. 89 lying west of Glenwood Street, No. 104, No. 106, that portion of No. 107 lying northeast of State Street, No. 119 and No. 120.

(15) Legislative District No. 15 shall include all the area contained within the following precincts of Ada County: No. 2, No. 4, No. 7, No. 18, No. 26, No. 36, No. 39, No. 40, No. 43, No. 44, No. 45, No. 46, No. 48, No. 51, No. 57, No. 60, No. 78, No. 79, No. 80, No. 81 and No. 110.

(16) Legislative District No. 16 shall include all the area contained within the following precincts of Ada County: No. 8, No. 15, No. 16, No. 17, No. 20, No. 38, No. 49, No. 50, No. 54, No. 58, No. 59, No. 82, that portion of No. 89 lying east of Glenwood Street, that portion of No. 107 lying southwest of State Street, No. 117, No. 118 and No. 121.

(17) Legislative District No. 17 shall include all the area contained within the following precincts of Ada County: No. 1, No. 5, No. 6, No. 9, No. 11, No. 19, No. 21, No. 22, No. 23, No. 24, No. 25, No. 28, No. 30, No. 31, No. 32, No. 41, No. 47, No. 64, No. 77, No. 83, No. 108, No. 109, No. 111 and No. 115.

(18) Legislative District No. 18 shall include all the area contained within the following precincts of Ada County: that portion of No. 12 lying south of Victory Road, No. 27, No. 66, No. 68, ~~No. 69,~~ No. 85, No. 87, No. 93, No. 94, that portion of No. 100 lying south of Franklin Road, that portion of No. 101 lying west of Five Mile Road, that portion of No. 102 lying west of Maple Grove Road, No. 103 and No. 112.

(19) Legislative District No. 19 shall include all the area contained within the following precincts of Ada County: No. 29, No. 63, No. 69, No. 70, No. 71, No. 72, No. 73, No. 86, No. 90, No. 91, No. 92, No. 95, No. 96, No. 97, No. 98, No. 99, that portion of No. 100 lying north of Franklin Road, No. 105 and No. 116.

(20) Legislative District No. 20 shall include all the area contained within the following precincts of Ada County: No. 3, No. 10, that portion of No. 12 lying north of Victory Road, No. 13, No. 14, No. 33, No. 35, No. 37, No. 53, No. 56, No. 61, No. 62, No. 84, that portion of No. 101 lying east of Five Mile Road, that portion of No. 102 lying east of Maple Grove Road, No. 113 and No. 114.

(21) Legislative District No. 21 shall include all the area con-

tained within Camas, Blaine, Gooding and Lincoln Counties.

(22) Legislative District No. 22 shall include all the area contained within Elmore and Owyhee Counties.

(23) Legislative District No. 23 shall include all the area contained within Butte, Clark, Custer, Jefferson and Lemhi Counties.

(24) Legislative District No. 24 shall include all the area contained within the following precincts of Twin Falls County: Buhl No. 1, No. 2, No. 3, No. 4, No. 5, No. 6 and No. 7, Castleford, Clover, Deep Creek, Filer No. 1, No. 2 and No. 3, Hollister, Maroa, Twin Falls No. 5, No. 6, No. 15, No. 16, No. 21, No. 25 and No. 27.

(25) Legislative District No. 25 shall include all the area contained within the following precincts of Twin Falls County: Allendale, Hansen, Kimberly No. 1, No. 2 and No. 3, Murtaugh, Twin Falls No. 1, No. 2, No. 3, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, No. 14, No. 17, No. 18, No. 19, No. 20, No. 22, No. 23 and No. 26.

(26) Legislative District No. 26 shall include all the area contained within Cassia, Jerome and Minidoka Counties.

(27) Legislative District No. 27 shall include all the area contained within Cassia, Jerome and Minidoka Counties.

(28) Legislative District No. 28 shall include all the area contained within Fremont and Madison Counties.

(29) Legislative District No. 29 shall include all the area contained within Bingham County.

(30) Legislative District No. 30 shall include all the area contained within Bonneville and Teton Counties.

(31) Legislative District No. 31 shall include all the area contained within Bonneville and Teton Counties.

(32) Legislative District No. 32 shall include all the area contained within Bonneville, Fremont, Madison and Teton Counties.

(33) Legislative District No. 33 shall include all the area contained within Bannock and Power Counties.

(34) Legislative District No. 34 shall include all the area contained within Bannock and Power Counties.

(35) Legislative District No. 35 shall include all the area contained within Bannock, Bingham and Power Counties.

(36) Legislative District No. 36 shall include all the area contained within Bear Lake, Caribou, Franklin and Oneida Counties.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after the passage and approval of this act, and retroactively to November 1, 1983, except that the legislative districts as they existed for the purposes of the 1982 general election shall continue to exist for all necessary purposes of the Forty-seventh Legislature.

Approved April 4, 1984.

CHAPTER 251
(S.B. No. 1226, As Amended)

AN ACT

RELATING TO ENTERPRISES ON PROHIBITED ACCESS HIGHWAYS; AMENDING SECTION 40-308, IDAHO CODE, TO PROVIDE AN EXCEPTION TO THE PROHIBITION AGAINST COMMERCIAL ENTERPRISES ON PROHIBITED ACCESS HIGHWAYS.

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

SECTION 1. That Section 40-308, Idaho Code, be, and the same is hereby amended to read as follows:

40-308. COMMERCIAL ENTERPRISES ON PROHIBITED ACCESS HIGHWAYS PROHIBITED -- EXCEPTION -- CONNECTING SERVICE ROADS. No commercial enterprise or activity for serving motor vehicle users, other than emergency services for disabled vehicles and vending machines permitted under the provisions of federal law or federal rule and section 67-5411, Idaho Code, and Idaho transportation board right-of-way use permit, shall be conducted within or on any property designated as, or acquired for, or in connection with a prohibited access highway, as designated by the Idaho transportation board. However, the Idaho transportation board may construct on such property, at locations it deems appropriate, connecting service roads parallel to the prohibited access highways in such manner as to facilitate the establishment and operation of commercial enterprises for serving motor vehicle users on private property abutting such service roads.

Approved April 4, 1984.

CHAPTER 252
(S.B. No. 1235)

AN ACT

RELATING TO MOTOR CLUB AGENTS; AMENDING SECTION 49-2317, IDAHO CODE, TO PROVIDE QUALIFICATIONS FOR LICENSURE FOR MOTOR CLUB AGENTS.

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

SECTION 1. That Section 49-2317, Idaho Code, be, and the same is hereby amended to read as follows:

49-2317. CLUB AGENT -- QUALIFICATIONS FOR LICENSE. The ~~commissioner~~ director shall license as a motor club agent only an individual who has otherwise complied with the provisions of this act and who has furnished evidence satisfactory to the ~~commissioner~~ director that ~~he~~ the applicant:

(1) ~~Is-at-least-21-years-of-age;~~

~~(2)--Has--been--a-bona-fide-resident-of-this-state-for-at-least-90 days-or-is-a-resident-of-a-state-which-will-permit-residents--of--this state-to-act-as-club-agents-in-such-other-state;~~

~~(3)--Has--not--been-convicted-of-a-felony-within-5-years-preceding submission-of-the-application~~ Has met the qualifications for licensure as required in section 41-1034, Idaho Code.

(~~4~~2) Has the indorsement of at least two (2) reputable citizens of the community of ~~his~~ the applicant's residence that ~~he~~ the applicant is a trustworthy person with a good reputation.

Approved April 4, 1984.

CHAPTER 253
(S.B. No. 1246)

AN ACT

RELATING TO HOSPITAL LIABILITY TRUSTS; AMENDING SECTION 41-114, IDAHO CODE, TO CORRECT CODE CITATIONS; AND AMENDING SECTION 41-3715, IDAHO CODE, TO PROVIDE THAT A HOSPITAL TRUST SHALL PAY TAX IN THE SAME MANNER AND AS OF THE SAME DUE DATE AS OTHER PROPERTY AND CASUALTY COMPANIES.

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

SECTION 1. That Section 41-114, Idaho Code, be, and the same is hereby amended to read as follows:

41-114. APPLICATION OF CODE AS TO PARTICULAR TYPES OF INSURERS. No provision of ~~this-code~~ chapter 1, title 41, Idaho Code, shall apply with respect to:

(1) Domestic mutual benefit insurers (as identified in chapter 30), except as stated in chapter 30 (Mutual Benefit Associations).

(2) County mutual insurers (as identified in chapter 31), except as stated in chapter 31 (County Mutual Insurers).

(3) Fraternal benefit societies (as identified in chapter 32), except as stated in chapter 32 (Fraternal Benefit Societies).

(4) Hospital and medical professional service corporations (as identified in chapter 34), except as stated in chapter 34 (Hospital and Medical Service Professional Corporations).

(5) Hospital trusts (as identified in chapter ~~43~~37), except as stated in said chapter ~~43~~37 (Idaho Hospital Liability Trust Act).

SECTION 2. That Section 41-3715, Idaho Code, be, and the same is hereby amended to read as follows:

41-3715. TAXES. (1) ~~There-is-hereby-levied-upon--hospital--trusts the--tax-provided-for-in-this-section;-Each-hospital-trust-upon-registration-with-the-director-of-the-department-of-insurance;-and-annually~~

~~thereafter, shall pay to the director a tax computed at the rate of one per cent (1%) of the total contributions to be made to the trust during that year~~ Each hospital trust shall be subject to chapter 4, title 41, Idaho Code, as it pertains to premium tax; provided that, for this purpose, total contributions paid by a member into the trust fund shall be deemed to be premiums; and further provided that, for the purposes of sections 41-403 and 41-404, Idaho Code, a hospital trust shall be deemed to be an insurer other than a life insurance company.

(2) The state of Idaho hereby preempts the field of imposing excise, privilege, franchise, income, license and similar taxes, licenses and fees upon hospital trust funds; and no county, city, municipality, district, school district, or other political subdivision or agency of Idaho shall levy upon hospital trust funds any such tax, license or fee additional to such as are levied by the legislature of Idaho in this act.

(3) The tax levied herein, together with the fees provided for in this act shall be in lieu of any and all income taxes and other excise taxes, licenses and fees payable to the state of Idaho.

(4) The director shall promptly remit all such tax payments received by him to the state treasurer for credit to the general fund of the state.

Approved April 4, 1984.

CHAPTER 254
(S.B. No. 1252)

AN ACT

RELATING TO PROFESSIONAL ENGINEERS' AND LAND SURVEYORS' LICENSING; AMENDING SECTIONS 54-1213, 54-1214, 54-1216, 54-1219, AND 54-1223, IDAHO CODE, TO INCREASE MAXIMUM FEES.

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

SECTION 1. That Section 54-1213, Idaho Code, be, and the same is hereby amended to read as follows:

54-1213. APPLICATIONS AND REGISTRATION FEES. Applications for registration as professional engineers or land surveyors, or certification as engineers-in-training or land surveyors-in-training, shall be on forms prescribed and furnished by the board. The application shall be made under oath, and shall show the applicant's education and a detailed summary of his technical work. An applicant for registration as a professional engineer or land surveyor shall furnish not less than five (5) references, of whom three (3) or more should be registered professional engineers or land surveyors, as applicable, having personal knowledge of the applicant's engineering or surveying experience. An applicant for certification as an engineer-in-training

or land surveyor-in-training shall furnish three (3) character references. Applications for certification of corporations and joint stock associations shall be made in accordance with section 54-1235, Idaho Code.

The maximum registration fee for professional engineers or land surveyors shall be ~~ninety-five~~ one hundred twenty dollars ($~~95.00~~120), of which a fee not to exceed ~~seventy-five~~ one hundred dollars ($~~75.00~~100), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

The maximum certification fee for an applicant who seeks a certificate as an engineer-in-training or land surveyor-in-training shall be seventy-five dollars ($75.00), of which a fee not to exceed fifty-five dollars ($55.00), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

The maximum certification fee for corporations or joint stock associations shall be ~~one~~ two hundred ~~sixty~~ twenty dollars ($~~16~~220), of which a fee not to exceed ~~one~~ two hundred ~~forty~~ dollars ($~~14~~200), shall accompany the application, and the remaining fee, not to exceed twenty dollars ($20.00), shall be paid prior to issuance of the certificate.

Separate application fees shall accompany all applications for each of the four (4) classes of examinations: land surveying, engineer-in-training, land surveyor-in-training and professional engineering.

The amount of the registration fee or certificate fee shall be fixed by the board prior to June 30th of any year and shall continue in force until changed. Said fees shall not be subject to change except at the beginning of each fiscal year.

Should the board deny the issuance of a certificate of registration or authorization to any applicant, the initial fee deposited shall be retained as an application fee.

SECTION 2. That Section 54-1214, Idaho Code, be, and the same is hereby amended to read as follows:

54-1214. EXAMINATION. Written and/or oral examinations shall be held at such time and place as the board shall determine. ~~If~~ ~~e~~Examinations are required on fundamental engineering or land surveying subjects (such as are ordinarily given in college curricula). ~~T~~the applicant may be permitted to take this part of the professional examination prior to his completion of the requisite years of experience in engineering or land surveying work, and satisfactory passage of this portion of the professional examination by the applicant shall constitute a credit toward the applicant's complete professional examination ~~for a period not to exceed ten (10) years~~.

The scope of the examination and the methods of procedure shall be prescribed by the board. Examinations shall be given for the purpose of determining the qualifications of applicant for registration simultaneously in professional engineering and in land surveying.

Examinations for engineer-in-training and land surveyor-in-training enrollment shall be given at such times as the board may prescribe. A candidate failing his first examination may apply for reexamination at the expiration of six (6) months without filing a new application and shall be entitled to such reexamination on payment of an additional fee of not to exceed a maximum of ~~seventy-five~~ one hundred dollars ($~~75~~100) if the examination is for registration as a professional engineer or land surveyor and not to exceed a maximum of fifty-five dollars ($55.00) if the examination is for certification as an engineer-in-training or land surveyor-in-training. A candidate who fails on reexamination must file a new application before he can again be admitted to examination, and such new application shall not be filed prior to one (1) year following the date of the last examination taken by the applicant, and in addition, the applicant shall present evidence satisfactory to the board to warrant assignment to an additional examination; provided, however, that it shall be unlawful for a candidate failing any examination to practice professional engineering or land surveying under paragraphs (b) and (c) of section 54-1223, Idaho Code.

SECTION 3. That Section 54-1216, Idaho Code, be, and the same is hereby amended to read as follows:

54-1216. EXPIRATIONS AND RENEWALS -- FEES. Certificates of registration for professional engineers and land surveyors and certificates of authorization for corporations and joint stock associations shall expire on the last day of the month of July following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered and every corporation or joint stock association certified under this chapter, of the date of the expiration of his or its certificate and the amount of the fee that shall be required for its renewal for one (1) year; such notice shall be mailed at least one (1) month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of July by the payment of a renewal fee to be fixed by the board at not less than three dollars ($3.00) nor more than ~~thirty~~ seventy-five dollars ($~~30~~75.00). The failure on the part of any registrant or certificate holder to renew his or its certificate annually in the month of July as required above shall not deprive such person or corporation or joint stock association of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of July shall be increased twenty percent (20%) for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the renewal fee for each year delinquent, but in no event more than one hundred fifty dollars ($150).

Certificates of enrollment for engineers-in-training and land surveyors-in-training shall expire on the last day of the month of July following their issuance or renewal. The notification to holders of certificates of enrollment shall be processed as prescribed above

for registrants except that the annual renewal fee shall not be less than two dollars ($2.00) nor more than ~~ten~~ fifteen dollars ($1~~0~~5.00). The failure on the part of any holder of a certificate of enrollment to effect renewal shall not invalidate his status as an engineer-in-training or land surveyor-in-training, but his name shall, after ninety (90) days, be removed from the board's current mailing list. The fee to bring an enrollment current after a renewal expiration shall be twice that established for annual renewal.

SECTION 4. That Section 54-1219, Idaho Code, be, and the same is hereby amended to read as follows:

54-1219. COMITY CERTIFICATION -- FEE. The board, upon application therefor and the payment of a fee of not to exceed a maximum of one hundred twenty-five dollars ($1~~0~~0~~0~~25), may issue a certificate of registration as a professional engineer or land surveyor to any person who holds a certificate of qualification or registration issued to the applicant by the proper authority of any state, territory or possession of the United States, or of a foreign country, provided that the requirements for the indicated registration under which said certificate of qualification or registration was issued, are of a standard not lower than those specified in this act as amended, and provided such state, territory, possession or country will license or issue certificates of registration, without examination and upon substantially the same condition, to applicants holding licenses or certificates of registration issued by the board under this act.

SECTION 5. That Section 54-1223, Idaho Code, be, and the same is hereby amended to read as follows:

54-1223. SAVING CLAUSE -- EXEMPTIONS. This act shall not be construed to prevent or to effect:

(a) Other Professions or Trades. The practice of any other profession or trade for which a license is required under any law of this state or the United States; or

(b) Nonresidents. The practice of professional engineering or land surveying by a person not a resident of and having no established place of business in this state, when such practice does not exceed in the aggregate more than thirty (30) days in any calendar year and provided such person is duly licensed or registered to practice such profession in a state in which the requirements and qualifications for obtaining a certificate of registration or license are not lower than those specified in this act for obtaining the license required for such work, upon examination, and provided further that such nonresident shall file with the board, on or before entering the state for commencing such work, a statement, accompanied by a filing fee not to exceed ~~seventy-five~~ one hundred dollars ($~~75~~100), giving his name, residence, the number of his license or certificate of registration and by what authority issued, and the place and nature of the work on which he will be engaged in this state and, upon the completion of the work, a statement of the time engaged in such work within the state;

or

(c) Recent Arrivals in State. The practice of a person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty (30) days in any calendar year the profession of engineering or land surveying, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this act; provided, that such a person is legally qualified by registration to practice said profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this act. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(d) Employees and Subordinates. The work of an employee or a subordinate of a person holding a certificate of registration under this act, or an employee of a person practicing lawfully under paragraphs (b) or (c) of this section, provided such work is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration under this act or a person practicing lawfully under paragraphs (b) or (c) of this section; or

(e) Government Officers and Employees. The practice of officers and employees of the government of the United States while engaged within this state in the practice of the profession of engineering or land surveying for said government; or

(f) Individuals or Firms Doing Work for Themselves. An individual doing surveying work for himself or herself, or through a firm, partnership, corporation or joint stock association, on property owned or leased by the individual, firm, partnership, corporation or joint stock association, or in which the individual, firm, partnership, corporation or joint stock association has an interest, estate or possessory right and which affects exclusively the property or interests of the individual, firm, partnership, corporation or joint stock association; provided, that all land surveying maps, plats or plans filed with any county recorder's office in the state of Idaho for the purpose of illustrating or defining boundaries of property ownership, shall be made and certified by a registered land surveyor as provided in this chapter; or

(g) Mining Claim Location. An individual doing survey work for himself or herself, or through a firm, partnership, corporation or joint stock association with respect to the location, amendment, or relocation of a mining claim.

Approved April 4, 1984.

CHAPTER 255
(S.B. No. 1254, As Amended)

AN ACT

RELATING TO MOTOR CARRIERS; AMENDING SECTION 61-801, IDAHO CODE, TO PROVIDE AN EXEMPTION FROM REGULATION AND PAYMENT OF FEES FOR THOSE MOTOR CARRIERS EMPLOYED SOLELY IN TRANSPORTING SCHOOL CHILDREN AND TEACHERS TO OR FROM SCHOOL OR TO AND FROM APPROVED SCHOOL ACTIVITIES WHEN THE MOTOR VEHICLES ARE LEASED OR CONTRACTED BY THE SCHOOL AND THE MOTOR VEHICLE IS NOT USED IN THE FURTHERANCE OF ANY OTHER COMMERCIAL ENTERPRISE.

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

SECTION 1. That Section 61-801, Idaho Code, be, and the same is hereby amended to read as follows:

61-801. DEFINITIONS OF TERMS. The following definitions shall apply to this chapter:

a. The term "person" means any individual, firm, copartnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

b. The term "commission" means the Idaho public utilities commission.

c. The term "permit" means a permit issued under this chapter to any motor carrier.

d. The term "highway" means the public roads, highways, streets, and ways of the state.

e. The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

f. The term "common carrier" means any person, which holds itself out to the general public to engage in the transportation by motor vehicle in commerce in the state of Idaho of passengers or property or any class or classes thereof for compensation, whether over regular or irregular routes, or by scheduled or unscheduled service.

g. The term "contract carrier" means any person which, under individual contracts or agreements, engages in the transportation, other than transportation referred to in paragraph (g), by motor vehicle of passengers or property in commerce in the state for compensation.

h. The term "private carrier" means any person not included in the terms "common carrier" or "contract carrier" who or which transports in commerce in the state by motor vehicle property of which such person is the owner, lessee, or bailee, when such property is for the purpose of sale, lease, rent, or bailment, or in the furtherance of any commercial enterprise; provided, that a motor vehicle of a private

carrier, not in excess of eight thousand (8,000) pounds gross vehicle weight, not engaged in the transport of a hazardous substance, shall be exempt from the provisions of this act.

i. The term "motor carrier" means common carrier, contract carrier or private carrier.

j. The term "transportation" includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, express or implied, together with all services, facilities and property furnished, operated or controlled by any such carrier or carriers and used in the transportation of passengers and/or property in commerce in the state.

k. Exemptions. Notwithstanding the definition of "motor carrier" as defined in this section, the following transportation shall be exempt from regulation by and payment of fees to the commission:

(1) motor vehicles employed solely in transporting school children and teachers to or from school or to and from approved school activities, when the motor vehicles are <u>either:</u>

<u>(i)</u> wholly owned and operated by such school; or

<u>(ii) leased or contracted by such school and the motor vehicle is not used in the furtherance of any other commercial enterprise; or</u>

(2) taxicabs or other motor vehicles performing a licensed or franchised taxicab service, having a seating capacity of not more than seven (7) passengers within twenty-five (25) miles of the boundaries of the licensing or franchising jurisdiction; or

(3) motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or airports or other common carrier stations; or

(4) motor vehicles controlled and operated by any farmer when used in the transportation of his farm equipment or in the transportation of supplies to his farm; or

(5) motor vehicles used exclusively in the distribution of newspapers; or

(6) transportation of persons or property by motor vehicle at an airport when incidental to transportation by aircraft or other transportation in substitution for scheduled airline service when the carrier cannot provide the scheduled service because of weather and/or mechanical conditions and the transportation is arranged for and paid by the affected airlines; or

(7) transportation of persons and/or property, including mobile and modular houses manufactured with wheels and undercarriage as part of the substructure, but not transportation of other houses, buildings or structures within a municipality or territory contiguous to such municipality if such operation outside such municipality be a part of a service maintained within the limits of the municipality with the privilege of transfer of passengers to vehicles within the municipality without additional fare; or

(8) the transportation of agricultural products (including fresh fruits and vegetables) or livestock and livestock feed; or

(9) motor propelled vehicles for the sole purpose of carrying

United States mail or property belonging to the United States; or
(10) motor carriers transporting products of the forest; or
(11) motor carriers transporting products of the mine including sand, gravel and aggregates thereof, except petroleum products; or
(12) motor carriers transporting household goods as defined by the interstate commerce commission.

Approved April 4, 1984.

CHAPTER 256
(S.B. No. 1274)

AN ACT

RELATING TO THE LICENSING AND APPOINTMENT OF AGENTS AND TO THE LICENSING OF BROKERS, SOLICITORS, CONSULTANTS, AND ADJUSTERS; AMENDING SECTION 41-1023, IDAHO CODE, TO PROVIDE THAT A LIFE AGENT WRITING DISABILITY INSURANCE MUST BE LICENSED FOR DISABILITY INSURANCE; AMENDING SECTION 41-1044, IDAHO CODE, TO PROVIDE THAT ONLY THE PRINCIPAL PLACE OF BUSINESS MUST BE SHOWN ON THE LICENSE OF A FIRM OR CORPORATION; AMENDING SECTION 41-1045, IDAHO CODE, TO ELIMINATE A LIMITED LICENSE BEING ISSUED TO COVER ONLY CREDIT INSURANCE; AMENDING SECTION 41-1046, IDAHO CODE, TO PROVIDE THAT AN AGENT WILL HAVE SIXTY DAYS TO REPLACE AN APPOINTMENT BEFORE HIS LICENSE SHALL EXPIRE; AND AMENDING SECTIONS 41-1047 AND 41-1049, IDAHO CODE, TO CHANGE THE METHOD OF CONTINUING THE AGENT'S COMPANY APPOINTMENTS TO CONFORM TO THE COMPUTERIZED SYSTEM.

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

SECTION 1. That Section 41-1023, Idaho Code, be, and the same is hereby amended to read as follows:

41-1023. "LIFE AGENT," "DISABILITY AGENT," "INDEPENDENT INSURANCE AGENT," DEFINED. (1) A "life agent" is an agent, as defined in section 41-1021, Idaho Code, who transacts life insurance or annuity business, and includes also the transaction of disability insurance on behalf of an insurer for whom the agent is also licensed as to life insurance provided that the agent is also licensed for disability insurance.

(2) A "disability agent" is an agent, as defined in section 41-1021, Idaho Code, who transacts only disability insurance.

(3) An "independent insurance agent" is an agent, as defined in section 41-1021, Idaho Code, who is not owned or controlled by any insurer or group of insurers and whose agency agreement with any insurer or group of insurers does not prohibit the representation of other insurers or groups of insurers and which provides that upon termination of the agreement, the use and control of the agent's records remain the property of the agent. No agent other than an

"independent insurance agent" shall be represented to the public as an independent insurance agent or agency.

SECTION 2. That Section 41-1044, Idaho Code, be, and the same is hereby amended to read as follows:

41-1044. LICENSE CONTENTS -- NUMBER OF LICENSES REQUIRED. (1) The license shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, the kind or kinds of insurance covered by the license as classified in section 41-1038(2)(a), Idaho Code, and except as provided in section 41-1045, Idaho Code, and such other conditions of the license as the director deems proper for inclusion in the license certificate. No license shall be issued in a trade name unless the name has been duly registered or filed as required by law.

(2) The license of an agent shall not specify the name of any particular insurer by which the licensee is appointed as agent; and the licensee may, subject to section 41-1048, Idaho Code (representation of additional insurers), as to life or disability agents, represent as such agent under the one (1) license as many authorized insurers as may appoint him therefor, with respect to the kind or kinds of insurance covered by the license, in accordance with this chapter.

(3) The license of a firm or corporation shall list the location of ~~each~~ the principal place of business maintained by the licensee in this state.

(4) The license of a solicitor shall also show the name and address of the appointing agent or broker.

SECTION 3. That Section 41-1045, Idaho Code, be, and the same is hereby amended to read as follows:

41-1045. LIMITED AGENT'S LICENSES. (1) The director may issue to an applicant qualified therefor under this chapter a limited agent's qualification license for any one ~~(1)~~ or more of the following:

(a) Covering self-propelled motor vehicle physical damage insurance only.

(b) To transportation ticket-selling agents of common carriers, covering personal accident insurance under ticket policies.

(c) To transportation ticket-selling agents of common carriers, covering baggage insurance.

~~(d) Covering only credit insurance, as such insurance is defined in section 41-506(1)(j), Idaho Code ("casualty insurance" defined).~~

~~(e)~~ Covering only credit life or credit disability insurance written under title 41, chapter 23, Idaho Code.

(2) Licensees under this section shall not hold any other licenses issued under this chapter.

SECTION 4. That Section 41-1046, Idaho Code, be, and the same is hereby amended to read as follows:

41-1046. CONTINUATION, EXPIRATION OF LICENSE. (1) All agent, broker, solicitor, consultant, limited, adjuster, and surplus line broker licenses issued under this code shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment of the applicable continuation fee to the director at his office in Boise no less often than biennially on or before the expiration date referred to in subsection (2) below, accompanied by written request for such continuation. The continuation fees as stated in section 41-401, Idaho Code (fee schedule), are for a one (1) year continuation; and licenses continued for two (2) years shall be subject to payment of a two (2) year continuation fee. Request for continuation shall be made as follows:

(a) As to broker, consultant, adjuster, and surplus line broker licenses, request for continuation shall be made and signed by the licensee.

(b) As to solicitor licenses, request for continuation shall be made and signed by the appointing general lines agent or broker.

(c) As to agent licenses, request for continuation shall be made and signed by the licensee.

(2) The director may, in his discretion, fix the dates of expiration of respective licenses and appointments in such manner as is deemed by him to be advisable for an efficient distribution of the work load of his office. If as to a particular license or appointment the expiration date so fixed would upon first occurrence shorten the period for which license or appointment continuation fee has theretofore been paid, no refund of unearned fee shall be made; and if the expiration date so fixed as to a particular license or appointment would upon first occurrence lengthen the period for which license or appointment continuation fee had theretofore been paid, the director shall charge no additional fee for such lengthened period. If another date is not so fixed by the director, each such license shall, unless continued as hereinabove provided, expire at midnight on March 31.

(3) Any license referred to in subsection (1) above as to which request for continuation and fee is not so received by the director shall be deemed to have expired at midnight on the applicable expiration date. Request for continuation of any such license or payment of the continuation fee therefor which is received by the director within thirty (30) days after such expiration date may be accepted and effectuated by the director, in his discretion, if accompanied by a continuation fee of two (2) times the amount otherwise required.

(4) Subject to continuation as above provided, the license of an agent shall continue in force as long as there is in effect as to such agent, as shown by the director's records, an appointment or appointments as agent of authorized insurers covering collectively all of the kinds of insurance or classifications thereof included in the agent's license. Upon termination of all of such licensee's agency appointments as to a particular kind of insurance or classification thereof and failure to replace such appointment within ~~thirty~~ sixty (~~30~~60) days thereafter, the licensee's license as agent shall automatically thereupon expire and terminate as to such kind of insurance or classification and the licensee shall promptly deliver his license to the

director for reissuance, without fee or charge, as to the kinds of insurance or classifications thereof, if any, covered by the licensee's remaining agency appointments. Upon termination of all of the licensee's agency appointments the license shall forthwith terminate.

(5) As a condition to or in connection with the continuation of any agent, broker or solicitor license the director may require the licensee to file with him information relative to use made of the license during the next preceding two (2) calendar years, and especially showing whether the license has been used principally for the writing of controlled business, as defined in section 41-1033, Idaho Code.

(6) All sums tendered as fee for continuation of license as agent, broker, solicitor, consultant, limited agent, adjuster and surplus line broker shall be deemed earned when paid and shall not be subject to refund; except that the director shall refund any duplicate payment of any such fee.

SECTION 5. That Section 41-1047, Idaho Code, be, and the same is hereby amended to read as follows:

41-1047. APPOINTMENT OF AGENTS -- CONTINUATION. (1) Each insurer appointing an agent in this state shall file with the director the appointment in writing, specifying the kinds of insurance or classifications thereof, as specified in section 41-1038(2)(a), Idaho Code, or annuity business, to be transacted by the agent for the insurer, and pay the appointment fee as specified in section 41-401, Idaho Code (fee schedule). The appointment fees as stated in section 41-401, Idaho Code, are for a one (1) year continuation, and appointments continued for two (2) years shall be subject to payment of a two (2) year continuation fee. One (1) appointment fee shall cover all of the kinds of insurance and annuity business so to be transacted by the agent for the one (1) insurer.

(2) Subject to continuation by the insurer ~~as provided in subsection (3) below~~ <u>and payment of the continuation of appointment fee as provided in section 41-401, Idaho Code</u>, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in section 41-1049, Idaho Code. <u>Any appointment not so continued or otherwise expressly terminated shall be deemed to have expired at midnight on March 31, or on such other date fixed therefor by the director pursuant to section 41-1046(2), Idaho Code.</u>

(3) ~~Not less often than biennially on or before March 1, or other applicable date therefor fixed by the director pursuant to section 41-1046(2), Idaho Code (continuation, expiration of license), each insurer shall file with the director an alphabetical list of the names and addresses of all its agents whose appointments in this state are to remain in effect as to the kinds of insurance or classifications thereof or annuity business for which the respective agents are currently so appointed, accompanied by payment of the continuation of appointment fee as provided in section 41-401, Idaho Code (fee schedule). At the same time the insurer shall also file with the director~~

~~an--alphabetical--list-of-the-names-and-addresses-of-all-of-its-agents whose-appointments-in-this-state-are-not-to-remain-in-effect,-or-whose appointments-as-to--certain--kinds--of--insurance--or--classifications thereof--or-annuity-business-are-not-to-remain-in-effect-and-as-designated-in-such-list.-Any-appointment-not-so-continued-and-not-otherwise expressly-terminated-shall-be-deemed-to-have-expired--at--midnight--on March--31,--or--on-such-other-date-fixed-therefor-by-the-director-pursuant-to-section-41-1046(2),-Idaho-Code.~~

~~(4)~~ If the insurer~~'s-list-of-appointments-continued-or-terminated is-not-received-by-the-director-on-or-before--the--date--the--same--is otherwise--due-as-provided-in-subsection-(3)-above~~ notifies the director within thirty (30) days after the due date of the appointments to be continued, the director may, in his discretion, accept and ~~effectuate-such-a-list-if-filed-with-him-within-thirty-(30)-days-after-such due-date-and~~ renew such appointments if they are accompanied by continuation of appointment fees of two (2) times the amount otherwise required.

(5~~4~~) All sums tendered as fee for appointment or continuation of appointment of an agent shall be deemed earned when paid and shall not be subject to refund; except, that the director shall refund any duplicate payment of any such fee.

SECTION 6. That Section 41-1049, Idaho Code, be, and the same is hereby amended to read as follows:

41-1049. TERMINATION OF APPOINTMENT. (1) Subject to the agent's contract rights, if any, an insurer may terminate an agent appointment at any time. The insurer shall promptly give written notice of such termination and the date thereof to the director, and to the agent where reasonably possible. ~~The-list-of--appointments--not--being--continued--referred--to--in-section-41-1047,-Idaho-Code,-shall-constitute such-notice-to-the-director-as-to-the--terminations--so--listed.---The director--may-require-of-the-insurer-reasonable-proof-that-the-insurer has-given-such-notice-to-the-agent,-whether-upon--termination--of--the appointment--by-affirmative-action-of-the-insurer-or-by-discontinuance as-provided-in-section-41-1047(3),-Idaho-Code.~~

(2) As part of the notice of termination given the director, ~~and in--connection--with--the--insurer's-list-of-agency-appointments-being discontinued-as-provided-for--in--section--41-1047,--Idaho--Code,~~ the insurer shall file with the director a statement of the facts relative to such termination or noncontinuance and the cause thereof. Any information, document, record or statement so disclosed or furnished to the director shall be deemed as absolutely privileged communication and shall not be admissible as evidence in any court action or proceeding.

Approved April 4, 1984.

CHAPTER 257
(S.B. No. 1276)

AN ACT

RELATING TO STATE PARTICIPATION WITH THE UNITED STATES IN THE FEDERAL "URANIUM MILL TAILINGS RADIATION CONTROL ACT OF 1978"; AMENDING CHAPTER 30, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3028, IDAHO CODE, TO PROVIDE A LEGISLATIVE DECLARATION, TO PROVIDE DEFINITIONS, TO PROVIDE THAT THE STATE RADIATION CONTROL AGENCY MAY PARTICIPATE IN THE FEDERAL URANIUM MILL TAILINGS RADIATION CONTROL ACT OF 1978, AND TO PROVIDE FOR FINANCIAL PARTICIPATION.

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

SECTION 1. That Chapter 30, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-3028, Idaho Code, and to read as follows:

39-3028. DISPOSAL OF URANIUM MILL TAILINGS. (1) Legislative declaration. The legislature hereby finds and declares that the existence of uranium mill tailings at active and inactive mill operations could pose a potential radiation health hazard. This section is enacted to protect the public health, safety, and welfare by authorizing the state radiation control agency to cooperate with the federal government in providing for the stabilization, disposal, and control of such tailings in a safe and environmentally sound manner.

(2) Terms defined. For the purposes of this section, the terms "processing site" and "residual radioactive material" shall have the meanings specified in section 101(6) and (7), respectively, of public law 95-604, 42 U.S.C., section 7901, et seq., as from time to time amended.

(3) Authorization to participate. The state radiation control agency is hereby authorized to participate in federal implementation of the "Uranium Mill Tailings Radiation Control Act of 1978" (P.L. 95-604), and for such purpose the agency may:

(a) Enter into cooperative agreements with the secretary of energy to perform remedial actions at processing sites designated by the secretary;

(b) Obtain written consent from the record owner of a designated processing site to perform remedial actions at such site;

(c) Provide for reimbursement for the actual cost of any remedial action in accordance with the terms of public law 95-604;

(d) Acquire and dispose of any designated processing site, including any interest in such site, and any site to be used for the permanent disposition and stabilization of residual radioactive materials.

(e) Participate in the selection and performance of remedial actions.

(4) Financial participation.

(a) The legislature accepts in principle the provisions of section 107(a) of public law 95-604 which requires the state to pay ten percent (10%) of the actual cost of any remedial action and administrative costs from nonfederal moneys, reserving, however, the right and authority to limit through yearly appropriations the amount of state moneys committed to such costs.

(b) The state of Idaho may receive all or a share of the net profits derived from the recovery of minerals from residual radioactive materials at any designated processing site within the state in accordance with the provisions of section 108(b) of public law 95-604.

Approved April 4, 1984.

CHAPTER 258
(S.B. No. 1332, As Amended)

AN ACT

RELATING TO HAZARDOUS WASTE; AMENDING SECTION 39-4411, IDAHO CODE, TO PROVIDE ADDITIONAL REPORTING REQUIREMENTS OF GENERATORS OF HAZARDOUS WASTE AND OF OPERATORS OF HAZARDOUS WASTE DISPOSAL FACILITIES OR SITES, AND TO REQUIRE THE DEPARTMENT OF HEALTH AND WELFARE TO SUBMIT AN ANNUAL REPORT TO THE GOVERNOR AND THE LEGISLATURE BASED ON THE DATA GATHERED.

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

SECTION 1. That Section 39-4411, Idaho Code, be, and the same is hereby amended to read as follows:

39-4411. RECORDS -- REPORTING -- MONITORING. (1) Pursuant to the provisions of section 39-4405, Idaho Code, the board shall adopt, and amend as necessary, such rules and regulations relating to records, reporting, and monitoring as may be needed to achieve the purposes of this chapter. These rules may include, but shall not be limited to, prescribing procedures and requirements for:

(a) The establishment, maintenance, and format of records and reports;

(b) The submittal of records and reports;

(c) The taking of samples and the performing of tests and of analyses;

(d) The use of approved monitoring methods and techniques;

(e) The installation, calibration, use, and maintenance of monitoring equipment; and

(f) The provision of relevant information to the department.

(2) Sixty (60) days after promulgation of the criteria and lists specified under section 39-4407, Idaho Code, and the rules and regulations required under section 39-4405, Idaho Code, and subsection (1)

of this section, the generation, transportation, treatment, storage, or disposal of a hazardous waste in this state by any person without reporting such activity to the department as required by the regulations issued pursuant to subsection (1) of this section shall be unlawful.

(3) Information obtained by the department or by agents, contractors, or other representatives of the department, under the provisions of this section and under section 39-4412, Idaho Code, shall be available to the public, unless the director certifies such information must be kept confidential. The director may make such certification upon a showing, to the satisfaction of the director, that the information, or parts thereof, if made public, would divulge methods, processes, or activities constituting trade secrets. Nothing in this subsection shall be construed as limiting the disclosure of information by the department to any officer, employee, or authorized representative of the state or the United States, as necessary to carry out the provisions of this chapter or the provisions of RCRA. The provisions of this section shall not limit the department's authority to release confidential information during an emergency involving hazardous waste, if the director determines that release of the information is necessary to safeguard the public interest.

(4) Each generator shall, at the discretion of the director, no later than thirty (30) days after the end of each calendar quarter submit a written report to the department including the following information:

(a) The types and quantities of hazardous wastes generated;

(b) The types and quantities of such wastes shipped for treatment and disposal by landfilling or other means of disposal;

(c) The types and quantities of such wastes remaining in storage at the end of the reporting period;

(d) Whether such wastes are destined for disposal or treatment in this state or whether such wastes are destined for disposal or treatment outside this state.

(5) The operator of each hazardous waste disposal facility or site in the state shall, no later than thirty (30) days after the end of each calendar quarter, submit a written report to the department providing information on the types and quantities of wastes received which were generated in Idaho, and information on the types and quantities of wastes received which were generated in other states.

(6) Prior to December 31 of each year the department shall submit a report to the governor and the legislature detailing the types and quantities of hazardous wastes generated in this state, the types and quantities of such wastes shipped for treatment and disposal by landfilling or other means of disposal, the types and quantities of such wastes remaining in storage at the end of the most recent reporting period and the types and quantities of hazardous waste generated outside this state and shipped into this state for storage or disposal.

Approved April 4, 1984.

CHAPTER 259
(S.B. No. 1336, As Amended, As Amended in the House)

AN ACT

RELATING TO NOTARIES PUBLIC; REPEALING CHAPTER 1, TITLE 51, IDAHO CODE, RELATING TO NOTARIES PUBLIC; AMENDING TITLE 51, BY THE ADDITION OF A NEW CHAPTER 1, TITLE 51, IDAHO CODE, TO PROVIDE DEFINITIONS; TO PROVIDE FOR A POWER OF APPOINTMENT, TERM, AND REAPPOINTMENT; TO PROVIDE QUALIFICATIONS; TO PROVIDE AN APPOINTMENT PROCEDURE AND OATH; TO PROVIDE FOR A SEAL; TO PROVIDE POWERS AND JURISDICTION; TO PROVIDE FOR DISQUALIFYING INTERESTS; TO PROVIDE FOR FORMS FOR NOTARIAL ACTS; TO PROVIDE FOR A NOTARY FEE, TO PROVIDE DUTIES, TO PROVIDE OFFICIAL MISCONDUCT; TO PROVIDE GROUNDS FOR REMOVAL; TO PROVIDE A REMOVAL PROCEDURE; TO PROVIDE FOR RESIGNATIONS; TO PROVIDE A CANCELLATION PROCEDURE; TO PROVIDE CONDITIONS IMPAIRING THE VALIDITY OF A NOTARIAL ACT; TO PROVIDE FOR CIVIL LIABILITY OF A NOTARY AND HIS EMPLOYER; TO PROVIDE FOR CRIMINAL PENALTIES; TO REQUIRE A NOTARY HANDBOOK; TO PROVIDE SEVERABILITY; TO PROVIDE FOR TRANSITION AND A TRANSITION PERIOD; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 1, Title 51, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Title 51, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 1, Title 51, Idaho Code, and to read as follows:

CHAPTER 1
IDAHO NOTARY PUBLIC ACT

51-101. SHORT TITLE. This chapter may be cited as the "Idaho Notary Public Act."

51-102. DEFINITIONS. As used in this chapter:

(1) The masculine gender includes the feminine.

(2) "Notarial act" means any official act performed by a notary public under provisions of section 51-107, Idaho Code.

(3) "Resident" means a natural person who has fixed his habitation in the state of Idaho and who, whenever absent, intends to return to that place of habitation in Idaho.

(4) "Serious crime" includes any felony and any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, the unauthorized practice of law, deceit, bribery, extortion, misappropriation, theft, or an attempt, a conspiracy or the solicitation of another to commit a serious crime.

(5) "Affidavit" means a declaration in writing, under oath, and sworn to or affirmed by the declarant before a person authorized to administer oaths.

(6) "Verification" means an affidavit of the truth of the facts stated in the instrument to which it relates.

51-103. POWER OF APPOINTMENT -- TERM -- REAPPOINTMENT. (1) The secretary of state shall appoint in and for the state of Idaho as many notaries public as he shall deem necessary.

(2) Each notary public so appointed shall serve for a term of six (6) years except as otherwise provided in this chapter.

(3) A notary public may be reappointed upon submission of a new application not earlier than ninety (90) days prior to the expiration of his term.

51-104. QUALIFICATION FOR APPOINTMENT. Each person appointed and commissioned as a notary public:

(1) Shall be at least eighteen (18) years of age;

(2) Shall be a citizen of the United States;

(3) Shall be a resident of the state of Idaho;

(4) Must be able to read and write the English language; and

(5) Must not have been removed from the office of notary public for official misconduct nor have been convicted of a serious crime as defined in section 51-102, Idaho Code, within the ten (10) year period immediately preceding his appointment nor be serving a sentence for conviction of a serious crime, without regard to when convicted.

51-105. APPOINTMENT PROCEDURE -- OATH. (1) Each person to be appointed a notary public shall submit an application to the secretary of state on a form prescribed by the secretary of state. The application shall include such information as the secretary of state shall deem proper and shall include that the applicant:

(a) Is at least eighteen (18) years of age;

(b) Is a citizen of the United States;

(c) Is a resident of the state of Idaho;

(d) Is able to read and write the English language; and

(e) Has not been convicted of a serious crime nor removed from office for official misconduct during the immediately preceding ten (10) year period.

The applicant shall also take the following oath, which shall appear on the application form:

"I, ..., solemnly swear (or affirm) that the answers to all questions in this application are true, complete and correct; that I have carefully read the notary laws of this State and I am familiar with their provisions; that I will uphold the Constitution of the United States and the Constitution and laws of the State of Idaho; and that I will faithfully perform, to the best of my ability, the duties of the office of notary public.".

The oath shall be signed and sworn to (or affirmed) by the applicant in the presence of a notary public or other person authorized to administer oaths in this state.

(2) Each person to be appointed a notary public shall execute and append to the application a bond to the state of Idaho in the amount of ten thousand dollars ($10,000). The surety which provides the bond shall be a bonding or surety company authorized to do business in this state.

51-106. SEAL. (1) Each notary public shall provide and keep an official seal which shall conform to one of the following configurations:

(a) A seal embosser engraved with the words "Notary Public", the notary public's name, and the words "State of Idaho."

(b) A rubber stamp with a serrated or milled edge border in rectangular or circular form, which contains the same information required for the seal embosser.

(2) The seal shall be impressed below or near the notary public's official signature on each notary certificate which he administers.

51-107. POWERS AND JURISDICTION. (1) Each notary public is empowered to:

(a) Take acknowledgments:

(b) Administer oaths and affirmations;

(c) Certify that a copy of an original document is a true copy thereof, only if a certified copy of such original cannot be obtained from an official custodian of such document;

(d) Certify affidavits (to include verifications) or depositions of witnesses; and

(e) Perform such other acts as may be specifically permitted by law.

(2) The powers of a notary public commissioned pursuant to the provisions of this chapter may be exercised anywhere within the state of Idaho and may be exercised outside the state only in connection with a deed or other writing to be admitted to record in the state of Idaho.

51-108. DISQUALIFYING INTERESTS. (1) As used in this section, the term "transaction" shall not include judicial proceedings.

(2) A notary public who has a disqualifying interest, as hereinafter defined, in a transaction may not legally perform any notarial act in connection with the transaction.

(3) For the purposes of this chapter, a notary public has a disqualifying interest in a transaction in connection with which notarial services are requested if he is named as a party to the transaction or shares the same beneficial interest as a party to the transaction.

(4) Neither the notary public nor any party sharing the same beneficial interest as the notary public in the transaction may raise the issue of disqualifying interest in an attempt to invalidate the transaction. The issue of disqualifying interest may not be raised between parties neither of whom shares the same beneficial interest as the notary public.

51-109. FORMS FOR NOTARIAL ACTS. (1) Certificates of acknowledgment shall substantially conform to the forms set forth in sections 55-710 through 55-715, Idaho Code.

(2) An oath or affirmation, which is in writing, shall be signed by the person who takes it, and the notary public shall enter thereunder substantially the following:

"State of Idaho)
)ss
County of .....)
Subscribed and sworn (or affirmed) before me this ..... day of ....., 19..."

.....(official signature and seal)

(3) An oath or affirmation administered verbally by a notary public shall be in substantially the following form:

"You do solemnly swear (or affirm) that the testimony you shall give in the matter in issue shall be the truth, the whole truth, and nothing but the truth." The person who takes the oath or affirmation must respond affirmatively.

(4) A certificate of verification of an instrument shall follow the maker's signature and shall identify the notary public and certify that the maker personally appeared, was sworn, stated his authority for making the instrument, and averred the truth of the statements therein. For example, the verification of a corporate document by an officer of the corporation should be in substantially the following form:

"State of Idaho)
)ss
County of .....)
I, ..., a notary public, do hereby certify that on this ..... day of ....., 19..., personally appeared before me ....., who, being by me first duly sworn, declared that he is the ..... of ....., that he signed the foregoing document as ..... of the corporation, and that the statements therein contained are true."

.....(official signature and seal)

(5) If a certified copy of a document cannot be obtained from any recorder or custodian of public documents, and if certification of a copy of the document by a notary public is otherwise permissible, a notary public may certify a copy of the document in substantially the following form:

"State of Idaho)
)ss
County of .....)
I, ..., a notary public, do certify that on ....., 19..., I carefully compared the attached copy of ..... [describe document] with the original. It is a complete and true copy of the original document."

.....(official signature and seal)

(6) On each notary certificate, the notary public shall immediately following his signature state the date of the expiration of his

commission in substantially the following form:

"My commission expires on ....., 19..."

51-110. NOTARY FEE. (1) A notary public may, for any notarial act, charge a fee not to exceed two dollars ($2.00).

(2) In addition to the fee, a notary public may be compensated for actual and reasonable expense of travel to a place where a notarial act is to be performed.

(3) An employer shall not require a notary public in his employment to surrender to him a fee, if charged, or any part thereof. An employer may, however, preclude such notary public from charging a fee for a notarial act performed in the scope of his employment.

51-111. DUTIES. (1) Each notary public shall exercise reasonable care in the performance of his duties generally, and shall exercise a high degree of care in ascertaining the identity of any person whose identity is the subject of a notarial act.

(2) Any notary public whose name or residence changes during his term of office shall within sixty (60) days after such change submit written notice thereof to the secretary of state.

(3) Any nonresident notary public who changes his place of employment to another location in this state shall within sixty (60) days thereafter submit a written notice thereof to the secretary of state.

51-112. OFFICIAL MISCONDUCT. Official misconduct is the wrongful exercise of a power or the wrongful performance of a duty. In this context, wrongful shall mean unauthorized, unlawful, abusive, negligent, or reckless. Official misconduct by a notary public shall include, but not be limited to:

(a) Engaging in any fraudulent or deceptive conduct which is related in any way to his capacity as a notary public;

(b) Failure to exercise the required degree of care in identifying a person whose identity is an essential element of a notarial act;

(c) Representing or implying by the use of his title that he has qualifications, powers, duties, rights, or privileges that by law he does not possess;

(d) Engaging in the unauthorized practice of law; or

(e) Charging a fee for a notarial act which is in excess of that provided by section 51-110, Idaho Code.

51-113. GROUNDS FOR REMOVAL. A notary public may be removed from the office upon any of the following grounds:

(a) Conviction of a serious crime within the immediately preceding ten (10) year period;

(b) Any action which constitutes official misconduct;

(c) Any material misstatement of fact in his application for appointment as a notary public;

(d) Failure of a conservator or guardian to submit a timely resignation after a notary public becomes incompetent;

(e) Failure of a notary public to submit a timely resignation when he becomes disqualified by virtue of no longer: (1) being a citizen of the United States; or (2) being a resident of Idaho; or
(f) Cancellation of the notary bond by the bonding or surety company.

51-114. REMOVAL PROCEDURE. (1) If a notary public is convicted of a serious crime in any court of this state, the clerk of the court, if he knows that the convict is a notary public or upon the request of any person, shall forward to the secretary of state a certified copy of the judgment of conviction. If a notary public is convicted of a serious crime in a federal court or a court of another state, any person may obtain a certified copy of the judgment of conviction and forward it to the secretary of state. Upon receipt of a certified copy of a judgment of conviction of a serious crime in the preceding ten (10) year period, the secretary of state shall forthwith cancel the commission of the notary public.

(2) If in any civil or criminal case the court finds that a notary public has committed any act which constitutes official misconduct under section 51-112, Idaho Code, the clerk of the court, upon the request of any person, shall forward a certified copy of the findings of fact, or relevant extract therefrom, to the secretary of state. Upon receipt of the certified copy of the findings of fact or extract therefrom the secretary of state shall, if he finds that the act of the notary public as found by the court constitutes official misconduct, forthwith cancel the commission of the notary public.

(3) Upon receipt of proof on the public record of a material misstatement of fact in the application of a notary public, certified by the custodian of such record, the secretary of state shall forthwith cancel the commission of the notary public.

(4) If the conservator or guardian of a notary public who has been adjudged incompetent fails to submit a timely resignation as required by subsection (3) of section 51-115, Idaho Code, the clerk of the court which found the notary public to be incompetent shall, upon the request of any person, forward to the secretary of state a certified copy of the order adjudging the notary to be incompetent. Upon receipt of such order, the secretary of state shall forthwith cancel the commission of the notary public.

(5) If the secretary of state receives credible information that a notary public is no longer a citizen of the United States or is no longer a resident of Idaho, the secretary of state shall send to the notary public at his last known address by certified return receipt mail a statement setting forth such information and a notice of opportunity to rebut. If the statement and notice cannot be delivered or if no rebuttal is received within forty-five (45) days after mailing the notice, the secretary of state shall cancel the commission of the notary public. If the statement is rebutted by statements which indicate that the notary public is not disqualified on citizenship or residency, or employment grounds, the secretary of state shall take no further action.

(6) A bonding or surety company shall file prompt written notice

of cancellation of a notary's bond with the secretary of state who shall forthwith cancel the commission of the notary public. The cancellation of the bond shall be effective only upon receipt by the secretary of state of notice of cancellation.

51-115. RESIGNATION OR DEATH. (1) A notary public may voluntarily resign by mailing or delivering to the secretary of state a letter of resignation.

(2) Any notary public who becomes ineligible to hold such office for any reason shall within thirty (30) days thereafter resign by mailing or delivering to the secretary of state a letter of resignation.

(3) If a notary public becomes incompetent, his conservator or guardian shall within thirty (30) days after the finding of incompetency mail or deliver to the secretary of state a letter of resignation on behalf of the notary public.

(4) If a notary public dies in office, his personal representative shall within thirty (30) days thereafter mail or deliver to the secretary of state notice thereof.

(5) Upon receipt of a letter of resignation or notice of death, the secretary of state shall forthwith cancel the commission of the notary public.

51-116. CANCELLATION PROCEDURE. Whenever the secretary of state is required by the provisions of sections 51-114 and 51-115, Idaho Code, to cancel the commission of a notary public, he shall:

(a) Mark the notary public's record "cancelled" and append thereto the supporting document; and

(b) Mail written notice to the resigned or removed notary public or to the conservator, guardian, or personal representative, as appropriate, instructing him to destroy the notary public commission and seal.

51-117. CONDITIONS IMPAIRING VALIDITY OF NOTARIAL ACT. Without excluding other conditions which may impair the validity of a notarial act, the following conditions invalidate the notarial act:

(a) Failure of the notary public to require a person whose acknowledgment is taken to personally appear before him;

(b) Failure of the notary public to administer an oath or affirmation when the notary certificate indicates that he has administered it;

(c) As to only the notary public who performs the notarial act and any party who shares the same beneficial interest in the transaction, the existence of a disqualifying interest.

51-118. CIVIL LIABILITY OF NOTARY PUBLIC AND EMPLOYER. (1) A notary public shall be liable for all damages proximately caused by his official misconduct.

(2) The employer of a notary public shall be jointly and severally liable with such notary public for all damages proximately caused by the official misconduct of such notary public if:

(a) The notary public was acting within the scope of his employment; and
(b) The employer had actual knowledge of, or reasonably should have known of, the notary public's official misconduct.

51-119. CRIMINAL PENALTIES. (1) Any notary public who knowingly and willfully commits an act of official misconduct under the provisions of section 51-112, Idaho Code, shall be guilty of a misdemeanor.
(2) Any employer of a notary public who willfully induces such notary public to commit an act of official misconduct under the provisions of section 51-112, Idaho Code, shall be guilty of a misdemeanor.
(3) Any person who shall willfully act as or otherwise impersonate a notary public while not lawfully commissioned as such nor otherwise officially authorized to perform notarial acts shall be guilty of a misdemeanor.
(4) Any person who shall steal or wrongfully possess a notary public's seal with the intent to use it in the commission of any crime shall be guilty of a felony.
(5) The penalties prescribed in this section shall not be exclusive.

51-120. NOTARY HANDBOOK. The secretary of state shall prepare a handbook for notaries public which shall contain the provisions of this chapter and such other information as the secretary of state shall deem proper. A copy of the handbook shall be given to each applicant for appointment as a notary public.

51-121. FILING FEES. (1) The fee for filing an application for appointment as a notary public shall be thirty dollars ($30.00).
(2) There shall be no fee charged for filing a letter of resignation, a certified copy of a judgment of conviction, a certified copy of findings of fact or extract therefrom, public record of proof of material misstatement of fact in an application, certified copy of order adjudging incompetency, or notice of death.
(3) The fee for filing notice of change of name or address, or change of place of employment by a nonresident notary public, shall be five dollars ($5.00).
(4) The fee for filing notice of cancellation of a notary bond shall be five dollars ($5.00).

51-122. SEVERABILITY. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional.

51-123. TRANSITION. (1) Each notary commission which was granted under the prior law shall be terminated upon the expiration of the notary bond which was in effect on December 31, 1984.

(2) Except for sections 51-103, 51-104, and 51-105, Idaho Code, the provisions of this chapter shall apply to notaries public who were commissioned under the prior law.

(3) This section shall be in full force and effect from January 1, 1985, to January 1, 1989.

SECTION 3. This act shall be in full force and effect on and after January 1, 1985.

Approved April 4, 1984.

CHAPTER 260
(S.B. No. 1368)

AN ACT

RELATING TO THE TITLING OF CERTAIN MOTOR VEHICLES; AMENDING SECTION 49-434, IDAHO CODE, TO PROVIDE THAT AN APPLICANT FOR TITLE TO A VEHICLE TWENTY-FIVE YEARS OF AGE OR MORE, WHO IS NOT IN POSSESSION OF THE TITLE FROM A PRIOR OWNER, SHALL OBTAIN A LIMITED TITLE TO THE VEHICLE BASED UPON A VERIFIED STATEMENT BY THE APPLICANT.

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

SECTION 1. That Section 49-434, Idaho Code, be, and the same is hereby amended to read as follows:

49-434. PROCEDURE WHEN DEPARTMENT UNSATISFIED AS TO OWNERSHIP OR SECURITY INTERESTS -- TEMPORARY REGISTRATION PROCEDURE. (1) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle but shall either:

(a) Withhold issuance of a certificate of ownership until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

(b) As a condition of issuing a certificate of ownership, require the applicant to file with the department all documents held as to the applicant's ownership of the vehicle, together with a bond in the form prescribed by the department and executed by the applicant, or in lieu thereof, a deposit of cash in like amount. The bond shall be in an amount equal to one and one-half (1 1/2) times the value of the vehicle, as determined by the department, and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle or on account of any defect in or disclosed security interest upon the right, title and interest of the

applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit, shall be returned at the end of three (3) years, or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of ownership is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

(c) As to a motor vehicle twenty-five (25) years old or more since manufacture, an applicant who is a resident of the state of Idaho may file with the department, before its authorized representative, a verified statement of facts setting out in detail the manner in which the applicant came into possession of the motor vehicle, the establishment of ownership, and a summary of the applicant's attempts to contact any prior owners of the motor vehicle. Upon receipt by the department of the verified statement and all documentation relating to the applicant's possession of the vehicle, and completion of an inspection of the vehicle identification number by an authorized representative of the department, the applicant shall execute a document in the form provided by the department releasing it of any and all damages that may be suffered by the applicant, along with warranties that the applicant will pay any and all damages suffered by any person or entity as to the issuance of a title for that motor vehicle by the department. The department shall then issue a certificate of title to the applicant in form set out by this section. The certificate of title shall include the statement, "TITLE ISSUED UPON STATEMENT OF APPLICANT", in bold, permanent letters upon its face. The title issued pursuant to this subsection shall be presumed to indicate legal ownership of the motor vehicle at the end of the three (3) year period from the date of issue of that title, provided the motor vehicle is still registered in the state of Idaho, and there are no actions or claims pending against the applicant which places legal ownership in question. The department and the state of Idaho shall be immune as to any damages suffered by any person or entity as a result of the issuance of a certificate of title as provided by this subsection.

(2) Every dealer desiring the privilege of issuing temporary registration permits for the operation of motor vehicles shall make application to the motor vehicle division. If such privilege is granted, the dealer will receive a series of permits, consecutively numbered by the motor vehicle division, secured by the dealer at a fee of five dollars ($5.00) for each permit. A permit subsequently issued by a dealer to a purchaser shall be valid for a period not to exceed thirty (30) days.

The dealer shall issue temporary registration permits in numerical sequence, one (1) only for each motor vehicle sold to a bona fide purchaser. Each permit, and the stub attached thereto, shall be completed in duplicate, in ink or by typewriter at the time of issuance. The expiration date on the original permit shall be filled in by rubber

stamp or broad-tipped marking pen, and the print shall be at least three-fourths (3/4) inch high and one-eighth (1/8) inch wide. The original permit shall be displayed in the rear window of the motor vehicle for which it is issued, except when issued for a convertible, station wagon, motorcycle, or other motor vehicle for which this would not be practical. And, in these exceptional cases, the permit should be conspicuously displayed in a place where the number of the permit and the expiration date may be easily read and where protected from exposure to weather conditions which would render it illegible. The duplicate stub shall be returned to the motor vehicle division within thirty-one (31) days from the date of issue.

(3) The dealer shall keep a written record of every temporary registration permit issued. This record shall include the name and address of the person or firm to whom the permit is issued, a description of the motor vehicle for which it is issued, including year, make, model, identification number, and the date of issue. This record shall list all permits in numerical sequence and shall be open to inspection by any officer or employee of the department or any peace officer.

(4) The fees collected from dealers by the department under the provisions of this section shall be transmitted by the department to the state treasurer for deposit in the motor vehicle account.

(5) Upon application for title and for registration of a vehicle for which temporary registration has been issued under this section, the county assessor shall collect and fees shall be deemed due from the date of issuance of the temporary registration permit rather than from date of application for title or registration.

(a) The department or a county assessor may issue temporary motor vehicle registration permits in an emergency situation. The fee for a temporary registration shall be five dollars ($5.00). The temporary registration shall be valid for a period of thirty (30) days. The temporary fees collected by the department shall be transmitted to the state treasurer for deposit in the motor vehicle account. The temporary fee collected by an assessor shall be distributed as follows: three dollars ($3.00) shall be deposited in the county current expense fund and two dollars ($2.00) shall be transmitted to the department for deposit through the state treasurer in the motor vehicle account.

Approved April 4, 1984.

CHAPTER 261
(S.B. No. 1374, As Amended)

AN ACT

RELATING TO ISSUANCE OF OBLIGATIONS; AMENDING CHAPTER 2, TITLE 57, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 57-231, IDAHO CODE, TO PROVIDE THAT OBLIGATIONS ISSUED BY THE STATE, ITS AGENCIES, INSTITUTIONS, POLITICAL SUBDIVISIONS, CITIES, COUNTIES, SCHOOL DISTRICTS, IRRIGATION DISTRICTS, AUTHORITIES, INSTRUMENTALITIES

AND MUNICIPAL AND QUASI-MUNICIPAL CORPORATIONS NOW OR HEREAFTER EXISTING UNDER THE LAWS OF THE STATE OF IDAHO MAY HAVE VARIABLE INTEREST RATES, AND TO PROVIDE FOR CREDIT ENHANCEMENT ARRANGEMENTS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 2, Title 57, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 57-231, Idaho Code, and to read as follows:

57-231. ISSUANCE OF BONDS BY THE STATE OF IDAHO OR POLITICAL SUBDIVISIONS -- VARIABLE INTEREST RATES PERMITTED -- CREDIT ENHANCEMENT ARRANGEMENTS. Any other provision of law to the contrary notwithstanding, in the ordinance or resolution authorizing the issuance of any bonds, notes or other evidence of indebtedness otherwise permitted to be issued under the laws of the state of Idaho, the body charged with authorizing the issuance of such obligations for the state, its agencies, institutions, political subdivisions, cities, counties, school districts, irrigation districts, authorities, instrumentalities and municipal and quasi-municipal corporations now or hereafter existing under the laws of the state of Idaho, may specify either the rate or rates of interest, if any, on the bonds, notes or other evidences of indebtedness to be issued or may specify a method, formula or index pursuant to which the interest rate or rates on the bonds, notes or other evidences of indebtedness may be determined during the time such obligations are outstanding. Subject to the constitution, the resolution or ordinance may include the terms and conditions of arrangements which may be entered into by the issuer of such obligations with financial, banking and other institutions for letters of credit, standby letters of credit, reimbursement agreements and remarketing, indexing and tender agent agreements to secure such obligations, including payment from any legally available source of fees, charges or other amounts coming due under the agreements entered into in connection with the issuance of the obligations. Such arrangements need not be set forth in full in the resolution or ordinance, but may be incorporated by reference to the agreements entered into with the financial, banking or other institution.

SECTION 2. 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.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1984.

CHAPTER 262
(S.B. No. 1376)

AN ACT

RELATING TO LICENSING OF OUTFITTERS AND GUIDES IN THE STATE OF IDAHO; AMENDING SECTION 36-2108, IDAHO CODE, TO MODIFY APPLICATION REQUIREMENTS, TO PROVIDE THAT LICENSE FEES SHALL NOT BE DUE UNTIL AN APPLICATION FOR A LICENSE IS APPROVED BY THE OUTFITTERS AND GUIDES BOARD, TO CLARIFY WHEN THE BOARD MUST ACT ON AN APPLICATION, TO RECODIFY LANGUAGE CONCERNING BONDING AND LICENSE FEES, AND TO STRIKE SPECIFIC CONDITIONS THAT ARE NOW MADE GENERAL BY RULE AND REGULATION; AMENDING SECTION 36-2113, IDAHO CODE, TO PROVIDE CERTAIN ADDITIONAL CRITERIA FOR WHICH A LICENSE MAY BE SUSPENDED, TO CLARIFY THE MEANING OF FAILURE TO SERVE THE PUBLIC, TO PROVIDE THAT A LICENSE MAY BE REVOKED BY THE BOARD WHEN A LICENSEE ENGAGES IN ANY ACTIVITY OR OPERATES IN AN AREA FOR WHICH A LICENSEE IS NOT LICENSED AND TO DEFINE THE TERM CONVICTION; AMENDING SECTION 36-2116, IDAHO CODE, TO PROVIDE THAT A VIOLATION OF CERTAIN RULES AND REGULATIONS OF THE OUTFITTERS AND GUIDES BOARD SHALL BE A MISDEMEANOR, TO PROVIDE JURISDICTION OVER OFFENDERS, TO CHANGE A SPELLING, AND TO DELETE REFERENCES TO CIVIL DAMAGES; AMENDING SECTION 36-2117, IDAHO CODE, TO PROVIDE THAT THE MINIMUM CRIMINAL FINE FOR VIOLATION OF THE PROVISIONS OF THIS CHAPTER SHALL BE ONE HUNDRED DOLLARS; AMENDING CHAPTER 21, TITLE 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-2117A, IDAHO CODE, TO PROVIDE FOR CIVIL PENALTIES AND FOR COURT COSTS FOR VIOLATIONS OF THE OUTFITTERS AND GUIDES LAW.

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

SECTION 1. That Section 36-2108, Idaho Code, be, and the same is hereby amended to read as follows:

36-2108. APPLICATION FOR LICENSE -- CONTENTS -- FEE -- QUALIFICATIONS -- TERM -- BOND. (a) Each applicant for an outfitter's or guide's license shall make application for such license upon a form to be prescribed and furnished by the board.

1. All applications for an outfitter's license shall be signed by the applicant, under oath or affirmation that all information supplied by him in the application form is true and correct as he verily believes and shall be duly notarized. Such applications shall include, but are not limited to, a worded description of the ~~big-game-hunting~~ boundaries ~~for-which-application-is--made--for--a license,--if--applying-for-an-outfitter's-license-to-hunt-big-game~~ of the area in which such activity will be conducted.

2. All applications for a guide's license shall be signed by the applicant. Such application shall contain the written endorsement of the outfitter(s) by whom the applicant will be employed ~~for-the~~

~~license-year-for-which-application-is-made.~~

(b) Applications shall be made to and filed with the board and accompanied by:

~~1.--A--statement--by--the-appropriate-Idaho-department-of-fish-and game-district-or-regional-conservation-officer-indicating--whether or--not--the--applicant--has--been-convicted-of,-or-forfeited-bond upon,-a-violation-of-the-fish-and-game-laws-of-the-state-of--Idaho in--the--five-(5)-year-period-next-preceding-the-application-date.~~

~~2.--A-license-fee-as--hereinafter--provided,--which--will--not--be refunded,-except-where-a-license-is-denied-to-an-applicant-who-had held--during-the-preceding-license-year-a-license-of-the-same-kind for-which-application-is-made,-in-order-that-such-fee-may-be--used in--investigation--of--the-applicant,-for-enforcement-of-this-act, and-for-the-administration-costs-of-the-board.~~

~~3.--The-license-fee-for-resident-outfitters-shall-be--one--hundred seventy-five--dollars--($175)--and--for-resident-guides-sixty-five dollars-($65.00)-and-the-license-fee--for--nonresident--outfitters shall--be--two--hundred--dollars-($200)-and-for-nonresident-guides seventy-five-dollars-($75).--A-penalty-fee-in-the-amount-of--fifty dollars-($50.00)-shall-be-charged-in-addition-to-the-regular-resident--or--nonresident-outfitter's-license-fee-for-any-such-renewal applicant-whose-application-is-not-complete-by--March--31--of--the year--in-which-application-for-such-license-is-made,-this-does-not apply-to-a-new-applicant-for-an-outfitter's-license.--A-ten--dollar ($10.00)-fee-shall-be-charged-for-every-amendment-to-a-license.~~

~~4.--A~~ a bond to the state of Idaho for the benefit of person or persons employing the licensee and in a form approved by the board in the sum of five thousand dollars ($5,000) for outfitters, executed by a qualified surety, duly authorized to do business in this state, conditioned that for the current license year said applicant, his agents and employees, if said license is issued to him, shall conduct his business as an outfitter without fraud or fraudulent representation, and will faithfully perform his contracts with and duties to his patrons; said bond shall be filed with the board before issuance of the license as provided herein.

(c) The board, in its discretion, may make such additional investigation and inquiry relative to the applicant and his qualifications as it shall deem advisable, provided that final decision by the board upon an application submitted by an applicant who has held during the preceding license year a license of the same kind for which application is made shall not be later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or thirty (30) days from the date the board receives all such materials, whichever is later; and upon an application submitted by an applicant not holding during the preceding license year a license of the same kind or embracing the same ~~big--game-hunting~~ activity(ies) or area for which application is made, not later than March 31 of the year in which the board receives all materials required to be submitted in order to complete a license application or ninety (90) days from the date the board receives all such materials, whichever is later.

(d) After the board has acted favorably upon an application, the applicant shall pay a license fee, as hereinafter provided, to the board.

1. The license fee shall be paid prior to the issuance of a license.

2. The license fee shall be used for the investigation of applicants, for enforcement of this act, and for the administration costs of the board.

3. The license fee for resident outfitters shall be one hundred seventy-five dollars ($175) and for resident guides sixty-five dollars ($65.00) and the license fee for nonresident outfitters shall be two hundred dollars ($200) and for nonresident guides seventy-five dollars ($75.00). A penalty fee in the amount of fifty dollars ($50.00) shall be charged in addition to the regular resident or nonresident outfitter's license fee for any such renewal applicant whose application is not complete by March 31 of the year in which application for such license is made; this does not apply to a new applicant for an outfitter's license. A ten dollar ($10.00) fee shall be charged for every amendment to a license.

SECTION 2. That Section 36-2113, Idaho Code, be, and the same is hereby amended to read as follows:

36-2113. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS. (a) Every license shall, by virtue of this chapter, be subject to suspension or revocation by the board ~~in-the-manner-hereinafter--set--forth:~~ for the commission of any of the following acts ~~within-one-(1)-year-of the--date--of--application-for-issuance-or-renewal-of-a-license-by-the board:~~

1. For supplying false information or for failure to provide information required to be furnished by the license application form for a license currently valid or for other fraud or deception in procuring a license under the provisions of this chapter.

2. For fraudulent, untruthful or misleading advertising.

3. For conviction for a felony~~;--without--regard--to--the--time limitation-as-set-forth-above~~.

4. For conviction of violation of regulations of the United States forest service or the bureau of land management.

5. For immoral, unethical or dishonorable conduct.

6. For conviction of any violation of the fish and game laws of the state. ~~For-the-purposes-of-this-chapter,-the-term-"conviction" shall--mean--a--final--conviction--and/or--a-forfeiture-of-bail-or collateral-deposited-to-secure-a-defendant's-appearance--shall--be equivalent-to-a-conviction.~~

7. For a substantial breach of any contract with any person utilizing his services.

8. For willfully (i) operating ~~as-an-outfitter~~ in any area for which ~~he~~ the licensee is not licensed, or (ii) engaging in any activity for which the licensee is not licensed.

9. For the employment of an unlicensed guide by an outfitter.

10. For inhumane treatment of any animal used by the licensed outfitter or guide in the conduct of his business which endangers the health or safety of any guest or patron or which interferes with the conduct of his business.

11. For failure by any firm, partnership, corporation or other organization or any combination thereof licensed as an outfitter to have at least one (1) licensed outfitter as designated agent conducting its outfitting business who meets all of the qualifications and requirements of a licensed outfitter.

12. For the failure to provide any animal used by the licensed outfitter or guide in the conduct of his business with proper food, drink and shelter, or for the subjection of any such animal to needless abuse or cruel and inhumane treatment.

13. For failure of an outfitter to serve the public~~.--A-showing-by any--interested--person-to-the-board-that-an-outfitter-has-limited his-scope-of~~ in any of the following ways: (i) by nonuse of license privileges as defined by rules and regulations of the board, (ii) by limiting services to any individual, group, corporation or club ~~which~~ that limits its services to a membership, or ~~who-does~~ (iii) by not offering services to the general public~~;--shall--be grounds-for-revocation-of-a-license~~.

14. For violation of or noncompliance with any applicable provision of this act, or for violation of any lawful rule, regulation, or order of the outfitter's and guide's board.

(b) For the purposes of this section, the term "conviction" shall mean a finding of guilt, an entry of a guilty plea by a defendant and its acceptance by the court, or a forfeiture of bail bond or collateral deposited to secure a defendant's appearance.

SECTION 3. That Section 36-2116, Idaho Code, be, and the same is hereby amended to read as follows:

36-2116. COMPLAINT FOR VIOLATION -- PROSECUTION BY COUNTY ATTORNEY. (a) The board or its designated agent may prefer a complaint before any court of competent jurisdiction ~~in-the-county-where-the defendant-resides;-or~~ in the county where the offense occurred, for a violation of: (i) the provisions of subsections (1), (2), ~~(5);~~ (7), (8), or (9) ~~and-(10)~~ of section 36-2113, Idaho Code; or (ii) any regulation promulgated pursuant to subsection (d) of section 36-2107, Idaho Code.

(b) Any person convicted of any violation enumerated in subsection (a) of section 36-2116, Idaho Code, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as provided in section 36-2117, Idaho Code. ~~In-addition,-he-shall-be-liable-for-civil damages--in--an--amount-not-less-than-three-hundred-dollars-($300)-nor more-than-one-thousand-dollars-($1,000).~~ Fifty percent (50%) of all fines and forfeitures collected shall be paid to the outfitters and guides board and such ~~monies~~ moneys so received by the board shall be deposited with the state treasurer and the state treasurer shall credit the same to the Idaho outfitters and guides board account and fifty percent (50%) of all fines and forfeitures collected shall be

distributed in accordance with section 19-4705, Idaho Code.

SECTION 4. That Section 36-2117, Idaho Code, be, and the same is hereby amended to read as follows:

36-2117. PENALTY FOR VIOLATIONS -- PROSECUTING ATTORNEY TO PROSECUTE. (a) It shall be the duty of the prosecuting attorney of each county in the state to prosecute, in the county where the violation occurs, any person charged with violating the provisions of section 36-2104 or 36-2116, Idaho Code.

(b) Any person convicted for violating the provisions of this chapter shall be punished by a fine of not less than ~~three~~ one hundred dollars ($~~3~~100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for a term not to exceed ninety (90) days, if other than a corporation, or by both such fine and imprisonment in the discretion of the court. All fines and penalties collected for violation of this section, under sentence or judgment of any court, shall be paid over by such court in the same manner as provided for in section 36-2116, Idaho Code. Such court shall also send to the Idaho outfitters and guides board a statement setting forth the title of the court and of the cause for which such moneys were collected, the name and residence of the defendant or defendants, the nature of the offense or offenses and the fine and the sentence or judgment imposed and such moneys so received by the board shall be deposited with the state treasurer and the state treasurer shall credit the same to the Idaho outfitters and guides board account in the dedicated fund.

SECTION 5. That Chapter 21, Title 36, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 36-2117A, Idaho Code, and to read as follows:

36-2117A. CIVIL PENALTY FOR VIOLATIONS. (a) The board or its designated agent may commence and prosecute in district court a civil enforcement action against any person who is alleged to have violated this chapter or any regulation promulgated pursuant to this chapter. The board shall not be required to initiate or prosecute an administrative action before commencing and prosecuting a civil action.

(b) No civil proceeding may be brought to recover for a violation of this chapter or any regulation promulgated pursuant to this chapter more than two (2) years after the board had knowledge of the violation.

(c) The civil penalty for violation of the provisions of this chapter or any regulation promulgated pursuant to this chapter shall not be less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each separate violation.

(d) Any person who is found to have violated any provision of this chapter or any regulation promulgated pursuant to this chapter shall be assessed the board's costs, including the reasonable value of attorneys' services, for preparing and litigating the case.

(e) Fifty percent (50%) of all moneys collected under this section shall be deposited with the state treasurer, and the state treasurer shall credit the same to the Idaho outfitters and guides board account, and fifty percent (50%) of the moneys shall go to the general account in the state operating fund.

Approved April 4, 1984.

CHAPTER 263
(S.B. No. 1379)

AN ACT

RELATING TO RECORDING OF SURVEYS; AMENDING CHAPTER 19, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-1911, IDAHO CODE, TO PROVIDE LIMITS ON ALLOWABLE ERROR OF CLOSURE IN MAKING SURVEYS.

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

SECTION 1. That Chapter 19, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-1911, Idaho Code, and to read as follows:

55-1911. ERROR OF CLOSURE. Any survey of land involving property boundaries, including, but not limited to, public land survey lines, shall be conducted in such a manner to produce an unadjusted mathematical error of closure of not less than one (1) part in five thousand (5,000).

Approved April 4, 1984.

CHAPTER 264
(S.B. No. 1401)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Agriculture not exceed the following amounts for the period July 1, 1984 through June 30, 1985:

FOR:

Personnel Costs	$7,470,800
Operating Expenditures	1,189,700

Capital Outlay	101,600
Trustee & Benefit Payments	358,200
TOTAL	$9,120,300
FROM:	
General Account	$1,287,600
Dedicated Accounts	7,571,000
Federal Accounts	261,700
TOTAL	$9,120,300

SECTION 2. There is hereby appropriated to the Department of Agriculture the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984 through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 151,500	$ 69,400			$ 220,900
Agriculture Department Inspection Account	140,000				140,000
Rural Rehabilitation Account	12,900	2,500		$150,000	165,400
Egg Inspection Account	9,600				9,600
TOTAL	$ 314,000	$ 71,900		$150,000	$ 535,900
B. ANIMAL INDUSTRY:					
FROM:					
General Account	$ 268,900	$ 16,300			$ 285,200
Livestock Disease Control & T.B. Indemnity Account	245,700	127,300	$38,300		411,300
Dairy Industry and Inspection Account	200,800	54,900	3,500		259,200
Livestock Dealer License Account	2,100	2,300			4,400
Animal-Federal Account	56,800	3,400			60,200
TOTAL	$ 774,300	$ 204,200	$41,800		$1,020,300

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. PLANT INDUSTRY:					
FROM:					
General Account	$ 90,300	$ 56,100			$ 146,400
Agriculture Department Inspection Account	440,900	108,900	$ 10,900		560,700
Bee Inspection Account	14,600	800			15,400
Commercial Feed and Fertilizer Account	211,900	90,000			301,900
Pesticide Account	139,800	66,500	16,000		222,300
Plant-Federal Account	97,900	64,700			162,600
TOTAL	$ 995,400	$ 387,000	$ 26,900		$1,409,300
D. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account	$ 491,500	$ 111,200	$ 18,400		$ 621,100
Agriculture Department Inspection Account	110,500	35,000		$ 3,200	148,700
Fresh Fruit and Vegetable Inspection Account	4,591,400	321,700	14,500	100,000	5,027,600
Egg Inspection Account	57,700	18,400			76,100
Public Livestock Market Account	2,400	4,000			6,400
Wheat Statistics Account	2,600	600			3,200
Egg and Poultry Inspection Account	35,700				35,700
TOTAL	$5,291,800	$ 490,900	$ 32,900	$103,200	$5,918,800
E. SHEEP COMMISSION:					
FROM:					
General Account	$ 5,800	$ 8,200			$ 14,000
Sheep Commission Account	89,200	15,800		$105,000	210,000
TOTAL	$ 95,000	$ 24,000		$105,000	$ 224,000
F. HONEY ADVERTISING COMMISSION:					
FROM:					
Idaho Honey Advertising Account	$ 300	$ 11,700			$ 12,000
GRAND TOTAL	$7,470,800	$1,189,700	$101,600	$358,200	$9,120,300

Approved April 4, 1984.

CHAPTER 265
(S.B. No. 1402)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE MILITARY DIVISION FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Military Division, the following amounts, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$ 849,500	$ 621,700	$10,300	$1,481,500
Civil Defense--Federal Administration and Personnel Account	380,300	61,700	4,200	446,200
Interagency Billing and Receipts Account	34,000			34,000
Adjutant General Receipts Account	1,387,000	1,074,300		2,461,300
TOTAL	$2,650,800	$1,757,700	$14,500	$4,423,000

Approved April 4, 1984.

CHAPTER 266
(S.B. No. 1403)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho Educational Public Broadcasting System the following amount, according to the designated expense classes from the listed accounts, for the period July 1, 1984, through June 30, 1985:

FOR:	
Personnel Costs	$ 762,800
Operating Expenditures	241,100
Capital Outlay	47,700
TOTAL	$1,051,600

FROM:	
General Account	$ 661,300
Corporation for Public Broadcasting	
Community Service Grants	390,300
TOTAL	$1,051,600

Approved April 4, 1984.

CHAPTER 267
(S.B. No. 1404)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1985; EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE FOR FISCAL YEAR 1985; AND EXPRESSING LEGISLATIVE INTENT.

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

SECTION 1. There is hereby appropriated to the Legislative Council the following amounts, to be expended for the designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Research Assistance and Legislative Management	$822,100
FROM:	
General Account	$775,100
State Highway Account	4,000
Interagency Billing and Receipts Account	43,000
TOTAL	$822,100

SECTION 2. It is legislative intent that the appropriation made in Section 1 of this act shall be expended as follows for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. RESEARCH ASSISTANCE:				
FROM:				
General Account	$384,400	$231,300		$615,700
Interagency Billing and Receipts Account		36,000	$4,000	40,000
TOTAL	$384,400	$267,300	$4,000	$655,700

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
B. LEGISLATIVE MANAGEMENT:				
FROM:				
General Account	$ 15,000	$144,400		$159,400
State Highway Account		4,000		4,000
Interagency Billing and Receipts Account		3,000		3,000
TOTAL	$ 15,000	$151,400		$166,400
GRAND TOTAL	$399,400	$418,700	$4,000	$822,100

SECTION 3. There is hereby appropriated to the Joint Senate Finance-House Appropriations Committee the following amounts, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Legislative Auditor, Legislative Budget Office and Joint Senate Finance-House Appropriations Committee Programs	$1,296,000
FROM:	
General Account	$ 956,800
Interagency Billing and Receipts Account	339,200
TOTAL	$1,296,000

SECTION 4. It is legislative intent that the appropriation made in Section 3 of this act shall be expended as follows for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. LEGISLATIVE AUDITOR:				
FROM:				
General Account	$ 565,700			$ 565,700
Interagency Billing and Receipts Account	286,700	$52,500		339,200
TOTAL	$ 852,400	$52,500		$ 904,900
B. LEGISLATIVE BUDGET OFFICE:				
FROM:				
General Account	$ 341,200	$34,400	$1,000	$ 376,600
C. JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE:				
FROM:				
General Account	$ 9,500	$ 5,000		$ 14,500
GRAND TOTAL	$1,203,100	$91,900	$1,000	$1,296,000

Approved April 4, 1984.

CHAPTER 268
(S.B. No. 1405)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1985; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION FOR VOCATIONAL EDUCATION.

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

SECTION 1. There is hereby appropriated to the State Board of Education for Vocational Education the following amounts, to be expended for designated programs from the listed accounts for the period July 1, 1984, through June 30, 1985:

FOR MAJOR PROGRAMS:	
Vocational Education Programs	$17,956,400
Advisory Council	105,900
TOTAL	$18,062,300
FROM:	
General Account	$14,456,600
Vocational Education Act of 1963 Account	3,251,800
Local Receipts	101,000
Displaced Homemaker Account	147,000
Vocational Education Advisory Council Account	105,900
TOTAL	$18,062,300

SECTION 2. There is hereby reappropriated to the State Board of Education for Vocational Education, any unexpended and unencumbered balances of the General Account moneys appropriated by Section 6, Chapter 5, First Extraordinary Session, Forty-seventh Idaho Legislature, for fiscal year 1985.

Approved April 4, 1984

CHAPTER 269
(S.B. No. 1406)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1985 AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. There is hereby appropriated to the Office of the Governor the following amounts, to be expended for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

FOR PROGRAMS:	
Governor's Office Administration	$636,100
Governor's Residence & Expense	29,500
Federal Program Administration	308,000
TOTAL	$973,600
FOR EXPENDITURE CLASSIFICATIONS:	
Personnel Costs	$511,100
Operating Expenditures	198,600
Capital Outlay	2,500
Trustee & Benefit Payments	261,400
TOTAL	$973,600
FROM:	
General Account	$687,400
Pacific Northwest Regional Commission Account	286,200
TOTAL	$973,600

Approved April 4, 1984.

CHAPTER 270
(S.B. No. 1408)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE DIVISION OF FINANCIAL MANAGEMENT, FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the Office of the Governor for the Division of Financial Management the following amounts, to be expended according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Account	$724,200	$163,100		$887,300
Interagency Billing and Receipts Account	28,100	28,100	$12,000	68,200
State Planning Account		14,900		14,900
TOTAL	$752,300	$206,100	$12,000	$970,400

Approved April 4, 1984.

CHAPTER 271
(S.B. No. 1409)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF COMMUNITY REHABILITATION, FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS; AND PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Health and Welfare, Division of Community Rehabilitation, not exceed the following amount for the period July 1, 1984 through June 30, 1985:

FROM:

General Account	$23,512,000
Cooperative Welfare Account	15,722,100
Alcoholism Treatment Account	196,300
Medical Assistance Account	68,000
State Hospital North Income Account	317,700
State Hospital South Income Account	700,000
State Youth Training Center Income Account	390,000
TOTAL	$40,906,100

SECTION 2. There is hereby appropriated to the Department of Health and Welfare, Division of Community Rehabilitation, to be expended for the designated programs from the listed accounts for the period July 1, 1984 through June 30, 1985:

A. COMMUNITY MENTAL HEALTH SERVICES:

FROM:

General Account	$ 4,078,600
Cooperative Welfare Account	2,220,200
TOTAL	$ 6,298,800

B. INSTITUTIONAL MENTAL HEALTH SERVICES/STATE HOSPITAL NORTH:

FROM:

General Account	$ 1,589,300
Cooperative Welfare Account	249,600
Alcoholism Treatment Account	196,300
State Hospital North Income Account	317,700
TOTAL	$ 2,352,900

C. INSTITUTIONAL MENTAL HEALTH SERVICES/STATE HOSPITAL SOUTH:

FROM:

General Account	$5,098,700
Cooperative Welfare Account	993,000
State Hospital South Income Account	700,000
TOTAL	$ 6,791,700

D. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:

FROM:

General Account	$ 4,685,300
Cooperative Welfare Account	2,903,400
TOTAL	$ 7,588,700
E. INSTITUTIONAL DEVELOPMENTAL DISABILITY SERVICES:	
FROM:	
General Account	$ 4,655,300
Medical Assistance Account	68,000
Cooperative Welfare Account	9,164,900
TOTAL	$13,888,200
F. STATE YOUTH SERVICES CENTER:	
FROM:	
General Account	$ 3,404,800
Cooperative Welfare Account	191,000
State Youth Training Center Income Account	390,000
TOTAL	$ 3,985,800
GRAND TOTAL	$40,906,100

SECTION 3. The State Auditor shall make transfers of the General Account moneys appropriated in Section 2 of this act to the Cooperative Welfare Account, periodically as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amounts provided herein.

Approved April 4, 1984.

CHAPTER 272
(S.B. No. 1410)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF WELFARE, FOR FISCAL YEAR 1985, DESIGNATING PROGRAM LIMITS; AND PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Health and Welfare, Division of Welfare, not exceed the following amount for the period July 1, 1984 through June 30, 1985:

FROM:	
General Account	$ 36,965,900
Medical Assistance Account	235,000
Liquor Account	650,000
Cooperative Welfare Account	94,595,700
TOTAL	$132,446,600

SECTION 2. There is hereby appropriated to the Department of

Health and Welfare, Division of Welfare, to be expended for the designated programs from the listed accounts for the period July 1, 1984 through June 30, 1985:

A. ELIGIBILITY SERVICES:	
FROM:	
General Account	$ 4,897,700
Cooperative Welfare Account	7,294,000
TOTAL	$ 12,191,700
B. MEDICAL ASSISTANCE PAYMENTS:	
FROM:	
General Account	$ 20,479,300
Medical Assistance Account	235,000
Liquor Account	650,000
Cooperative Welfare Account	43,260,800
TOTAL	$ 64,625,100
C. ADULT AND A.D.C. ASSISTANCE PAYMENTS:	
FROM:	
General Account	$ 10,063,900
Cooperative Welfare Account	24,302,600
TOTAL	$ 34,366,500
D. SOCIAL SERVICES:	
FROM:	
General Account	$ 1,525,000
Cooperative Welfare Account	19,738,300
TOTAL	$ 21,263,300
GRAND TOTAL	$132,446,600

SECTION 3. The State Auditor shall make transfers of the General Account moneys appropriated in Section 2 of this act to the Cooperative Welfare Account periodically as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amounts provided herein.

Approved April 4, 1984.

CHAPTER 273
(S.B. No. 1411)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF ENVIRONMENT, FOR FISCAL YEAR 1985, DESIGNATING PROGRAM LIMITS; AND PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare, Division of Environment, the following amounts, to

be expended for the designated programs from the listed accounts, for the period July 1, 1984, through June 30, 1985:

A. AIR QUALITY:

FROM:	
General Account	$ 194,700
Cooperative Welfare Account	491,300
TOTAL	$ 686,000
B. WATER QUALITY AND HAZARDOUS MATERIALS:	
FROM:	
General Account	$ 1,188,200
Cooperative Welfare Account	1,840,200
Water Pollution Control Account	8,201,200
TOTAL	$11,229,600
GRAND TOTAL	$11,915,600

SECTION 2. The State Auditor shall make transfers of the enumerated General Account moneys to the Cooperative Welfare Account periodically as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amounts provided herein.

Approved April 4, 1984.

CHAPTER 274
(S.B. No. 1412)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE VETERANS SERVICES PROGRAM FOR FISCAL YEAR 1985; AND PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Veterans Services Program the following amount, to be expended from the listed accounts for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$ 407,100
Cooperative Welfare Account	1,887,000
Idaho Veterans Home Income Account	190,000
TOTAL	$2,484,100

SECTION 2. The State Auditor shall make transfers of the enumerated General Account moneys to the Cooperative Welfare Account periodically as requested by the Director of the Department of Health and

Welfare and approved by the Board of Examiners, not to exceed the amount provided herein.

Approved April 4, 1984.

CHAPTER 275
(S.B. No. 1413)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF HEALTH, FOR FISCAL YEAR 1985, DESIGNATING PROGRAM LIMITS; AND PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT.

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

SECTION 1. It is legislative intent that the expenditures for the Department of Health and Welfare, Division of Health, not exceed the following amount for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$ 3,762,000
Cooperative Welfare Account	12,369,500
Cancer Control Account	375,000
Central Tumor Registry Account	98,300
Alcoholism Treatment Account	1,836,000
Emergency Medical Services Account	656,800
TOTAL	$19,097,600

SECTION 2. There is hereby appropriated to the Department of Health and Welfare, Division of Health, to be expended for the designated programs from the listed accounts for the period July 1, 1984 through June 30, 1985:

A. PHYSICAL HEALTH SERVICES:	
FROM:	
General Account	$ 1,957,100
Cooperative Welfare Account	10,508,800
Cancer Control Account	375,000
Alcoholism Treatment Account	8,900
Central Tumor Registry Account	98,300
TOTAL	$12,948,100
B. EMERGENCY MEDICAL SERVICES:	
FROM:	
General Account	$ 344,600
Emergency Medical Services Account	656,800
Cooperative Welfare Account	156,500
TOTAL	$ 1,157,900

C. LABORATORY SERVICES:	
FROM:	
General Account	$ 1,460,300
Cooperative Welfare Account	494,900
TOTAL	$ 1,955,200
D. SUBSTANCE ABUSE SERVICES:	
FROM:	
Alcoholism Treatment Account	$ 1,827,100
Cooperative Welfare Account	1,209,300
TOTAL	$ 3,036,400
GRAND TOTAL	$19,097,600

SECTION 3. The State Auditor shall make transfers of the General Account moneys appropriated in Section 2 of this act to the Cooperative Welfare Account periodically as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amounts provided herein.

Approved April 4, 1984.

CHAPTER 276
(S.B. No. 1414)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE INDIRECT SUPPORT SERVICES PROGRAM FOR FISCAL YEAR 1985; AND PROVIDING THAT THE STATE AUDITOR SHALL MAKE TRANSFERS FROM THE GENERAL ACCOUNT.

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

SECTION 1. There is hereby appropriated to the Department of Health and Welfare for the Indirect Support Services Program the following amounts, to be expended from the listed accounts for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$3,600,000
Cooperative Welfare Account	2,354,900
TOTAL	$5,954,900

SECTION 2. The State Auditor shall make transfers of the enumerated General Account moneys to the Cooperative Welfare Account periodically as requested by the Director of the Department of Health and Welfare and approved by the Board of Examiners, not to exceed the amount provided herein.

Approved April 4, 1984.

CHAPTER 277
(S.B. No. 1415)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, FOR THE AGRICULTURAL RESEARCH/COOPERATIVE EXTENSION SERVICE, AND THE FOREST UTILIZATION RESEARCH PROGRAMS, FOR FISCAL YEAR 1985; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR AGRICULTURAL RESEARCH/COOPERATIVE EXTENSION SERVICE PROGRAM.

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

SECTION 1. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the following amounts for the Agricultural Research/Cooperative Extension Service Program from the listed accounts, for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$ 9,470,300
Federal Accounts	3,978,600
Interagency Billing and Receipts Account	179,400
TOTAL	$13,628,300

SECTION 2. Any General Account unexpended and unencumbered balances existing on June 30, 1984, from the appropriation made by Section 11, Chapter 5, First Extraordinary Session, Forty-seventh Idaho Legislature, to the State Board of Education and the Board of Regents of the University of Idaho, are hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for the Agricultural Research/Cooperative Extension Service Program for fiscal year 1985.

SECTION 3. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho the following amounts from the listed accounts, to be expended for the Forest Utilization Research Program for the period July 1, 1984, through June 30, 1985:

FOR:	
Forest Utilization Research	$95,500
FROM:	
General Account	$95,500

Approved April 4, 1984.

CHAPTER 278
(S.B. No. 1416)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1985, AND DESIGNATING PROGRAM LIMITS.

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

SECTION 1. It is legislative intent that the expenditures for the Idaho State Historical Society not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$ 637,400
State Historical Society Foundation Account	235,000
Historical Preservation Account	1,027,700
TOTAL	$1,900,100

SECTION 2. There is hereby appropriated to the State Board of Education for the Idaho State Historical Society the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. HISTORICAL PRESERVATION AND EDUCATION:					
FROM:					
General Account	$398,300	$160,500	$10,600	$ 2,500	$ 571,900
State Historical Society Foundation Account	5,700	118,800	15,000		139,500
Historical Preservation Account	220,400	267,300		540,000	1,027,700
TOTAL	$624,400	$546,600	$25,600	$542,500	$1,739,100
B. HISTORIC SITES MAINTENANCE AND INTERPRETATION:					
FROM:					
General Account	$ 34,900	$ 30,600			$ 65,500
State Historical Society Foundation Account	74,900	20,600			95,500
TOTAL	$109,800	$ 51,200			$ 161,000
GRAND TOTAL	$734,200	$597,800	$25,600	$542,500	$1,900,100

Approved April 4, 1984.

CHAPTER 279
(S.B. No. 1417)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND, FOR FISCAL YEAR 1985; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the Idaho State School for the Deaf and the Blind the following amount, to be expended from the listed accounts for the period July 1, 1984, through June 30, 1985:

General Account	$3,049,200
State School for the Deaf and the Blind Income Account	45,300
Deaf and Blind Children Account	142,000
Interagency Billing and Receipts Account	42,400
TOTAL	$3,278,900

SECTION 2. There is hereby reappropriated to the Idaho State School for the Deaf and the Blind any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 277, Laws of 1983, for the period July 1, 1984, through June 30, 1985, to be used for nonrecurring operating and capital outlay expenditures only.

Approved April 4, 1984.

CHAPTER 280
(S.B. No. 1418)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1985; EXPRESSING LEGISLATIVE INTENT WITH RESPECT TO CERTAIN EXPENDITURES; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE DEPARTMENT OF EDUCATION.

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

SECTION 1. It is legislative intent that the expenditures for the State Department of Education not exceed the following amounts for the period July 1, 1984, through June 30, 1985:

FROM:

General Account	$ 2,166,600
Interagency Billing and Receipts Account	101,600
Professional Standards Commission Account	149,100
Driver Training Account	1,504,200
Commodity Distribution Account	377,800
SEPARS Account	528,500
Indian Education Account	250,100
Elementary-Secondary Education Act Account	19,000,000
Adult Education Account	441,800
Food Services Account	10,471,700
TOTAL	$34,991,400

SECTION 2. There is hereby appropriated to the State Department of Education the following amounts, to be expended for designated programs from the listed accounts for the period July 1, 1984, through June 30, 1985:

A. MANAGEMENT:

FROM:

General Account	$ 237,200
Elementary and Secondary Education Account	60,700
TOTAL	$ 297,900

B. FINANCE AND ADMINISTRATION:

FROM:

General Account	$ 697,300
Interagency Billing and Receipts Account	99,500
Driver Training Account	1,504,200
Commodity Distribution Account	377,800
Elementary and Secondary Education Account	85,400
Food Services Account	10,471,700
TOTAL	$13,235,900

C. STATE-FEDERAL INSTRUCTIONAL SERVICES:

FROM:

General Account	$ 786,500
Professional Standards Commission Account	149,100
Indian Education Account	250,100
Elementary and Secondary Education Account	18,853,900
Adult Education Account	441,800
TOTAL	$20,481,400

D. STATEWIDE EDUCATIONAL PLANNING AND REPORTING SYSTEM:

FROM:

General Account	$ 445,600
Interagency Billing and Receipts Account	2,100
SEPARS Account	528,500
TOTAL	$ 976,200

GRAND TOTAL	$34,991,400

SECTION 3. It is legislative intent that an amount, not to exceed $1,000 of the General Account moneys appropriated in Section 2 of this act, may be used at the discretion of the Superintendent of Public Instruction to assist in defraying expenses relating to or resulting

from the discharge of his official duties. Such moneys shall be accounted for solely on the itemized certificate of the Superintendent of Public Instruction and shall be exempted from provisions of Chapter 36, Title 67, Idaho Code, and Section 67-3516, Idaho Code.

SECTION 4. There is hereby reappropriated to the State Department of Education any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 276, Laws of 1983, for the period July 1, 1984, through June 30, 1985, to be used for nonrecurring operating and capital outlay expenditures only.

Approved April 4, 1984.

CHAPTER 281
(S.B. No. 1419)

AN ACT

REAPPROPRIATING THE MONEYS APPROPRIATED BY CHAPTER 250, LAWS OF 1980, AND CHAPTER 289, LAWS OF 1982, FOR THE PURPOSES SPECIFIED; AND DECLARING AN EMERGENCY.

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

SECTION 1. From the balance of moneys remaining unexpended from the appropriation made by Section 1, Paragraph B., Chapter 250, Laws of 1980, and from the balance of moneys remaining unexpended from the appropriation made by Section 3, Chapter 289, Laws of 1982, there is hereby appropriated for the Department of Correction, to the Permanent Building Fund Advisory Council and the Division of Public Works, the sum of $500,000 for a Community Work Center; the sum of $100,000 for remodeling of McKelway Hall at Orofino; and the sum of $110,000 for remodeling a North Idaho Correctional Institution Dormitory at Cottonwood.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved April 4, 1984.

CHAPTER 282
(S.B. No. 1421)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE COLLEGE OF SOUTHERN IDAHO AND NORTH IDAHO COLLEGE; APPROPRIATING MONEY FROM THE GENERAL ACCOUNT TO THE STATE BOARD OF EDUCATION FOR THE

COLLEGE OF SOUTHERN IDAHO AND NORTH IDAHO COLLEGE, FOR DEPOSIT IN THE SOCIAL SECURITY TRUST ACCOUNT FOR FISCAL YEAR 1985.

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

SECTION 1. There is hereby appropriated to the State Board of Education for the College of Southern Idaho and North Idaho College the following amount from the General Account, for the period July 1, 1984, through June 30, 1985:

FOR:	
College of Southern Idaho	$2,059,500
North Idaho College	2,240,500
TOTAL	$4,300,000
FROM:	
General Account	$4,300,000

SECTION 2. There is hereby appropriated from the General Account to the State Board of Education for the College of Southern Idaho and North Idaho College amounts not to exceed those as listed, for deposit in the Social Security Trust Account, to be expended according to Section 59-1115, Idaho Code, for the period July 1, 1984, through June 30, 1985:

FOR:	
College of Southern Idaho	$435,000
North Idaho College	401,300
TOTAL	$836,300
FROM:	
General Account	$836,300

Approved April 4, 1984.

CHAPTER 283
(H.B. No. 612)

AN ACT

RELATING TO THE EXCISE TAX ON WINE; AMENDING SECTION 23-1319, IDAHO CODE, TO DECREASE THE EXCISE TAX ON WINE PRODUCED IN THE STATE OF IDAHO AND TO PROVIDE A CORRECT CODE REFERENCE FOR DISTRIBUTION OF A PORTION OF THE EXCISE TAX.

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

SECTION 1. That Section 23-1319, Idaho Code, be, and the same is hereby amended to read as follows:

23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- REFUND FOR BREAKAGE OR SPOILAGE. Upon all wines sold by a distributor to a retailer or consumer for use within the state of Idaho pursuant to this act t~~T~~here is hereby imposed an excise tax of forty-five

cents (45¢) per gallon on all wines produced outside the state of Idaho, of which tax five cents (5¢) per gallon shall be deposited directly to the credit of the alcoholism treatment account created by section 23-~~217(e)~~404(b)(i), Idaho Code, ~~upon all wines sold by a distributor to a retailer or consumer for use within the state of Idaho pursuant to this act~~ and there is hereby imposed an excise tax of twenty cents (20¢) per gallon on all wines produced inside the state of Idaho of which tax five cents (5¢) per gallon shall be deposited directly to the alcoholism treatment account created by section 23-404(b)(i), Idaho Code. Sales of wine by a distributor for the purpose of and resulting in export of wine from this state for resale outside this state shall be exempt from the taxes on wine imposed by this act.

(a) Every sale of wine by a distributor to a retailer shall constitute a sale of wine for resale or consumption in this state, whether said sale is made within or without this state, and such distributor shall be liable for the payment of taxes thereon.

(b) When wine shall be destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes after payment of taxes thereon, such distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to a refund of taxes paid thereon. Claims for refund shall not be required to be processed unless and until the total claim for refund is in excess of the sum of two hundred dollars ($200).

Approved April 5, 1984.

CHAPTER 284
(H.B. No. 703)

AN ACT

RELATING TO EXEMPTIONS FROM SALES TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622AA, IDAHO CODE, TO EXEMPT FROM SALES AND USE TAX CERTAIN SALES OF PAPERS AND DOCUMENTS FOR WHICH A FEE HAS BEEN IMPOSED BY LAW; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622AA, Idaho Code, and to read as follows:

63-3622AA. EXEMPTION FOR OFFICIAL DOCUMENTS. There is hereby exempted from the taxes imposed by this chapter the sale, purchase, or use of records, transcripts, deeds, licenses, reports, and other documents for which a fee, the amount of which is set by the Idaho Code, is imposed or charged.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1984.

Approved April 5, 1984.

CHAPTER 285
(H.B. No. 520)

AN ACT

RELATING TO RETURNS AND PAYMENT OF SALES TAX; AMENDING SECTION 63-3623, IDAHO CODE, TO PROVIDE A UNIFORM REQUIREMENT FOR THE RETURN AND PAYMENT OF SALES TAXES, AND TO STRIKE OBSOLETE REFERENCES; PROVIDING A SCHEDULE OF RETURN AND PAYMENT FOR CERTAIN RETAILERS; DECLARING AN EMERGENCY AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 63-3623, Idaho Code, be, and the same is hereby amended to read as follows:

63-3623. RETURNS AND PAYMENTS. (a) The taxes imposed by this act are due and payable to the state tax commission monthly on or before the twentieth day of the succeeding month~~;-provided,-however,-that-the first-payment-under-this-act-shall-be-due-on-or-before--the--fifteenth day--of-October,-1965,-for-the-period-from-the-first-day-of-imposition of-tax-under-this-act-to-and-including-September-30,-1965.--Thereafter all-payments-shall-be-made-monthly.-The-monthly-payment-shall-be-based on--an--estimate-of-taxable-sales-and-will-be-subject-to-adjustment-on the-quarterly-return.~~

~~(a)--Notwithstanding-other-provisions-of-this-section,--the--taxes imposed-by-this-act,-payable-by-any-person-whose-average-taxes-paid-to the--tax--commission-for-the-preceding-twelve-(12)-month-period-equals or-exceeds-one-hundred-twenty-thousand-dollars-($120,000)-per-annum-or ten-thousand-dollars-($10,000)-per-month-per-annum,-shall-be--returned and-paid-to-the-state-tax-commission-monthly-as-follows:~~

~~(1)--on-and-after-May-16,-1983,-the-monthly-period-for-which-taxes are--due-and-payable-under-this-subsection-63-3623(a),-Idaho-Code, shall-begin-on-the-16th-day-of-the-month-and-shall-end-on-the-15th day-of-the-following-month.~~

~~(2)--for-persons-defined--in--this--subsection--63-3623(a),--Idaho Code,--return--and--payment--shall-be-made-not-later-than-ten-(10) days-after-the-end-of-the-month-defined-by-paragraph-(1)--of--this subsection.~~

(b) All moneys collected or received by the state tax commission from the taxes, penalties, interest and fees imposed by this act shall be deposited with the state treasurer to be credited by him to the

sales tax ~~fund~~ account created by this act.

(c) On or before the twentieth day of the month ~~following each quarterly period of three (3) months, with the first return due on or before the fifteenth day of October, 1965,~~ a return ~~for the preceding quarterly period~~ shall be filed with the state tax commission in such form as the state tax commission may prescribe.

(d) For the purpose of the sales tax, a return shall be filed by every seller. For the purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. Returns shall be signed by the person required to file the return or by his duly authorized agent.

(e) For the purposes of the sales tax, the return shall show the total sales at retail subject to tax under this act during the ~~preceding~~ reporting period. For the purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him, the storage, use, or consumption of which property became subject to the use tax during the ~~preceding~~ reporting period; in the case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use, or consumption of which became subject to the use tax during the ~~preceding~~ reporting period.

(f) The return shall show the amount of the taxes for the period covered by the return and such other information as the state tax commission deems necessary for the proper administration of this act.

(g) The person required to file the return shall mail or deliver the return together with a remittance of ~~the remaining balance of~~ any tax due to the state tax commission for the ~~preceding quarter over and above the amounts previously paid~~ reporting period.

(h) The state tax commission, if it deems it necessary in order to insure payment to or facilitate the collection by the state of taxes, may require returns for periods ~~other than calendar quarters or for~~ other than ~~quarterly~~ monthly periods.

(i) For the purposes of the sales tax, gross amounts from rentals or leases of tangible personal property which may be subject to tax under this act shall be reported and the tax paid in accordance with such rules and regulations as the state tax commission may prescribe.

(j) The state tax commission for good cause may extend, for not to exceed one (1) month, the time for making any return or paying any amount required to be paid under this act.

(k) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the rate provided in section 63-3045, Idaho Code, from the date on which the tax would have been due without the extension until the day of payment.

(l) Upon the transfer of ownership of a motor vehicle subject to sales or use tax, a certificate of title will be issued to the new owner only upon presentation of evidence of payment of sales or use tax on the transaction.

(m) The owner of a truck, trailer or motor vehicle required to be licensed by the laws of this state shall, upon demand, furnish to the officer issuing such license satisfactory evidence that any sales or use tax to which such truck, trailer or motor vehicle is subject has been paid to this state before any such license shall be issued.

(n) Retail sales of tangible personal property through a vending machine which are taxable upon the purchase price paid by the owner or operator of the vending machine pursuant to subsection (e) of section 63-3613, Idaho Code, shall be reported upon the sales tax return of the owner or operator of the vending machine in the manner by which the tax commission may by regulation prescribe.

SECTION 2. Notwithstanding the provisions of section 63-3623, Idaho Code, any retailer who is returning and paying sales taxes on a reporting period that begins on the 16th day of the month and ends on the 15th day of the following month, shall for the period of April 16, 1984, through April 30, 1984, return and pay the sales taxes collected during such period on or before May 20, 1984. Thereafter, sales taxes collected on and after May 1, 1984, shall be returned and paid as provided by section 63-3623, Idaho Code.

SECTION 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 2 of this act shall be in full force and effect on and after April 15, 1984, and Section 1 of this act shall be in full force and effect on and after April 30, 1984.

Approved April 6, 1984.

CHAPTER 286
(H.B. No. 475)

AN ACT

RELATING TO IMPROVING THE QUALITY OF EDUCATION IN ELEMENTARY AND SECONDARY SCHOOLS OF IDAHO; PROVIDING A SHORT TITLE; AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 13, TITLE 33, IDAHO CODE, TO ESTABLISH THE TEACHER EXCELLENCE PROGRAM; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CONSULTANT SPECIALIST TEACHERS AND DUAL CAREERS FOR TEACHERS; APPROPRIATING MONEYS TO THE STATE DEPARTMENT OF EDUCATION FOR DEVELOPMENT AND ADMINISTRATION OF THE IDAHO TEACHER EXCELLENCE PROGRAM FOR FISCAL YEAR 1985; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO SCHOOL DISTRICT EMPLOYEE SALARIES; APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS FROM THE PUBLIC SCHOOL INCOME FUND TO THE STATE BOARD OF EDUCATION TO BE EXPENDED PURSUANT TO LAW; AMENDING SECTION 33-513, IDAHO CODE, TO FURTHER DEFINE PROCEDURES FOR EMPLOYMENT OF PROFESSIONAL PERSONNEL; AMENDING CHAPTER 5, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-514, IDAHO CODE, TO PROVIDE FOR THE SUPERVISION AND EVALUATION OF CERTIFICATED SCHOOL DISTRICT EMPLOYEES ON ANNUAL

CONTRACT; AMENDING SECTION 33-1212, IDAHO CODE, TO REDESIGNATE THE SECTION AS SECTION 33-515, IDAHO CODE, AND TO REQUIRE THE ANNUAL EVALUATION OF CERTIFICATED SCHOOL DISTRICT EMPLOYEES ON RENEWABLE CONTRACTS; AMENDING SECTION 33-1212A, IDAHO CODE, TO REDESIGNATE THE SECTION AS SECTION 33-516, IDAHO CODE; REPEALING SECTIONS 33-1213, 33-1214 AND 33-1215, IDAHO CODE; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE FOR THE ADOPTION OF A DISCIPLINE CODE IN EACH SCHOOL DISTRICT AND THAT THE CODE BE PROVIDED TO TEACHERS AND STUDENTS OF THE DISTRICT; AND AMENDING SECTION 63-3029A, IDAHO CODE, TO PROVIDE AN INCOME TAX CREDIT FOR CONTRIBUTIONS TO ELEMENTARY AND SECONDARY PUBLIC SCHOOLS, PUBLIC LIBRARIES AND LIBRARY DISTRICTS; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. This act shall be known as "The Idaho School Improvement Act of 1984."

SECTION 2. That Title 33, Idaho Code, be and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 13, Title 33, Idaho Code, and to read as follows:

33-1301. TEACHER EXCELLENCE PROGRAM. In order to provide expanded career opportunities for public school teachers, the legislature hereby establishes the teacher excellence program. This program is to be administered by the state department of education. The purpose:

(1) To attract and retain fully qualified individuals to the teaching profession at the elementary and secondary level.

(2) To provide the board of trustees of each qualifying school district expanded opportunities for utilizing and training their professional teaching staff.

For purposes of this chapter, "teacher" is used as defined in section 33-1001(13), Idaho Code.

33-1302. TEACHER EXCELLENCE PROGRAM -- FUNDING. The teacher excellence program will be funded through an annual appropriation of moneys by the legislature.

33-1303. TEACHER EXCELLENCE PROGRAM -- SCHOOL DISTRICT PARTICIPATION. All school districts, including charter districts, may participate in the teacher excellence program and receive a special apportionment from the legislative appropriation. In order to qualify the district must submit a career compensation plan which is acceptable to the state board of education not later than the fifteenth day of May preceding the school year in which the district desires to begin participation. A district must maintain an acceptable career compensation plan in order to receive a special apportionment from the legislative appropriation in subsequent years.

An acceptable career compensation plan shall consist of, but not

be limited to, the following criteria:

(1) The career compensation plan shall be developed locally through a cooperative effort of school district teachers, administrators, patrons, parents and the board of trustees. Assistance in the development of such a plan shall be provided, upon request, by the state department of education. Final approval of a career compensation plan shall be made by vote of the board of trustees, notwithstanding the provisions of section 33-1271, Idaho Code.

(2) The career compensation plan shall include a clearly identifiable career path for teachers which shall provide three (3) or more career levels. The career levels shall provide recognition and compensation for extraordinary teaching, innovation, leadership and additional responsibilities with advancement based on evaluated performance as provided in sections 33-514 and 33-515, Idaho Code. Evaluation shall be conducted in a fair, consistent and regular manner.

(3) The career compensation plan shall provide opportunities for extended teaching contracts of ten (10), eleven (11) or twelve (12) months when deemed appropriate by the board of trustees. Extended contracts shall ensure time for professional development for the teacher as well as time to perform additional responsibilities of curriculum development, staff development, programs for students with special needs or other special projects approved by the board of trustees.

(4) The career compensation plan shall provide opportunities for teachers to apply for and receive training grants in order that they may become directly involved in rigorous research and development projects and/or training programs directly related to their teaching assignment. These grants may be used for training programs at the local, district, regional, state or national level, and courses taken for academic credit, as well as semester or year long sabbaticals. Approved programs which require extended absence from the teacher's regular duties shall not affect the teacher's renewable contract status as provided in section 33-515, Idaho Code.

The state board of education is hereby authorized and directed to establish rules and regulations for the proper administration of the teacher excellence program.

SECTION 3. It is legislative intent that local school districts be encouraged to provide opportunities for a person certified as a consultant specialist to be employed by the school district on a part-time basis. In addition, the local school districts are encouraged to provide opportunities for teachers to become involved in dual careers of education-business or education-government without affecting the teacher's renewable contract status as provided in section 33-515, Idaho Code.

SECTION 4. There is hereby appropriated to the State Department of Education, Finance and Administration Program, from the General Account, the sum of $100,000, to be expended for development and administration of the Idaho Teacher Excellence Program for the period July 1, 1984, through June 30, 1985.

SECTION 5. It is legislative intent that the moneys appropriated in Sections 6 and 7 of this act be distributed to the various local school districts to be used specifically for increasing salaries of certificated personnel.

SECTION 6. There is hereby appropriated from the General Account, the sum of $20,300,000, to be deposited in the Public School Income Fund for the Public School Support Program for the purpose of increasing salaries of certificated personnel in the local school districts, for the period July 1, 1984, through June 30, 1985.

SECTION 7. There is hereby appropriated from the Public School Income Fund to the State Board of Education the sum of $20,300,000, to be expended pursuant to law and the provisions of this act, for the period July 1, 1984, through June 30, 1985.

SECTION 8. That Section 33-513, Idaho Code, be and the same is hereby amended to read as follows:

33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school district including any specially chartered district, shall have the following powers and duties:

1. To employ professional personnel, on written contract in form approved by the state board of education, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder. Should the board of trustees fail to enter into written contract for the employment of any such person, the state board of education shall withhold ensuing apportionments until such written contract be entered into. When the board of trustees has delivered a proposed contract for the next ensuing year to any such person, such person shall have a period of time to be determined by the board of trustees in its discretion, but in no event less than ten (10) days from the date the contract is delivered, in which to sign the contract and return it to the board. Delivery of a contract may be made only in person or by certified mail, return receipt requested. When delivery is made in person, delivery of the contract must be acknowledged by a signed receipt. When delivery is made by certified mail, delivery must be acknowledged by the return of the certified mail receipt from the person to whom the contract was sent. Should the person willfully refuse to ~~sign a~~ acknowledge receipt ~~for personal service or refuse or fail to sign for the certified mail;~~ of the contract ~~may be served upon the person in accordance with rules 4(c) and 4(d) of the Idaho rules of civil procedure and a return of service prepared in accordance with rule 4(g) of the Idaho rules of civil procedure and such return of service filed with the clerk of the board of trustees~~ or the contract is not signed and returned to the board in the designated period of time, the board may declare the position vacant.

The board of trustees shall withhold the salary of any teacher who does not hold a teaching certificate valid in this state. It shall not contract to require any teacher to make up time spent in attending any

meeting called by the state board of education or by the state superintendent of public instruction; nor while attending regularly scheduled official meetings of the state teachers' association; nor while school is closed as provided in section 33-1001, Idaho Code.

2. In the case of school districts other than elementary school districts, to employ a superintendent of schools for a term not to exceed three (3) years, who shall be the executive officer of the board of trustees with such powers and duties as the board may prescribe. The superintendent shall also act as the authorized representative of the district whenever such is required, unless some other person shall be named by the board of trustees to act as its authorized representative.

3. To employ through written contract principals who shall hold a valid certificate appropriate to the position for which they are employed, who shall supervise the operation and management of the school in accordance with the policies established by the board of trustees and who shall be under the supervision of the superintendent.

4. To employ assistant superintendents and principals for a term not to exceed two (2) years. Service performed under such contract shall be included in meeting the provisions of section 33-~~1212~~515, Idaho Code, as a teacher and persons eligible for a renewable contract as a teacher shall retain such eligibility.

5. To suspend, grant leave of absence, place on probation or discharge certificated professional personnel for ~~continued~~ a material violation of any lawful rules or regulations of the board of trustees or of the state board of education, or for any conduct which could constitute grounds for revocation of a teaching certificate. ~~No~~ Any certificated professional employee, except the superintendent, ~~shall~~ may be discharged during a contract term ~~except~~ under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any ~~such~~ certificated employee by filing with the board of trustees written notice specifying the alleged reasons for discharge.

(b) Upon receipt of such notice the board acting through their duly authorized administrative official, shall give the affected employee written notice of the allegations and the recommendation of discharge, along with written notice of a hearing before the board prior to any determination by the board of the truth of the allegations.

(c) The hearing shall be scheduled to take place not less than six (6) days nor more than twenty-one (21) days after receipt of the notice by the employee. The date provided for the hearing may be changed by mutual consent.

(d) The hearing shall be public unless the employee requests in writing that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a

representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The ~~parties~~ affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon ~~if-requested by either-party-or~~ the affected employee and the board ~~before--the close-of-the-hearing~~.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through their duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be ~~discharged--or~~ retained, immediately discharged, or discharged upon termination of the current contract.

~~6.--To-establish-criteria-and-procedures-for-the--supervision--and evaluation--of-certificated-employees-who-are-not-employed-on-a-renewable-contract,-as-provided-for-in-section-33-1212,--Idaho--Code.--Such procedures--shall--require--at--least--one-(1)-evaluation-prior-to-the beginning-of-the-second-semester-of-the-school-year,-and-when-any-such teacher's-work-is-found-to-be--unsatisfactory--a--probationary--period shall--be--established--which--shall--continue--until-the-time-for-the reissuing-of-the-yearly-contract-as-provided-in-this--paragraph.--Notwithstanding--the--provisions--of--sections-67-2344-and-67-2345,-Idaho Code,-a-decision--to--place--certificated--personnel--on--probationary status--may--be-made-in-executive-session-and-the-individual-placed-on probation-shall-not-be-named-in-the-minutes-of-the-meeting.--A--record of--the-decision-shall-be-placed-in-the-teacher's-personnel-file.-This procedure-shall-not-preclude-recognition-of-unsatisfactory-work--at--a subsequent--evaluation-and-the-establishment-of-a-reasonable-period-of probation.-In-all-instances,-the-teacher-shall--be--duly--notified--in writing-of-the-areas-of-work-which-are-deficient,-including-the-conditions--of--probation.-Until-the-third-year-of-continuous-employment-by the-same-school-district,-including-any-specially-chartered--district, each--such--certificated--employee--shall-be-given-notice,-in-writing, whether-he-will-be-reemployed-for-the-next-ensuing-year.--Such--notice shall--be--given--by-the-board-of-trustees-no-later-than-the-fifteenth day-of-June-of-each-such-year.-If-the-board-of--trustees--has--decided not--to--reemploy-the-certificated-employee,-then-the-notice-must-con-~~

~~tain-a-statement-of-reasons-for-such-decision-and-the-employee--shall,-upon--request,-be-given-the-opportunity-for-an-informal-review-of-such decision-by-the-board-of-trustees.~~

~~7.--To-request,-under-extenuating-circumstances,--special--retirement--consideration--from--the--public--employees--retirement-board-on behalf-of-any-employee-on-renewable-contract--under--section--33-1212, Idaho-Code,-if-such-employee-is-fifty-five-(55)-years-of-age-or-older.~~

SECTION 9. That Chapter 5, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-514, Idaho Code, and to read as follows:

33-514. ISSUANCE OF ANNUAL CONTRACTS. The board of trustees shall establish criteria and procedures for the supervision and evaluation of certificated employees who are not employed on a renewable contract, as provided for in section 33-515, Idaho Code. Such procedures shall require at least one (1) evaluation prior to the beginning of the second semester of the school year and the results of any such evaluation shall be made a matter of record in the employee's personnel file. When any such employee's work is found to be unsatisfactory a reasonable period of probation shall be established by the board after which action shall be taken by the board as to whether the employee is to be retained, immediately discharged, discharged upon termination of the current contract or reemployed at the end of the contract term under a continued probationary status. Notwithstanding the provisions of sections 67-2344 and 67-2345, Idaho Code, a decision to place certificated personnel on probationary status may be made in executive session and the employee shall not be named in the minutes of the meeting. A record of the decision shall be placed in the employee's personnel file. This procedure shall not preclude recognition of unsatisfactory work at a subsequent evaluation and the establishment of a reasonable period of probation. In all instances, the employee shall be duly notified in writing of the areas of work which are deficient, including the conditions of probation. Through the third year of continuous employment by the same school district, including any specially chartered district, each such certificated employee shall be given notice, in writing, whether he or she will be reemployed for the next ensuing year. Such notice shall be given by the board of trustees no later than the fifteenth day of June of each such year. If the board of trustees has decided not to reemploy the certificated employee, then the notice must contain a statement of reasons for such decision and the employee shall, upon request, be given the opportunity for an informal review of such decision by the board of trustees.

SECTION 10. That Section 33-1212, Idaho Code, be and the same is hereby amended to read as follows:

33-~~1212~~515. ISSUANCE OF RENEWABLE CONTRACTS. During the third full year of continuous employment by the same school district,

including any specially chartered district, each certificated employee named in subsection 13 of section 33-1001, Idaho Code, and each school nurse and school librarian shall be evaluated for a renewable contract and shall, upon having been offered a contract for the next ensuing year, having given notice of acceptance of renewal and upon signing a contract for a fourth full year, be placed on a renewable contract status with said school district, until the age of sixty-five (65) years is attained, and subject to the provisions included in this chapter.

~~Except as otherwise provided,~~ After the third full year of employment and at least once annually, the performance of each such certificated employee, school nurse, or school librarian shall be evaluated according to criteria and procedures established by the board of trustees in accordance with general guidelines approved by the state board of education. Except as otherwise provided, that person shall have the right to automatic renewal of contract by giving notice, in writing, of acceptance of renewal. Such notice shall be given to the board of trustees of the school district then employing such person not later than the fifteenth day of June preceding the expiration of the term of the current contract. Except as otherwise provided by this paragraph, the board of trustees shall notify each person entitled to be employed on a renewable contract of the requirement that such person must give the notice hereinabove and that failure ~~so~~ to do so may be interpreted by the board as a declination of the right to automatic renewal or the offer of another contract. Such notification shall be made, in writing, not later than the twenty-fifth day of May, in each year, except to those persons to whom the board, prior to said date, has sent proposed contracts for the next ensuing year, or to whom the board has given the notice required by this section ~~33-1213, Idaho Code~~.

Any contract automatically renewed under the provisions of this section shall be for the same length ~~of~~ as the term stated in the current contract and at a salary no lower than that specified therein, to which shall be added such increments as may be determined by the statutory or regulatory rights of such employee by reason of training, ~~or~~ service, or ~~both~~ performance.

Nothing herein shall prevent the board of trustees from offering a renewed contract increasing the salary of any certificated person, or from reassigning administrative or supervisory employees to classroom teaching duties or removing an extra duty assignment from a certificated employee with appropriate reduction of salaries from pre-existing ~~contracts~~ salary levels.

Before a board of trustees can determine not to renew for reasons of an unsatisfactory ~~service the contract~~ report of the performance of any certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, such person shall be entitled to a reasonable period of probation~~ary period~~. This period of probation shall be preceded by a written notice from the board of trustees with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period.

Such period of probation shall not affect the person's renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, or to renew the contract of any such person at a reduced salary, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, and furthermore, the board shall notify the employee in writing whether there is just and reasonable cause not to renew the contract or to reduce the salary of the affected employee, and if so, what reasons it relied upon in that determination.

If the board of trustees, for reasons other than unsatisfactory service, for the ensuing contract year, determines to change the length of the term stated in the current contract, reduce the salary or not to renew the contract of a certificated person whose contract would otherwise be automatically renewed, nothing herein shall require a probationary period.

SECTION 11. That Section 33-1212A, Idaho Code, be, and the same is hereby amended to read as follows:

33-~~1212A~~516. RIGHT TO RENEWABLE CONTRACT WHEN DISTRICT IS DIVIDED, CONSOLIDATED OR REORGANIZED. If, by reason of the division of a school district, including any specially chartered district, or by reason of the consolidation of such a district with another district, or other districts, or by reason of the reorganization of such a district, the position held by any teacher entitled to a renewable contract is transferred from the control of one board of trustees to the control of a new or different board of trustees, the right to automatic renewal is not thereby lost, and such new or different board of trustees shall be subject to all of the provisions of this chapter with respect to such teacher in the same manner as if such teacher were its employee and had been its employee during the time such teacher was actually employed by the board of trustees from whose control the position was transferred.

SECTION 12. That Sections 33-1213, 33-1214 and 33-1215, Idaho Code, be, and the same are hereby repealed.

SECTION 13. That Section 33-512, Idaho Code, be, and the same is hereby amended to read as follows:

33-512. GOVERN~~MENT~~ANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

1. To determine the length of the school term which in no case shall be less than nine (9) months;

2. To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

3. To provide, or require pupils to be provided with, suitable textbooks and supplies;

4. To protect the morals and health of the pupils;

5. To exclude from school, children not of school age;

6. To prescribe rules for the disciplining of unruly or insubordinate pupils, such rules to be included in a district discipline code adopted by the board of trustees and provided in writing at the beginning of each school year to the teachers and students in the district;

7. To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health or local health authorities;

8. To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

9. To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day. Other days listed in section 73-108, Idaho Code, if the same shall fall on a school day, shall be observed with appropriate ceremonies; and any days the state board of education may designate, following the proclamation by the governor, shall be school holidays;

10. To erect and maintain on each schoolhouse or school grounds a suitable flagstaff or flagpole, and display thereon the flag of the United States of America on all days, except during the inclement weather, when the school is in session.

11. To prohibit entrance to each schoolhouse or school grounds, to prohibit loitering in schoolhouses or on school grounds and to provide for the removal from each schoolhouse or school grounds of any individual or individuals who disrupt the educational processes or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils. A person who disrupts the educational process or whose presence is detrimental to the morals, health, safety, academic learning or discipline of the pupils or who loiters in schoolhouses or on school grounds, is guilty of a misdemeanor.

SECTION 14. That Section 63-3029A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit

against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho and, to nonprofit private or public institutions of elementary, secondary, or higher education located within the state of Idaho, and to public libraries and library districts located within the state of Idaho.

1. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or fifty dollars ($50.00), 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 hundred dollars ($500), whichever is less.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It is accredited by the Northwest Association of Schools and Colleges, or by the state board of education.

For the purposes of this section, a nonprofit institution of secondary or higher education means a private nonprofit secondary or higher educational institution located within the state of Idaho, which is accredited by the Northwest Association of Schools and Colleges, or by the state board of education. A nonprofit private institution of elementary education means a private nonprofit elementary educational institution located within the state of Idaho and approved by the state board of education.

SECTION 15. An emergency existing therefor, which emergency is hereby declared to exist, section 14 of this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1984.

Approved April 6, 1984.

CHAPTER 287
(H.B. No. 699, As Amended)

AN ACT

RELATING TO SALES AND USE TAX; AMENDING SECTION 63-3613, IDAHO CODE,

TO PROVIDE A DEFINITION FOR SALES MADE THROUGH A VENDING MACHINE; AMENDING SECTION 63-3619, IDAHO CODE, TO INCREASE THE SALES TAX TO FOUR PERCENT; AMENDING SECTION 63-3621, IDAHO CODE, TO INCREASE THE USE TAX TO FOUR PERCENT; AMENDING SECTION 63-3622, IDAHO CODE, TO PROVIDE FOR AN EXEMPTION FROM SALES TAX FOR SALES BELOW A STATED AMOUNT; AMENDING SECTION 63-3638, IDAHO CODE, TO STRIKE REFERENCE TO PAYMENTS FROM THE SALES TAX ACCOUNT TO THE SOCIAL SECURITY TRUST ACCOUNT, TO PROVIDE FOR THE PAYMENT OF MONEYS FROM THE SALES TAX ACCOUNT TO THE WATER POLLUTION CONTROL ACCOUNT, TO PROVIDE FOR PAYMENTS FROM THE SALES TAX ACCOUNT TO COUNTIES, TO STRIKE REFERENCE TO PAYMENTS FROM THE SALES TAX ACCOUNT TO THE PUBLIC SCHOOL INCOME FUND, TO CREATE THE REVENUE SHARING ACCOUNT, TO PROVIDE FOR THE PAYMENT OF MONEYS FROM THE SALES TAX ACCOUNT TO THE REVENUE SHARING ACCOUNT, AND TO PROVIDE FOR THE PAYMENT OF MONEYS FROM THE REVENUE SHARING ACCOUNT TO CITIES AND THE STATE'S GENERAL ACCOUNT OR TO COUNTIES; REPEALING SECTIONS 63-3640 AND 63-3640A, IDAHO CODE; PROVIDING A SAVINGS CLAUSE; AND AUTHORIZING A CREDIT FOR SALES TAX PERMITTEES FOR CONVERTING CASH REGISTERS TO ACCEPT SALES TAX SCHEDULES.

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

SECTION 1. That Section 63-3613, Idaho Code, be, and the same is hereby amended to read as follows:

63-3613. SALES PRICE. (a) The term "sales price" means the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold. However, in accordance with such rules and regulations as the state tax commission may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.
2. The cost of materials used, labor or service cost, losses, or any other expense.
3. The cost of transportation of the property prior to its sale.
4. The face value of manufacturer's refund coupons.

(b) The term "sales price" does not include any of the following:

1. Retailer discounts allowed and taken on sales, but only to the extent that such retailer discounts represent price adjustments as opposed to cash discounts offered only as an inducement for prompt payment.
2. Any sums allowed on merchandise accepted in part payment of

other merchandise, provided that this allowance shall not apply to the sale of a "new mobile home" as defined herein.

3. The amount charged for property returned by customers when the amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

4. The amount charged for labor or services rendered in installing or applying the property sold, provided that said amount is stated separately and such separate statement is not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.

5. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

6. The amount charged for finance charges, carrying charges, service charges, time-price differential, or interest on deferred payment sales, provided such charges are not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.

7. Charges for transportation of tangible personal property after sale.

(c) The sales price of a "new mobile home" as defined in this act shall be limited to and include only fifty-five per cent (55%) of the sales price as otherwise defined herein.

(d) For sales made on and after January 1, 1967, taxes previously paid on amounts represented by accounts found to be worthless and actually charged off for income tax purposes may be credited upon a subsequent payment of the tax herein provided or, if no such tax is due, refunded; provided, however, that such credit or refund may be claimed only upon that sales tax returned for the month following the filing date of the taxpayer's state income tax return in which a deduction is claimed for such worthless accounts. If such accounts are thereafter collected, a tax shall be paid upon the amount so collected.

(e) Tangible personal property when sold at a retail for more than ~~fifteen~~ eleven cents ($.15~~1~~) but less than ~~one--dollar--and--one~~ seventy-six cents ($~~1.01~~.76) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen per cent (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owner or operator of the vending machines.

SECTION 2. That Section 63-3619, Idaho Code, be, and the same is hereby amended to read as follows:

63-3619. IMPOSITION AND RATE OF THE SALES TAX. An excise tax is hereby imposed upon each sale at retail at the rate of ~~three~~ four per centum (3~~4~~%) of the sales price of all property subject to taxation

under this act and such amount shall be computed monthly on all sales at retail within the preceding month.

(a) The tax shall apply to, be computed on, and collected for all credit, instalment, conditional or similar sales at the time of the sale or, in the case of rentals, at the time the rental is charged.

(b) The tax hereby imposed shall be collected by the retailer from the consumer.

(c) ~~When--the--sale-involves-a-fraction-of-a-dollar,-the-retailer may-collect-from-the-consumer-the-tax-hereby-imposed-on--that--portion of--the--sales--price--by--adding--the-tax-to-the-sales-price-upon-the following-schedule:~~

~~1.----$.01-to-$.15-----0~~
~~2.-----.16-to---.42---$.01~~
~~3.-----.43-to---.72---$.02~~
~~4.-----.73-to---.99---$.03~~
~~(Each-whole-dollar-$.03)~~

The state tax commission shall provide schedules for collection of the tax on sales which involve a fraction of a dollar. The retailer shall calculate the tax upon the entire amount of the purchases of the consumer made at a particular time and not separately upon each item purchased. The retailer may retain any amount collected under the bracket system prescribed which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting the tax.

(d) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

(e) The tax commission may by regulation provide that the amount collected by the retailer from the consumer in reimbursement of the tax be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales slip or other proof of sale.

(f) The tax imposed by this act shall apply to the sales of any tangible personal property to contractors purchasing such property for resale to the United States or for use in the performance of contracts with the United States.

SECTION 3. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as follows:

63-3621. IMPOSITION AND RATE OF THE USE TAX. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after July 1, 1965, for storage, use, or other consumption in this state at the rate of ~~three~~ four per centum (~~3~~4%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property.

(a) Every person storing, using, or otherwise consuming, in this

state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Every retailer engaged in business in this state, and making sales of tangible personal property for the storage, use, or other consumption in this state, not exempted under section 63-3622, Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the state tax commission.

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

(d) Every retailer engaged in business in this state or maintaining a place of business in this state shall register with the state tax commission and give the name and address of all agents operating in this state, the location of all distributions or sales houses or offices or other places of business in this state, and such other information as the state tax commission may require.

(e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale or rental.

The certificate relieves the person selling the property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling or renting tangible personal property and who holds the permit provided for by section 63-3620, Idaho Code, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the amount and general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the state tax commission may prescribe.

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

demonstration or display in the regular course of business, is the rental of property while holding it for sale, the purchaser may elect to include in his sales at retail the total amount of the rental charge rather than the sale price of the property to him.

(g) If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

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

(i) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser after July 1, 1965 was purchased from a retailer on or after July 1, 1965, for storage, use or other consumption in this state.

(j) On and after July 1, 1965, it shall be presumed that tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use, or other consumption in this state. This presumption may be controverted by evidence satisfactory to the state tax commission that the property was not purchased for storage, use, or other consumption in this state.

(k) When the tangible personal property subject to use tax has been subjected to a general retail sales or use tax by another state of the United States at a rate equal to or greater than the rate of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use tax. If the rate paid the other state was less, the property will be subject to use tax to the extent that the Idaho rate exceeds the rate of the other state. For the purposes of this subsection, a registration certificate or title issued by another state or subdivision thereof for a vehicle or trailer as defined in section 49-101, Idaho Code, or a vessel as defined in section 49-3203, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

(l) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three (3) months, and which is not required to be registered or licensed under the laws of this state, or to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired by such person in another state while a bona fide resident thereof and primarily for use outside this state and if such use was actual and substantial, but if an article was acquired less than three (3) months prior to the time he entered this state, it will be presumed that the article was acquired for use in this state and that its use outside

this state was not actual and substantial.

SECTION 4. That Section 63-3622, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622. EXEMPTIONS. There are exempted from the taxes imposed by this act the following:

(a) The sale at retail, storage, use, or other consumption of tangible personal property which this state is prohibited from taxing under the Constitution of the United States.

(b) The sale of tangible personal property to resident contractors for subsequent incorporation into real property outside this state in the performance of a contract to improve the out-of-state realty unless this provision would result in subjection of said contractor to a use or similar excise tax in another state.

(c) Purchases which are subject to the motor fuels tax imposed ~~by chapter-12,-title-49,-Idaho-Code,-motor-fuels--subject--to--tax--under section--49-127(d),--Idaho--Code,--and--the-motor-fuels-tax-imposed~~ by chapter 24, title 63, Idaho Code.

(d) Receipts from the sale, storage, use or other consumption in this state of tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for ultimate sale at retail within or without this state, and tangible personal property primarily and directly used or consumed in or during such manufacturing, processing, mining, farming, or fabricating operations by a business or segment of a business which is primarily devoted to such operation or operations, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change or for removing impurities or otherwise placing a product in a more marketable condition are included within this exemption, as are other articles of tangible personal property used in the actual manufacturing, processing, mining, farming or fabricating operations. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies, and hand tools with a unit purchase price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles licensed or required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put; nor shall this exemption include tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from this act by subsections (h), (k), (l) and (p) of this section.

(e) The sale, use or purchase of tangible personal property, which property is pollution control equipment required in order to meet air and water quality standards of a state or federal agency having authority to regulate and set air and water quality emission standards. This exemption does not include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put.

(f) All sales of irrigation equipment and supplies, except hand tools as defined in subsection (d) of this section, to be used for agricultural production purposes, whether or not such equipment and supplies are to become a part of real estate and whether or not installed by the farmer, a contractor or subcontractor.

(g) The sale or purchase of containers in the following categories:

1. Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.
2. Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this act.
3. Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for filling.

(h) The sale or purchase of gas, electricity, and water when delivered to consumers.

(i) The sale or purchase of any matter used to produce heat by burning, including wood, coal, petroleum and gas.

(j) The sale or purchase of tangible personal property at home yard sales; provided, however, that no more than two (2) such home yard sales per individual per calendar year shall be exempt.

(k) The sale or purchase of tangible personal property used for the performance of a written contract entered into prior to the passage and approval of this act, but such exemption shall extend only until July 1, 1967.

(l) The sale or purchase, or the storage, use or other consumption of religious literature, pamphlets, periodicals, tracts and books published and sold by a bona fide church or religious denomination, no part of the net earnings of which inures to the benefit of any private individual or shareholder.

(m) The sale of meals by public or private schools under the federal school lunch program or under programs that provide nutritional meals for the aging (Title VII of the Older Americans Act, PL93-29), and the sale of meals by a church to its members at a church function.

(n) Occasional sales of tangible personal property, including sales of animals by any 4-H Club or FFA Club held in conjunction with a fair or the western Idaho spring lamb sale; providing, however, that this exemption shall not apply to the sale, purchase, or use of self-propelled motor vehicles unless they are transferred in a transaction falling within the scope of section 63-3612A(b), Idaho Code, a change in the form of doing business, or section 63-3612A(c), Idaho Code, the sale of a going business, or section 63-3612A(f), Idaho Code, the sale

of motor vehicles between family members.

(o) The sale of articles through a coin-operated vending machine for a total consideration of ~~fifteen~~ eleven cents ($.15) or less and individual transactions involving a total sales price of ~~less--than fifteen~~ eleven cents ($.15) or less.

(p) Sales of liquor by the state liquor dispensary to a person licensed under the provisions of chapter 9, title 23, Idaho Code.

(q) Sales of prescription drugs and the sale of oxygen, all upon the prescription of a practitioner licensed to prescribe drugs to human beings in the course of his professional practice, the sale of artificial limbs, prescription braces, wheelchairs, hearing aids, crutches and other prosthetic devices except eyeglasses and dental bridgework.

(r) Sales to the Boy Scouts of America of supplies and materials for national and international encampments within the state of Idaho and sales by the Boy Scouts of America to participants in national and international encampments within the state of Idaho if such sales are made within the confines of Farragut State Park.

(s) Sales to and purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations. As used in this subsection, these words shall have the following meanings:

1. Educational institution shall mean resident nonprofit colleges, universities, 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.

2. Hospital as used herein shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions or organizations.

3. Health-related entities as used herein shall mean the Idaho Cystic Fibrosis Foundation, March of Dimes, American Cancer Society, Mental Health Association, Idaho Association of Retarded Citizens, Idaho Heart Association, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, and Easter Seals, together with said entities' local or regional chapters or divisions.

4. Canal companies as used herein 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.

5. Forest protective associations as used herein shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and sup-

pression 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.

(t) The sale or purchase of tangible personal property shipped by the seller via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state if the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(u) The sale or purchase of tangible personal property which is shipped to a point outside this state for use outside this state pursuant to a contract of sale by delivery by the vendor to such point by means of (1) facilities operated by the vendor, (2) delivery by the vendor to a carrier for shipment to a consignee at such point, or (3) delivery by the vendor to a customs broker or forwarding agent for shipment outside this state.

(v) Sales of motor vehicles and trailers for use outside of this state, even though delivery be made within this state, but only when (1) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state and (2) said motor vehicles and trailers will be titled and licensed immediately under the laws of another state, will not be used in this state more than twenty-five percent (25%) of the mileage in any calendar year, and will not be required to be titled under the laws of this state; the sale of motor vehicles and motor equipment not required to be licensed and used as log jammers, log loaders, farm tractors and implements of husbandry; and the sale of used mobile homes, whether or not such used mobile homes are sold for use outside this state, and whether or not such used mobile homes are sold by a dealer. Every mobile home sale after its sale as a "new mobile home," as defined in section 63-3606, Idaho Code, is a sale as a used mobile home.

(w) Receipts from the sale, storage, use or other consumption in this state of tangible personal property directly used and consumed in the production and broadcasting of radio and television programs when the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production and broadcasting, provided, that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production and broadcasting operation, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than actual production and broadcasting operation such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research, or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state, without regard to the use to which such motor vehicles are put.

(x) Receipts from the sale, storage, use or other consumption in

this state of tangible personal property directly used and consumed in the production of publications in a newspaper format which are distributed to the public at large and which rely on advertising revenue as their primary source of income; provided, that the purchase, storage, use or other consumption is by a business or segment of a business which is primarily devoted to such production of said publications; provided, further, that the use or consumption of such tangible personal property is necessary or essential to the performance of such publication business. This exemption does not include machinery, equipment, materials and supplies used in a manner that is incidental to the production of said publications, such as maintenance and janitorial equipment and supplies and hand tools with a unit price not in excess of one hundred dollars ($100); nor does it include tangible personal property used in any activities other than the actual production of the publication and shall not include property such as office equipment and supplies, equipment and supplies used in selling and distributing activities, in research or in transportation activities; nor shall this exemption include motor vehicles required to be licensed by the laws of this state without regard to the use to which such motor vehicles are put.

Provided, further, that this exemption shall apply when the publication referred to herein is distributed to the public free of charge.

Provided, further, that in order for the exemption to be applicable, at least ten percent (10%) of the total publication, computed on an average annual column inch basis, must be devoted to the publication of nonincome producing informative material.

(y) The sale of tangible personal property relating to funeral services by a licensed funeral establishment.

(z) The sale of precious metal bullion or the sale of monetized bullion. For purposes of this section, "precious metal bullion" means any elementary precious metal which has been put through a process of smelting or refining including, but not limited to, gold, silver, platinum, rhodium, and chromium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but shall not include coins or money sold to be manufactured into jewelry or works of art.

(aa) To prevent evasion of the sales and use tax, it shall be presumed that all articles are subject to the taxes imposed by this act and the retailer shall have the burden of establishing the facts giving rise to such exemption by clear and convincing evidence unless the purchaser delivers to the retailer an exemption certificate in such form as the tax commission may prescribe, signed by the purchaser and setting forth the reason for the claimed exemption.

(bb) Any person who gives an exemption certificate with the intention of evading payment of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars ($1,000) or imprisonment for not

more than one (1) year or by both such fine and imprisonment.

SECTION 5. That Section 63-3638, Idaho Code, be, and the same is hereby amended to read as follows:

63-3638. SALES TAX ACCOUNT -- CREATION -- SALES TAX REFUND ACCOUNT -- APPROPRIATIONS. (a) There is hereby created in the office of the state treasurer and subject to his control and custody in the state operating fund an account to be known and designated as the "Sales Tax Account."

(b) All moneys collected under this act shall be paid by the tax collector into the sales tax account.

(c) Five hundred thousand dollars ($500,000) per year is hereby continuously appropriated and set aside and shall be paid from the sales tax account to the permanent building account, provided by section 57-1108, Idaho Code.

(d) ~~An--amount--equal--to-the-sum-required-to-be-certified-by-the state-auditor-to-the-state-tax-commission-pursuant-to-section-59-1115, Idaho-Code,-in-each-year-is-hereby-continuously-appropriated--and--set aside--and--shall--be--paid--from--the-sales-tax-account-to-the-social security-trust-account-established-by--section--59-1106,--Idaho--Code.~~ Four million eight hundred thousand dollars ($4,800,000) per year is hereby continuously appropriated and set aside and shall be paid from the sales tax account to the water pollution control account created by section 39-3605, Idaho Code.

(e) An amount equal to the sum required to be certified by the chairman of the Idaho housing agency to the state tax commission pursuant to section 67-6211, Idaho Code, in each year is hereby continuously appropriated and set aside and shall be paid from the sales tax account to any capital reserve fund, established by the Idaho housing agency pursuant to section 67-6211, Idaho Code. Such amounts, if any, as may be appropriated hereunder to such capital reserve fund of the Idaho housing agency shall be repaid to the sales tax account, subject to the provisions of section 67-6215, Idaho Code, by the Idaho housing agency, as soon as possible, from any moneys available therefor and in excess of the amounts which the agency determines will keep it self-supporting.

(f) ~~Ten~~ Seven and one-half per cent (~~10~~7.5%) is hereby appropriated and shall be paid from the sales tax account to the county treasurer of each county in amounts to be determined in accordance with subsection (h) of this section ~~and-ten-per-cent-(10%)-is-hereby-appropriated--and--shall--be--paid--from-the-sales-tax-account-to-the-state treasurer-for-deposit-into-the-public-school-income-fund~~.

(g) The payments required by this section shall be made periodically but no less frequently than quarterly.

(h) (1) A percentage shall be computed that each taxing district's share of sales tax moneys, except school districts, bears to the total amount of sales tax moneys distributed to each taxing district, except school districts, for the fourth calendar quarter of 1979, as provided in subsection (f). Such computation shall not include any distributions made to the credit of either

the former county school levy or the state water pollution control levy. Such percentage so determined for each taxing district shall be applied each quarter to the amount of sales tax account appropriated under subsection (f). The resulting sums shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, which received sales tax moneys in 1979. Whenever a taxing district is dissolved, the dissolved district's share of sales moneys shall be credited continuously to the county current expense fund.

(2) Furthermore, whenever the amount of nonschool district sales tax moneys appropriated under subsection (f) exceeds in any quarter, the total amount of moneys distributed to nonschool districts for the base quarter, which is the fourth calendar quarter of 1979, by ten per cent (10%), or more, the excess of the base quarter shall be paid to the county treasurer of each county for distribution to each taxing district in the county, except school districts, as provided in subsection (3).

(3) The state tax commission shall compute the percentage that the average amount of taxes collected from assessments for the years 1965, 1966 and 1967 on the personal property described as business inventory in section 63-105Y, Idaho Code, for each county bears to the average total amount of taxes collected from assessments for said years on the personal property described as business inventory in section 63-105Y, Idaho Code, for all counties in the state. Such percentage so determined for each county shall be applied to the amount of sales tax account appropriated under subsection (f) herein and the resulting sum shall be paid to the county treasurer of each county for distribution to each taxing district, except school districts, in the county as follows:

(i) The county commissioners in each county shall take the tax charge, applicable to the first real and personal property rolls equalized by county commissioners sitting as a board of equalization, of each taxing district within the county, except school districts, and divide it by the total current tax charges applicable to those first real and personal property rolls of all taxing districts, except school districts, within said county and the resulting percentages shall be applied to the county's proportionate share of said sales tax account and the resulting amount shall be distributed to each taxing district in the county periodically but not less frequently than quarterly by the county auditor and applied by such taxing districts in the same manner and in the same proportions as revenues from ad valorem taxation.

(ii) The moneys set aside and appropriated to the county treasurer out of the sales tax account above may be considered by the counties and other taxing districts and budgeted against at the same time, in the same manner and in the same year as revenues from taxation on all classes of personal property which these moneys replace.

(i) Notwithstanding the provisions of subsections (f) and (h) of this section, one dollar ($1.00) on each application for certificate

of title to a motor vehicle, or initial application for registration processed by the county assessor 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 in collecting such taxes, and shall be paid into the ~~general~~ current expense fund of the county.

(j) An amount equal to five per cent (5%) of the amount deposited in the sales tax account, but not in excess of fifty thousand dollars ($50,000), shall be retained in this account as a "Sales Tax Refund Account" for the purpose of repaying overpayments made under this act and for the purpose of paying any other erroneous receipt illegally assessed or collected, penalties collected without authority and taxes and other amounts unjustly assessed, collected, or which are excessive in amount, and there is hereby appropriated from this account so much thereof as may be necessary for the payment of the refunds herein provided for. The balance of the sales tax refund account in excess of fifty thousand dollars ($50,000) shall be transferred to the general account.

(k) Six and one-quarter per cent (6.25%) is hereby appropriated and shall be paid from the sales tax account to the revenue sharing account which is hereby created in the state operating fund, and the moneys in the revenue sharing account are hereby appropriated to the state auditor for payment as follows:

(1) One-half (1/2) shall be paid to the various cities as follows:

(i) Fifty per cent (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 per cent (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 of all cities within the state.

(2) One-half (1/2) shall be paid to the state's general account or to the various counties as follows:

(i) An amount equal to the appropriation made from the general account in the current fiscal year to the catastrophic health care account, but not to exceed four and one-half million dollars ($4,500,000), shall be paid by the state auditor to the general account; and

(ii) One million three hundred twenty thousand dollars ($1,320,000) shall be distributed one forty-fourth (1/44) to each of the various counties; and

(iii) 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.

The state auditor shall make such payments no less frequently than quarterly.

(1) Any moneys remaining in the sales tax account over and above those necessary to meet and reserve for payments under other subsections ~~(c), (d), (e) and (j)~~ of this section shall be paid periodically, but no less frequently than quarterly, to the general account.

(~~l~~m) The appropriations herein provided shall not be subject to the provisions of the "Standard Appropriations Act of 1945."

SECTION 6. That Sections 63-3640 and 63-3640A, Idaho Code, be, and the same are hereby repealed.

SECTION 7. All of the taxes, penalties and interest due and owing to the state of Idaho from the tax imposed by Section 63-3640, Idaho Code, as that section existed prior to July 1, 1984, are moneys due and owing to the state and may be collected under the provisions of chapter 36, title 63, Idaho Code.

SECTION 8. The state tax commission is authorized to allow a credit to sales tax permittees for converting cash registers and similar devices to accept new sales tax schedules required by the provisions of this act. The amount of the credit shall be the actual amount of costs incurred by the permittee in making the conversion, but shall not exceed one hundred dollars ($100) per machine. The credit shall not be allowed if the payment is made to the person who makes the conversion if he is an owner, officer, partner, stockholder, or employee of the permittee. Proof of costs incurred must accompany the claim for credit. In order to be allowed, the credit must be claimed on the first sales tax return filed by the permittee after July 1, 1984.

Approved April 6, 1984.

CHAPTER 288
(S.B. No. 1420)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR GENERAL EDUCATION PROGRAMS AT BOISE STATE UNIVERSITY, IDAHO STATE UNIVERSITY, LEWIS-CLARK STATE COLLEGE AND THE UNIVERSITY OF IDAHO FOR FISCAL YEAR 1985; MAKING CERTAIN CODE PROVISIONS SPECIFICALLY AVAILABLE TO THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1985 ONLY; REAPPROPRIATING CERTAIN MONEYS TO THE STATE BOARD OF EDUCATION; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. There is hereby appropriated from the accounts enumerated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State Univer-

sity, Lewis-Clark State College and the University of Idaho the following amounts, to be expended for designated programs for the period July 1, 1984, through June 30, 1985:

FOR:	
General Education Programs	$97,377,800
FROM:	
General Account	$78,879,300
State Endowment Funds	5,644,000
Interagency Billing and Receipts Account	12,854,500
TOTAL	$97,377,800

SECTION 2. The provisions of Sections 67-3608, 67-3609, 67-3610 and 67-3611, Idaho Code, are hereby specifically made available to the State Board of Education and the Board of Regents of the University of Idaho for fiscal year 1985 only, the provisions of Section 67-3516(1), (3) and (4), Idaho Code, notwithstanding.

SECTION 3. The unexpended and unencumbered balances of the moneys appropriated for Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho by Section 8, Chapter 5, First Extraordinary Session, Forty-seventh Idaho Legislature, Laws of 1983, to the State Board of Education and the Board of Regents of the University of Idaho, is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho for fiscal year 1985.

SECTION 4. This act shall be in full force and effect on and after July 1, 1984, except for Section 3. An emergency existing therefor, which emergency is hereby declared to exist, Section 3 of this act shall be in full force and effect on and after June 30, 1984.

Approved April 6, 1984.

CHAPTER 289
(S.B. No. 1423)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1985; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FROM STATE SOURCES; APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING ACCRUING MONEYS FROM THE PUBLIC SCHOOL INCOME FUND TO THE STATE BOARD OF EDUCATION TO BE EXPENDED PURSUANT TO LAW; APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC EMPLOYEE RETIREMENT ACCOUNT; APPROPRIATING MONEYS FOR THE UNEMPLOYMENT INSURANCE PROGRAM; AND APPROPRIATING MONEYS FOR DEPOSIT IN THE SOCIAL SECURITY TRUST ACCOUNT.

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

SECTION 1. It is legislative intent that the following amounts shall be expended from state sources for public schools for the period July 1, 1984, through June 30, 1985:

FROM:		
General Account	$226,050,000	
General Account (former sales tax transfer for Social Security, Section 63-3638(d), Idaho Code)	21,602,300	
General Account (former sales tax transfer for Public Schools Income Fund, Section 63-3638(f), Idaho Code)	18,812,500	
GENERAL ACCOUNT TOTAL		$266,464,800
Endowment Fund Income		15,525,000
Department of Lands		5,900,000
Liquor Account		1,200,000
Public School Income Fund Carryover		1,647,300
Miscellaneous Receipts		4,736,700
Vocational Education		1,525,200
TOTAL		$296,999,000

SECTION 2. There is hereby appropriated from the General Account for Public School Support the following amount for deposit in the Public School Income Fund for the period July 1, 1984, through June 30, 1985:

FROM:	
General Account	$216,782,700

SECTION 3. There is hereby appropriated from the Public School Income Fund to the State Board of Education to be expended pursuant to law and the provisions of this section, not to exceed $245,791,700 of the moneys which may accrue to such fund for the period July 1, 1984, through June 30, 1985, which amount shall be in addition to the appropriation made by H.B. No. 475, Second Regular Session, Forty-seventh Idaho Legislature.

SECTION 4. There is hereby appropriated from the General Account for Public School Support an amount not to exceed $27,079,800 for deposit in the Public Employee Retirement Account to be expended according to Section 59-1332A, Idaho Code, for the period July 1, 1984, through June 30, 1985.

SECTION 5. There is hereby appropriated from the General Account for Public School Support an amount not to exceed $1,000,000 for the Unemployment Insurance Program to be expended according to Section 72-1349C, Idaho Code, for the period July 1, 1984, through June 30, 1985.

SECTION 6. There is hereby appropriated from the General Account

for Public School Support an amount not to exceed $21,602,300 for deposit in the Social Security Trust Account to be expended according to Section 59-1115, Idaho Code, for the period July 1, 1984, through June 30, 1985.

Approved April 6, 1984.

SENATE JOINT RESOLUTIONS

(S.J.R. No. 117, As Amended)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 7, ARTICLE XV, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE STATE WATER RESOURCE AGENCY, TO PROVIDE THAT THE STATE WATER RESOURCE AGENCY SHALL HAVE POWER TO FORMULATE AND IMPLEMENT A STATE WATER PLAN FOR OPTIMUM DEVELOPMENT OF WATER RESOURCES IN THE PUBLIC INTEREST, TO PROVIDE THAT THE LEGISLATURE SHALL HAVE THE AUTHORITY TO AMEND OR REJECT THE STATE WATER PLAN IN A MANNER PROVIDED BY LAW, TO PROVIDE THAT ANY CHANGE IN THE STATE WATER PLAN SHALL BE SUBMITTED TO THE LEGISLATURE UPON THE FIRST DAY OF A REGULAR SESSION FOLLOWING THE CHANGE AND TO PROVIDE THE CHANGE SHALL BECOME EFFECTIVE UNLESS AMENDED OR REJECTED BY LAW WITHIN SIXTY DAYS OF SUBMISSION TO THE LEGISLATURE; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 7, Article XV, of the Constitution of the State of Idaho be amended to read as follows:

SECTION 7. STATE WATER RESOURCE AGENCY. There shall be constituted a Water Resource Agency, composed as the Legislature may now or hereafter prescribe, which shall have power to ~~formulate--and--implement--a-state-water-plan-for-optimum development-of-water-resources-in--the--public--interest;--to~~ construct and operate water projects; to issue bonds, without state obligation, to be repaid from revenues of projects; to generate and wholesale hydroelectric power at the site of production; to appropriate public waters as trustee for Agency projects; to acquire, transfer and encumber title to real property for water projects and to have control and administrative authority over state lands required for water projects; all under such laws as may be prescribed by the Legislature. Additionally, the State Water Resource Agency shall have power to formulate and implement a state water plan for optimum development of water resources in the public

interest. The Legislature of the State of Idaho shall have the authority to amend or reject the state water plan in a manner provided by law. Thereafter any change in the state water plan shall be submitted to the Legislature of the State of Idaho upon the first day of a regular session following the change and the change shall become effective unless amended or rejected by law within sixty days of its submission to the Legislature.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 7, Article XV, of the Constitution of the State of Idaho be amended to provide that the Legislature shall have the authority to amend or reject the State Water Plan in a manner provided by law and that any change in the State Water Plan shall be submitted to the State Legislature upon the first day of a Regular Session following the change and the change shall become effective unless amended or rejected by law within sixty days of submission to the Legislature?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Passed by the Senate March 27, 1984.
Passed by the House March 29, 1984.

HOUSE JOINT RESOLUTIONS

(H.J.R. No. 5)

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO SECTION 5, ARTICLE III, OF THE CONSTITUTION OF THE STATE OF IDAHO, RELATING TO THE CREATION OF STATE LEGISLATIVE SENATORIAL OR REPRESENTATIVE DISTRICTS, TO PROVIDE THAT SENATORIAL OR REPRESENTATIVE DISTRICTS SHALL BE COMPOSED OF CONTIGUOUS AREAS WHEN MORE THAN ONE COUNTY CONSTITUTES THE DISTRICT AND TO PROVIDE THAT A COUNTY MAY BE DIVIDED IN CREATING LEGISLATIVE DISTRICTS FOR THE LEGISLATURE OF THE STATE OF IDAHO; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

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

SECTION 1. That Section 5, Article III, of the Constitution of the State of Idaho be amended to read as follows:

> SECTION 5. SENATORIAL AND REPRESENTATIVE DISTRICTS. A senatorial or representative district, when more than one county shall constitute the same, shall be composed of contiguous ~~counties~~ areas, and ~~no~~ a county ~~shall~~ may be divided in creating such districts.

SECTION 2. The question to be submitted to the electors of the State of Idaho at the next general election shall be as follows:

"Shall Section 5, Article III, of the Constitution of the State of Idaho be amended to provide that senatorial or representative districts shall be composed of contiguous areas when more than one county constitutes the district and to provide that a county may be divided in creating such senatorial or representative districts for the Legislature of the State of Idaho?".

SECTION 3. The Legislative Council is directed to prepare the statements required by Section 67-453, Idaho Code, and file the same.

SECTION 4. The Secretary of State is hereby directed to publish this proposed constitutional amendment and arguments as required by law.

Passed by the House January 27, 1984.
Passed by the Senate March 19, 1984.

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 116)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO RETAIN AND PAY LEGAL COUNSEL FROM LEGISLATIVE FUNDS TO REPRESENT THE PEOPLE OF THE STATE OF IDAHO AND THE LEGISLATURE OF THE STATE OF IDAHO IN ANY APPROPRIATE COURT OF LAW TO ADVOCATE THE POSITION TAKEN BY THE IDAHO LEGISLATURE.

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

WHEREAS, in assuming the task of legislative apportionment, the Legislature was cognizant that this matter is fundamental to good government. In all decisions implemented in the reapportionment process, certain principles have governed. The most important of these was achievement of one person, one vote, as mandated by the federal constitution and interpretations by federal courts. In addition, recognition of county boundaries where possible, creation of compact and contiguous districts, preservation of historical socioeconomic relationships, and recognition of natural topographical barriers weighed heavily upon these deliberations.

In drafting a reapportionment plan which was approved by both the Senate and the House of Representatives of the State of Idaho and signed by the Governor of the State of Idaho, which reapportionment plan was known as House Bill 830, the Legislature of the State of Idaho followed the dictates of the United States Supreme Court in the case of Reynolds v. Sims, 377 U.S. 533 (1964), and the United States District Court for the District of Idaho, Judges Koelsch, McNichols and Taylor sitting. The Legislature concluded what the Court in Summers v. Cenarrusa concluded when the Court stated:

> "It is our opinion that in order for the Legislature to enact a practical reapportionment plan so as to comply with requirements of the United States Constitution, it could not and was not required to comply with the Idaho constitutional prohibition against dividing counties."

The Legislature concluded upon examination of the existing conditions that those conditions had not changed since the Court so held in Summers v. Cenarrusa. Thereafter a state district court held that the

Legislature must comply with the Idaho constitutional prohibition against dividing counties and the Idaho Supreme Court affirmed that decision. As a result of that mandate and notwithstanding the Legislature's conclusion that it could not enact a practical reapportionment plan so as to comply with both the United States Constitution and the Idaho constitutional prohibition against dividing counties, the Legislature nonetheless undertook the redrafting of a new reapportionment plan; and

WHEREAS, the Forty-seventh Idaho Legislature has labored in good faith to enact a reapportionment plan and the Senate and the House of Representatives have passed House Bill No. 512 and House Bill No. 512 is the last bill and final effort of the Forty-seventh Idaho Legislature on the subject of reapportionment and no further reapportionment plans will be enacted by the Legislature.

NOW, THEREFORE, BE IT RESOLVED by the Second Regular Session of the Forty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the President Pro Tempore of the Senate and the Speaker of the House of Representatives are hereby authorized to retain and pay legal counsel from legislative funds to represent the people of the State of Idaho and Legislature of the State of Idaho in any appropriate court of law to advocate the position taken by the Idaho Legislature.

Adopted by the Senate February 22, 1984.
Adopted by the House March 5, 1984.

(S.C.R. No. 117)

A CONCURRENT RESOLUTION
DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO SUPERVISE A REVIEW OF THE STATE HIGHWAY PROGRAM.

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

WHEREAS, highway transportation is a vital and indispensable component of the State's and Nation's economy; and

WHEREAS, the citizens of this State have made an enormous investment in the State's highway system and program; and

WHEREAS, it is advisable from time to time to review the successes and shortcomings of any governmental program.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session, the Senate and the House of Representatives concurring therein, that the Legislative Council is hereby directed to appoint a committee to supervise an independent review and analysis of Idaho's program of improving, maintaining, operating and administering the State's highway system. The Committee shall be composed of the Chairman of the Senate Transportation Committee, and a minority party member of the Senate Transportation Committee, the Chairman of the House Transportation and Defense Committee, and one majority party and

one minority party member of the House Transportation and Defense Committee.

BE IT FURTHER RESOLVED that the Legislative Council, on the recommendation of the supervising committee, may contract with a nationally recognized group to perform the review. The contract shall require that the review consider, analyze and comment on:

1. Highway responsibility and finance; i.e., an evaluation of the division of highway responsibilities between the State and local governments and evaluation of the division of state resources to finance these responsibilities;
2. Highway performance and needs; i.e., an evaluation of the performance of the State highway system and the costs to maintain or upgrade performance;
3. State highway program; i.e., an evaluation of state highway construction and maintenance programs and their relationship with performance, needs and finances; and
4. State highway management and productivity; i.e., an evaluation of equipment and manpower resources and how effectively these resources are employed.

BE IT FURTHER RESOLVED that the Idaho Transportation Board and the Idaho Transportation Department cooperate fully with the supervising committee and the review group.

BE IT FURTHER RESOLVED that the Legislative Council shall report its findings and recommendations, if any, to the First Regular Session of the Forty-eighth Idaho Legislature.

Adopted by the Senate February 23, 1984.
Adopted by the House March 23, 1984.

(S.C.R. No. 118)

A CONCURRENT RESOLUTION

PROVIDING LEGISLATIVE AUTHORIZATION AND PROVIDING APPROVAL FOR THE ADMINISTRATOR OF THE DIVISION OF PUBLIC WORKS OF THE DEPARTMENT OF ADMINISTRATION OF THE STATE OF IDAHO TO ENTER INTO AN AGREEMENT OR AGREEMENTS WITH THE IDAHO STATE BUILDING AUTHORITY TO PROVIDE INSTRUCTIONAL AND RELATED FACILITIES FOR THE IDAHO SCHOOL FOR THE DEAF AND BLIND.

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

WHEREAS, the Idaho Legislature has declared it to be "to the economic benefit of the citizens of the State of Idaho to provide sufficient office space and necessary related facilities, including instructional facilities, for such governmental bodies and thus provide a more efficient and more economical operation of state government," as provided by Section 67-6404, Idaho Code; and

WHEREAS, current existing facilities for use as the School for the Deaf and Blind are inadequate and in disrepair; and

WHEREAS, the cost of operation, maintenance and repair of existing facilities will continue to increase in the future; and

WHEREAS, continuing increases in building costs make it advantageous to construct new facilities and/or renovate existing facilities at the present time and will promote better service to, and education of, the deaf and blind in Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Division of Public Works of the Department of Administration of the State of Idaho is authorized to enter into an agreement or agreements with the Idaho State Building Authority, upon such terms and conditions as may be reasonable and necessary, for the purpose of providing sufficient instructional, office and related facilities necessary and appropriate for the Idaho State School for the Deaf and Blind.

BE IT FURTHER RESOLVED that this Resolution shall for all purposes constitute prior legislative approval, in accordance with Section 67-6410, Idaho Code, with respect to the agreement or agreements and the facilities referred to herein.

Adopted by the Senate March 5, 1984.
Adopted by the House March 14, 1984.

(S.C.R. No. 119)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY THE SITING, PERMITTING OR LICENSING OF NEW HAZARDOUS WASTE DISPOSAL FACILITIES, TO REVIEW THE IMPLEMENTATION OF HAZARDOUS WASTE AND HAZARDOUS MATERIALS LEGISLATION ENACTED BY THE FORTY-SEVENTH IDAHO LEGISLATURE, TO RECOMMEND PROPOSED LEGISLATION AND TO REPORT FINDINGS.

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

WHEREAS, the establishment of new environmentally secure hazardous waste sites is and will be a problem of growing concern to the public, state and local governments and private industry; and

WHEREAS, citizens worry that hazardous waste facilities will threaten public health, and officials of state and local governments wonder about the social, political and economic impact within their jurisdictions, and industry is concerned that there will be a sufficient number of hazardous waste facilities available for the proper disposal of hazardous waste; and

WHEREAS, the Forty-seventh Idaho Legislature has introduced numerous pieces of legislation concerning hazardous waste and hazardous materials; and

WHEREAS, the Legislature has identified additional areas where legislation could be considered by subsequent legislatures regarding hazardous materials and hazardous waste.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is directed to appoint a committee of fourteen members with seven members from the Senate and seven members from the House of Representatives to undertake and complete a study regarding procedures for the siting, permitting or licensing of new hazardous waste disposal facilities in this state with a goal of recommending a process for the siting of hazardous waste disposal facilities that will protect the health and safety of Idaho citizens, and protect the water, soil and air of the state.

BE IT FURTHER RESOLVED that the Committee shall review legislation approved by the Forty-seventh Idaho Legislature regarding hazardous materials and hazardous waste and may recommend additional legislation as may be deemed appropriate.

BE IT FURTHER RESOLVED that the Committee shall report its findings, including recommended legislation, if any, to the First Regular Session of the Forty-eighth Idaho Legislature.

Adopted by the Senate March 16, 1984.
Adopted by the House March 30, 1984.

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 35)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE SECOND REGULAR SESSION OF THE FORTY-SEVENTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the Second Regular Session of the Forty-seventh Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 9, 1984.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the House of Representatives and the Senate meet in Joint Session on Monday, January 9, 1984, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 9, 1984.
Adopted by the Senate January 9, 1984.

(H.C.R. No. 36)

A CONCURRENT RESOLUTION

ADOPTING FINDINGS OF A JOINT COMMITTEE ON REVENUE PROJECTIONS.

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

WHEREAS, the Legislature appointed a joint committee of the House of Representatives and the Senate to study the revenue available to the state for the 1984 fiscal year, and to consult with experts in all fields in order to present the most complete information available; and

WHEREAS, it is the desire of the Legislature to adopt the findings

of this committee as to the revenue projections in order to facilitate the appropriations process.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring, that we find the following calculations to provide a factual representation of the revenue available from the General Account for appropriation in the 1983-1984 fiscal year.

Revenue Projections for 1983-1984 fiscal year:

Court System	$ 2,160,000
Secretary of State	500,000
State Treasurer	11,300,000
Department of Agriculture	80,000
Department of Finance	1,000,000
Department of Insurance	15,200,000
Department of Lands	100,000
Department of Law Enforcement	1,000,000
Department of Revenue and Taxation:	
Individual Income Tax	230,200,000
Corporate Income Tax	25,000,000
Kilowatt Hour Tax	2,000,000
Beer Tax	1,850,000
Mine License Tax	1,000,000
Wine Tax	850,000
Cigarette Tax	7,100,000
Miscellaneous Agencies and Transfers	750,000
Liquor	3,820,000
Sales Tax	201,500,000
TOTAL	$505,410,000

Adopted by the House January 25, 1984.
Adopted by the Senate January 31, 1984.

(H.C.R. No. 37)

A CONCURRENT RESOLUTION
ADOPTING FINDINGS OF A JOINT COMMITTEE ON REVENUE PROJECTIONS.

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

WHEREAS, the Legislature appointed a joint committee of the House of Representatives and the Senate to study the revenue available to the state for the 1985 fiscal year, and to consult with experts in all fields in order to present the most complete information available; and

WHEREAS, it is the desire of the Legislature to adopt the findings of this committee as to the revenue projections in order to facilitate the appropriations process.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second

Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring, that we find the following calculations to provide a factual representation of the revenue available from the General Account for appropriation in the 1984-1985 fiscal year.

Revenue Projections for 1984-1985 fiscal year:

Court System	$ 2,250,000
Secretary of State	550,000
State Treasurer	10,000,000
Department of Agriculture	50,000
Department of Finance	1,250,000
Department of Insurance	15,000,000
Department of Lands	180,000
Department of Law Enforcement	1,250,000
Department of Revenue and Taxation:	
Individual Income Tax	252,500,000
Corporate Income Tax	39,000,000
Kilowatt Hour Tax	2,500,000
Beer Tax	1,800,000
Mine License Tax	800,000
Wine Tax	1,500,000
Cigarette Tax	7,000,000
Miscellaneous Agencies and Transfers	1,500,000
Liquor	3,820,000
Sales Tax	130,000,000
TOTAL	$470,950,000

Adopted by the House January 25, 1984.
Adopted by the Senate January 31, 1984.

(H.C.R. No. 39)

A CONCURRENT RESOLUTION

COMMENDING HARMON KILLEBREW ON THE OCCASION OF HIS SELECTION TO THE BASEBALL HALL OF FAME.

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

WHEREAS, Harmon Killebrew, who went from Payette High School to the major leagues, has now culminated his baseball career by selection to the Baseball Hall of Fame; and

WHEREAS, Harmon Killebrew holds American League home run titles for 1959, 1962, 1963, 1964, 1967, 1969 and 1971, having won these titles in a career that spanned three decades; and

WHEREAS, Harmon Killebrew holds the lifetime American League record for the most home runs, 573, by a right-handed batter; and

WHEREAS, Harmon Killebrew was recognized as the Most Valuable Player for the American League in 1969; and

WHEREAS, Harmon Killebrew has used the recognition won on the

baseball field to further numerous charitable organizations and has personally committed himself to these projects to the benefit of many individuals in need of help; and

WHEREAS, in addition to recognition on the baseball field, Harmon Killebrew was known throughout his career for his exemplary conduct and his commitment to good sportsmanship; and

WHEREAS, it is fitting and proper that the people of the State of Idaho join their accolades with those of a nation of admiring baseball fans.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that on behalf of the people of the State of Idaho, we commend Harmon Killebrew for his outstanding record as a sportsman and accomplished player on the occasion of his selection to the Baseball Hall of Fame.

Adopted by the House February 2, 1984.
Adopted by the Senate February 8, 1984.

(H.C.R. No. 43)

A CONCURRENT RESOLUTION
RECOGNIZING THE CITY OF WALLACE ON ITS ONE HUNDREDTH BIRTHDAY.

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

WHEREAS, Colonel W. R. Wallace led a group of prospectors in establishing a town first known as Placer Center, in the heart of the world famous Coeur d'Alene Mining District; and this town's name was later changed to Wallace in honor of its founder; and

WHEREAS, the City of Wallace grew from its primitive setting in a cedar forest into one of the foremost mining capitals of the world; and

WHEREAS, Wallace began as one of the hundreds of mining camps in the American West, but it was one of the select few to survive for one hundred years; and

WHEREAS, Wallace serves as a center for the Coeur d'Alene Mining District, which provides silver, lead, zinc, copper and gold for our Nation's needs; and

WHEREAS, the City of Wallace is the home and business area for its very independent citizens, who treasure the traditions and beauty of this North Idaho mining town; and

WHEREAS, the City of Wallace looks to the future of its mining industry with eternal optimism, while reflecting upon the glories of its tumultuous and colorful past.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the members of the Legislature take this opportunity to honor the One Hundredth Anni-

versary of the founding of the City of Wallace and recognizing its residents, both past and present, for their many memorable achievements.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the Honorable Frank Morbeck, Mayor of the City of Wallace and to the members of the Wallace City Council.

Adopted by the House March 6, 1984.
Adopted by the Senate March 14, 1984.

(H.C.R. No. 46)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE STATE TAX COMMISSION RELATING TO AD VALOREM TAX REGULATIONS.

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

WHEREAS, the Legislature is vested with authority to modify, reject or amend executive agency rules and regulations under the provisions of Section 67-5218, Idaho Code; and

WHEREAS, it is the finding of the Legislature that certain rules of the State Tax Commission, adopted December 21, 1983, relating to ad valorem tax regulations, should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the State Tax Commission's Regulation 708, entitled "Attendance of Agents of Utility", and paragraph iv., entitled "Hearing Officer", of subsection h. of Regulation 710, and paragraph vi., entitled "Rules of Evidence", of subsection h. of Regulation 710, be, and the same are rejected.

Adopted by the House February 21, 1984.
Adopted by the Senate March 7, 1984.

(H.C.R. No. 47)

A CONCURRENT RESOLUTION

AMENDING THE RULES AND REGULATIONS OF THE DEPARTMENT OF HEALTH AND WELFARE ADOPTED BY THE BOARD OF HEALTH AND WELFARE RELATING TO ALCOHOL/DRUG ABUSE EVALUATORS.

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

WHEREAS, the Legislature is vested with authority to modify, reject or amend executive agency rules and regulations under the provisions of Section 67-5218, Idaho Code; and

WHEREAS, it is the finding of the Legislature that the rules of the Department of Health and Welfare, adopted by the Board of Health and Welfare December 6, 1983, and effective January 1, 1984, relating to Alcohol/Drug Abuse Evaluators, should be amended as provided herein.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that Rule 02.24400,01., Title 2, Chapter 24, "RULES, REGULATIONS AND MINIMUM STANDARDS FOR ALCOHOL AND DRUG ABUSE EVALUATORS", be, and the same is hereby amended to read as follows:

01. Qualifications of Staff. In order for the applicant to be licensed as an alcohol and drug abuse evaluator, the applicant shall meet the following criteria: (1-1-84)

a. Passage of a written examination covering, but not limited to, alcohol, alcoholism, alcohol abuse, substance abuse, alcohol physical and mental effects, and general interviewing and counseling skills; and (1-1-84)

b. Two (2) years of paid professional experience in a social service, alcohol or drug program as an employee, whose responsibilities included conducting client evaluations or assessments of alcohol or drug dependent clients; or (1-1-84)

c. Graduation from a college or university with a degree in alcohol or drug abuse counseling, psychology, sociology, social work, or a related social science; or (1-1-84)

d. Satisfactory completion of two (2) years active experience while holding a temporary license. (1-1-84)

e. Satisfactory completion of the initial licensing period if the license was issued prior to January 1, 1984. ( )

Adopted by the House March 2, 1984.
Adopted by the Senate March 23, 1984.

(H.C.R. No. 48)

A CONCURRENT RESOLUTION
EXPRESSING APPRECIATION TO THE NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS FOR THE SELECTION OF LEWISTON, IDAHO, AS THE SITE FOR

THE NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS WORLD SERIES.

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

WHEREAS, the City of Lewiston, Idaho, has been selected as the site of the 1984 NAIA World Series, the championship series of the National Association of Intercollegiate Athletics, May 28 through June 3; and

WHEREAS, the event will feature ten teams, including eight regional finalists, one at-large team and the team representing host Lewis-Clark State College and will mark the culmination of a year's effort on the part of many young athletes; and

WHEREAS, the selection of Lewiston is recognition of that City's interest in the promotion of good sportsmanship and is a credit to the City and her citizens; and

WHEREAS, this selection will focus national attention on the City of Lewiston and is a unique occasion for recognition of the City and the State; and

WHEREAS, the Legislature desires to express appreciation for the selection of Lewiston, Idaho, as the site of the NAIA World Series, and to extend our best wishes for their success to each of the participants in the Series.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we express our appreciation for the selection of Lewiston, Idaho, as the site of the NAIA World Series and the recognition this will bring to Lewiston and the State of Idaho, and we extend to each of the participants in the Series our best wishes for their success.

BE IT FURTHER RESOLVED that the Chief Clerk of the House be, and she is hereby authorized and directed to forward copies of this Resolution to Dr. Harry Fritz, National Association of Intercollegiate Athletics, Barbara Hume, President of the Lewiston Chamber of Commerce, and Mr. Randy Hash, Tournament Manager.

Adopted by the House March 13, 1984.
Adopted by the Senate March 28, 1984.

(H.C.R. No. 49)

A CONCURRENT RESOLUTION

DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF THE VALUE OF CHANGING THE SCHOOL FISCAL YEAR.

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

WHEREAS, the fiscal year for school districts in the State of

Idaho is currently different than that of other local taxing units, such as cities and counties; and

WHEREAS, the present fiscal year results in approximately 15% of the certified employee's salaries being paid in the fiscal year following the completion of the students' school year and the teachers' primary period of responsibility; and

WHEREAS, under the present fiscal year procedure, the second-half property taxes for the school year are received following the close of the fiscal year; and

WHEREAS, the federal fiscal year coincides with the fiscal year of the cities and counties of Idaho, and school district funding is out of phase with the federal funds which are available to school districts; and

WHEREAS, more accurate determination of the receipts and expenditures of the prior year and budgetary calculations for the ensuing year could be made.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is directed to appoint a committee to undertake and complete a study of the advantages and disadvantages of establishing a fiscal year beginning October 1 and ending September 30, and if such study indicates appreciable advantages in changing from the present fiscal year to a fiscal year beginning October 1 and ending September 30, that the committee prepare and submit necessary legislation to change the dates and provide for other legislative changes necessary to implement the changes. For the purposes of this study, the Committee is authorized to designate an advisory committee composed of representatives of the State Department of Education, Idaho School Superintendents Association, the Idaho School Boards Association and the Idaho Education Association.

Adopted by the House March 7, 1984.
Adopted by the Senate March 15, 1984.

(H.C.R. No. 50, As Amended)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES AND REGULATIONS OF THE DEPARTMENT OF HEALTH AND WELFARE ADOPTED BY THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE RELATING TO THE IDAHO DESIGNATED PLANNING AGENCY GOVERNING HEALTH CARE ACTIVITIES SUBJECT TO 1122 REVIEW.

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

WHEREAS, the Legislature is vested with authority to modify, reject or amend executive agency rules and regulations under the provisions of Section 67-5218, Idaho Code; and

WHEREAS, it is the finding of the Legislature that the rules of the Department of Health and Welfare, adopted by the Director of the Department of Health and Welfare on October 26, 1983, and effective November 20, 1983, relating to the Idaho Designated Planning Agency Governing Health Care Activities Subject to 1122 Review, should be amended as provided herein.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that Rules 02.11050,03.a.iii., 02.11050,11.f., and 02.11050,23., Title 2, Chapter 11, "Regulations of the Idaho Designated Planning Agency Governing Health Care Activities Subject to 1122 Review," Rules and Regulations of the Department of Health and Welfare, be, and the same are hereby amended to read as follows:

02.11050,

03. Capital Expenditure

a. Capital expenditure is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by the facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance or which is made to acquire an existing or develop a new facility and which either: (11-20-83)

i. Exceeds six hundred thousand dollars ($600,000); or (11-20-83)

ii. Changes the bed capacity of the facility with respect to which such expenditure is made; or (11-20-83)

iii. Is two hundred fifty thousand dollars ($250,000) or more and s~~S~~ubstantially changes the services of the facility with respect to which such expenditure is made; provided, that a change in bed capacity, a change in licensure of any existing bed, or the addition of any bed under a licensing category not currently held by the facility shall be considered a substantial change in service, regardless of the dollar amount expended.
~~(11-20-83)~~( )

b. The cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment with respect to which such expenditure is made shall be included in determining whether such

expenditure exceeds six hundred thousand dollars ($600,000). (11-20-83)

02.11050,

11. Health Care Facility. Health care facility shall include hospitals, psychiatric hospitals, health maintenance organization facilities, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers, including freestanding hemodialysis units, intermediate care facilities, and ambulatory surgical facilities; but does not include Christian Science sanitoriums operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts. For purposes of these rules; (11-20-83)

a. The term "hospital" means an institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation of injured, disabled, or sick persons. Such term does not include psychiatric and tuberculosis hospitals. (11-20-83)

b. The term "psychiatric hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of mentally ill persons. (11-20-83)

c. The term "tuberculosis hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis. (11-20-83)

d. The term "skilled nursing facility" means an institution or a distinct part of an institution which is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. (11-20-83)

e. The term "intermediate care facility" means an institution which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require health-related

care and services (above the level of room and board). (11-20-83)

f. The term "ambulatory surgical facility" means a facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice~~;-unless--such--offices are-incidental-to-an-ambulatory-surgical-facility~~. ~~(11-20-83)~~(_____)

g. The term "kidney dialysis treatment center" means a hospital or freestanding unit which provides end stage renal disease (ESRD) diagnostic, therapeutic or rehabilitative services to ESRD patients. (11-20-83)

h. The term "health maintenance organization facility" means any health care facility proposed by any HMO subject to review under Idaho Department of Health and Welfare Rules and Regulations Section 02.11300. (11-20-83)

02.11050,

23. Substantial Changes in Service. Substantial changes in service shall mean an expenditure of two hundred fifty thousand dollars ($250,000) or more on a substantial change in the services of a facility resulting in the addition of a clinically related (i.e., a diagnostic, curative or rehabilitative) service not previously provided in the facility or not provided in the facility within the last twelve (12) months; provided, that a change in bed capacity, a change in licensure of any existing bed, or the addition of any bed under a licensing category not currently held by the facility shall be considered a substantial change in service, regardless of the dollar amount expended. ~~(11-20-83)~~(_____)

BE IT FURTHER RESOLVED that Rule 02.11150, Title 2, Chapter 11, "Regulations of the Idaho Designated Planning Agency Governing Health Care Activities Subject to 1122 Review," Rules and Regulations of the Department of Health and Welfare, be, and the same is hereby amended to read as follows:

02.11150, ADVISORY COUNCIL

01. In General. The Advisory Council shall be ~~composed--of the--SHCC.~~ appointed by the Director and shall be composed of a majority of consumers but will contain representatives of major health care provider groups. The

Advisory Council shall consist of seven (7) people selected as follows: four (4) consumer representatives, one (1) of whom shall serve as chairperson of the advisory council, shall be appointed from the state at large and three (3) provider representatives shall be appointed from the state at large. ( )

02. Period of Appointment. The term of appointment shall be for two (2) years. Initial appointments shall be staggered in such a manner that three (3) of the appointments are for a term of one (1) year, and four (4), including the chairperson, are for a term of two (2) years. Individuals appointed to fill vacancies shall be appointed for the remainder of the term to which they are appointed. ( )

03. Procedures. At its first meeting, the Advisory Council shall establish procedures to be followed for time and place of meeting, participation in meetings, and other protocol to be followed. ~~(11-20-83)~~( )

0~~2~~4. Conflict of Interest. No member of the Advisory Council may vote on any matter before the Council respecting any individual or entity with which such member has, or within the twelve (12) months preceding the vote, had any substantial ownership, employment, medical staff, fiduciary, contractural, creditor, consultative, or directly competitive relationship. The Chair shall require each of the Advisory Council members who has or had such a relationship with any individual or entity involved in any matter before the Advisory Council, to make written disclosure of such relationship before any action is taken by the Advisory Council, shall make public any such relationship prior to any action being taken, and shall instruct any such member to refrain from discussing or voting on any such matter. (11-20-83)

0~~3~~5. Responsibilities of the Designated Planning Agency Advisory Council

a. Review grant application, work plan and staffing levels of the 1122 Program and make, as appropriate, recommendations to the DPA on desired changes. (11-20-83)

b. Advise the DPA on the adequacy of the proposed funding for the 1122 Program. (11-20-83)

c. Advise the DPA on the general administration of the Program including policy development and regulatory changes. (11-20-83)

d. Make a presentation to the ~~full~~ SHCC at each quarterly meeting on all 1122 activity during the preceding three (3) months. (11-20-83)

BE IT FURTHER RESOLVED that Rule 02.11250, Title 2, Chapter 11, "Regulations of the Idaho Designated Planning Agency Governing Health Care Activities Subject to 1122 Review," Rules and Regulations of the Department of Health and Welfare, be, and the same is hereby amended by the addition of a new subsection to read as follows:

02.11250,

07. Review of Applications. Applications which are received within ten (10) working days of each other for projects which are identical or substantially similar in services provided, needs met and areas served, will be reviewed as competing applications. The review period for competing applications will not start until all applications have been deemed complete by the DPA. Findings and recommendations by the DPA and HSA will be made to the hearing officer not less than forty (40) days, nor more than seventy (70) days from the date which all applications are deemed complete. All applicants will be notified in writing that their application has been batched with other competing applications and shall be notified in writing specifying the reasons for batching. ( )

BE IT FURTHER RESOLVED that Rule 02.11300, Title 2, Chapter 11, "Regulations of the Idaho Designated Planning Agency Governing Health Care Activities Subject to 1122 Review," Rules and Regulations of the Department of Health and Welfare, be, and the same is hereby amended to read as follows:

02.11300, PROJECTS SUBJECT TO REVIEW

01. Expenditures Covered. A project will be subject to review if it involves: (11-20-83)

a. Capital expenditure is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by the facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance or which is made to acquire an existing or develop a new facility and which either: (11-20-83)

i. Exceeds six hundred thousand dollars ($600,000); or (11-20-83)

ii. Any capital expenditure which changes the bed

capacity of the facility with respect to which such expenditure is made; or (11-20-83)

iii. Any capital expenditure of two hundred fifty thousand dollars ($250,000) or more which substantially changes the services of the facility with respect to which such expenditure is made; provided, that a change in bed capacity, a change in licensure of any existing bed, or the addition of any bed under a licensing category not currently held by the facility shall be considered a substantial change in service, regardless of the dollar amount expended. ~~(11-20-83)~~( )

b. The cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment with respect to which such expenditure is made shall be included in determining whether such expenditure exceeds six hundred thousand dollars ($600,000). (11-20-83)

c. Any increase in licensed bed capacity under applicable state or local law, including the development of a new facility with any licensed beds except those not subject to review under Idaho Department of Health and Welfare Rules and Regulations Sections 02.11300,03. and 02.11300,04. (11-20-83)

d. An expenditure of two hundred fifty thousand dollars ($250,000) which results in a substantial change in the services of a facility resulting in the addition of a clinically related (i.e., diagnostic, curative or rehabilitative) service not previously provided in the facility or not provided in the facility within the last twelve (12) months; provided, that a change in bed capacity, a change in licensure of any existing bed, or the addition of any bed under a licensing category not currently held by the facility shall be considered a substantial change in service, regardless of the dollar amount expended. ~~(11-20-83)~~( )

e. Any change in a proposed capital expenditure which itself meets the criteria of a capital expenditure shall, for the purposes of these rules, be deemed a capital expenditure; provided, that an increase or decrease in the costs of a proposed capital expenditure which increase or decrease is not

related to a change in bed capacity or a substantial change in service may, at the option of the designated planning agency, be exempt from review. (11-20-83)

f. The acquisition by lease or comparable arrangement or through donation of any facility or part thereof, or equipment for a facility that would have been considered a capital expenditure if acquired by purchase shall be deemed a capital expenditure by or on behalf of such facility or person. (11-20-83)

Adopted by the House March 19, 1984.
Adopted by the Senate March 27, 1984.

(H.C.R. No. 52)

A CONCURRENT RESOLUTION
RECOGNIZING THE CONTRIBUTIONS OF MAX YOST TO THE LEGISLATIVE PROCESS AND TO THE PEOPLE OF THE STATE OF IDAHO.

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

WHEREAS, Max Yost was reared and educated in Idaho and served for thirty-two years as the Executive Manager of the Associated Taxpayers of Idaho, a group which serves as a watchdog on government spending; and

WHEREAS, Max Yost acted as a consultant and advisor on tax matters to state and local officials and to the Legislature since 1933; and

WHEREAS, Max Yost continues to possess a wealth of knowledge and information on tax issues and will unselfishly and freely offer it when requested by legislators, local government officials and the press; and

WHEREAS, Max Yost has shown a consistent interest in the community where he lives through his service to a variety of civic and philanthropic organizations; and

WHEREAS, Max Yost has befriended many an orphan legislator over the past fifty-one years by serving them the best oyster stew in the country.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we recognize the contributions of Max Yost to the people of the State of Idaho and we commend him for his commitment to the taxpayers of this state and for the expertise he has offered to the Legislature for the past fifty-one years and we also take this opportunity to offer our appre-

ciation to Max Yost for his dedication and service and commend him for a job well done.

Adopted by the House March 23, 1984.
Adopted by the Senate March 31, 1984.

(H.C.R. No. 54)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE POLICIES ON PAY POLICIES FOR STATE EMPLOYEES.

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

WHEREAS, the Legislature has by law provided that the Governor and the Idaho Personnel Commission report to the Legislature their recommendations for proposed personnel pay policies, together with estimated costs thereof; and

WHEREAS, the Legislature has received and reviewed the report of the Governor dated January 12, 1984, and the report of the Idaho Personnel Commission dated October 1, 1983; and

WHEREAS, the Legislature recognizes the need to maintain spending patterns of state government within established guidelines; and

WHEREAS, the Legislature recognizes the necessity to maintain the internal equity of its classification and compensation structure.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that:

1. Recommendation No. 1 of the Idaho Personnel Commission is rejected.
2. Recommendation No. 1 of the Chief Executive for an across-the-board salary increase of 5% is rejected.
3. The Legislature modifies Recommendation No. 1 of the Chief Executive so that:
   (a) A 7% payline adjustment is granted. The mathematical expression for this 7% payline adjustment is:
   Positions with 0 to 320 job classification points - Hourly rate = .02111 per point plus 3.296.
   Positions with 321 points or more -
   Hourly rate = .01493 per point plus 5.658.
   The Joint Finance-Appropriations Committee is hereby directed to fund the entire cost of the 7% payline adjustment.
   (b) Merit increases are to be granted to the extent possible from salary savings. Further, for those few agencies that have historically been unable to generate salary savings, the Joint Finance-Appropriations Committee is

directed to appropriate for merit increases from the total dollars appropriated for purposes of this resolution.

4. Recommendation No. 2 of the Personnel Commission and concurred with by the Chief Executive is hereby adopted.

BE IT FURTHER RESOLVED that appropriation measures to fund nonclassified employees be prepared in as nearly as possible the same manner as for classified employees.

Adopted by the House March 12, 1984.
Adopted by the Senate March 15, 1984.

(H.C.R. No. 55)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE FINDINGS AND AUTHORIZING THE WATER RESOURCE BOARD TO MAKE AN ADDITIONAL GRANT NOT TO EXCEED FIFTY THOUSAND DOLLARS TO THE WEST CASSIA SOIL AND WATER CONSERVATION DISTRICT FOR THE PURPOSE OF CONDUCTING CERTAIN STUDIES.

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

WHEREAS, the Legislature finds and declares that it is in the public interest that studies on alternative groundwater stabilization projects in the Oakley Fan area of Cassia County be continued and, in particular, that a major groundwater stabilization project in the Oakley Fan area be identified; and

WHEREAS, the Idaho Water Resource Board has made matching grants totaling $50,000 to the West Cassia Soil and Water Conservation District from the Water Management Account as provided by Section 42-1760, Idaho Code, to cooperatively prepare a feasibility study on a groundwater stabilization project; and

WHEREAS, by Section 42-1760(2)(b), Idaho Code, it is provided that no single grant shall exceed $50,000 unless legislative approval has been obtained.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Water Resource Board is hereby authorized to make an additional grant not to exceed $50,000 to the West Cassia Soil and Water Conservation District to:

(a) Review groundwater withdrawals within the Oakley Fan project area.

(b) Determine drawdown, recovery and interference characteristics of the aquifer in the Oakley Fan project area.

(c) Prepare legal studies and other necessary documents to form the Oakley Fan project area into a water management district which will implement a potential groundwater stabilization

project's purposes.

Adopted by the House March 23, 1984.
Adopted by the Senate March 31, 1984.

(H.C.R. No. 56)

A CONCURRENT RESOLUTION
COMMENDING AND CONGRATULATING DR. TED COMSTOCK FOR HIS ELECTION TO THE PRESIDENCY OF THE NATIONAL SCHOOL BOARDS ASSOCIATION.

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

WHEREAS, Dr. Ted Comstock, a native Idahoan born and raised in Nampa, Idaho, has served 16 years as a Nampa school board member; and

WHEREAS, in 1983, Dr. Ted Comstock was elected first vice president of the National School Boards Association, a 15,000 member group committed to improved education in America, after having served as secretary-treasurer and second vice president of this organization; and

WHEREAS, having been elected President of the National School Boards Association, Dr. Ted Comstock will serve a one-year term to begin April 3, 1984; and

WHEREAS, Dr. Ted Comstock is an enthusiastic and articulate advocate of America's public educational system and will have many opportunities during his tenure as President of the National School Boards Association to serve as a spokesman for responsible change in the school system.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commend and congratulate Dr. Ted Comstock for his election to the presidency of the National School Boards Association and wish him the best of luck for the coming year in this important national position.

Adopted by the House March 23, 1984.
Adopted by the Senate March 29, 1984.

(H.C.R. No. 58)

A CONCURRENT RESOLUTION
RELATING TO CERTAIN USES OF MANDATORY STUDENT FEES AND TUITION PAYMENTS, DECLARING LEGISLATIVE INTENT AND CONCERN, AND REQUESTING THE STATE BOARD OF EDUCATION TO STUDY THE USE OF STUDENT FEES AND/OR TUITION PAYMENTS TO SUPPORT CERTAIN POLITICAL ORGANIZATIONS.

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

WHEREAS, the Legislature may, by resolution, declare legislative intent and indicate areas of legislative concern to state agencies who have the power and authority to resolve or address the legislative concerns; and

WHEREAS, it is declared to be legislative intent that no state-supported community college, junior college, college or university in this state (hereinafter institutions of higher education) shall use its mandatory fee or tuition collection system or in any other way financially support or sanction an organization whose principal purposes or primary activities are political in nature, with the exception of an on-campus representative government among enrollees; and

WHEREAS, it is declared to be legislative intent that no institution of higher education may require enrollees to donate a portion of a mandatory fee or a mandatory tuition charge to any group, other than the on-campus representative government, even though a refund or a rebate procedure is available upon request of the enrollee, even if the collection procedure has been approved by students or any group of students; and

WHEREAS, it is declared to be legislative intent not to allow the transfer of funds by any entity or program at an institution of higher education to any group, other than the representative government of the enrollees, which is organized primarily for political purposes or activities.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature requests the State Board of Education to conduct a study of the problems addressed in this Resolution and to respond accordingly by adopting appropriate rules and regulations addressing the statement of legislative intent and legislative concerns contained in this Resolution.

BE IT FURTHER RESOLVED that nothing in this Resolution shall be construed to limit the on-campus representative government from lobbying on behalf of or against any legislation, regulation or ordinance under consideration by any federal, state, local or other deliberative body or agency of government which is of particular interest and of peculiar effect to the students enrolled at the institution of higher education or, restrict the right of any group to solicit and collect funds from enrollees to be paid on a strictly voluntary basis, including a check-off box which would include a voluntary payment in the enrollees' total fee or tuition payment.

Adopted by the House March 27, 1984.
Adopted by the Senate March 31, 1984.

(H.C.R. No. 61)

A CONCURRENT RESOLUTION
STATING FINDINGS OF THE LEGISLATURE AND REJECTING RULES OF THE STATE BOARD OF EDUCATION GOVERNING THE PROFESSIONAL STUDIES PROGRAM.

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

WHEREAS, the Legislature is vested with authority to modify, reject or amend executive agency rules and regulations under the provisions of Section 67-5218, Idaho Code; and

WHEREAS, it is the finding of the Legislature that the rules of the State Board of Education, adopted by the State Board on February 6, 1984, to be effective upon adoption, are violative of legislative intent.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Rules of the State Board of Education, IDAPA 08.00 Chapter G, State Professional Studies Program, adopted by the State Board of Education on February 6, 1984, be, and the same are hereby rejected and declared null and void.

Adopted by the House March 30, 1984.
Adopted by the Senate March 31, 1984.

(H.C.R. No. 63)

A CONCURRENT RESOLUTION
COMMEMORATING THE CENTENNIAL OF THE DISCOVERY OF THE SUNSHINE MINE ON SEPTEMBER 25, 1884.

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

WHEREAS, the Sunshine Mine had its beginnings with the discovery of the Yankee Lode by True and Dennis Blake, two brothers from Maine, on September 25, 1884; and

WHEREAS, after 30 years of mining by the Blake brothers, four principal tunnels and six others had been developed by them and one shaft sunk; and

WHEREAS, the Mine was then operated by the Yankee Boy Company and various lessors until 1918 when it was incorporated by the Sunshine Mining Company in Washington; and

WHEREAS, through faith and perseverence, the Sunshine personnel continued to mine deeper and deeper until 1931, at the depths of the economic depression, a major discovery was made at the 1700 foot level, 1/2 mile vertically below the original discovery.

WHEREAS, in 1937, production of 12,147,719 recovered ounces of

silver placed the Sunshine Mine at the top of the list as the largest known producer in the world; and

WHEREAS, the Sunshine Mine is unique in the world, now producing at the 5400 level, 6300 feet below the uppermost tunnel, and 2700 feet below sea level, and the bottom of #10 shaft is at the 6000 foot level, 3300 feet below sea level; and

WHEREAS, the recorded production for the period 1904 to 1980 is over 300 million ounces of silver taken from the Sunshine Mine; and

WHEREAS, today, the Sunshine Mining Company is a major miner and refiner of silver, a major Idaho employer, and a significant corporate citizen of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we join in commemorating the centennial of the discovery of the Sunshine Mine in 1884. We recognize the unique part the Sunshine Mine has played in the history of the State of Idaho and the special place the mine holds in the development of Idaho.

Adopted by the House March 29, 1984.
Adopted by the Senate March 31, 1984.

(H.C.R. No. 64)

A CONCURRENT RESOLUTION
AUTHORIZING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO REVIEW HISPANIC AFFAIRS ISSUES.

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

WHEREAS, Idaho is blessed with a variety of people who bring the richness of diversity into all our lives; and

WHEREAS, it is in the interests of all citizens that any differences should be minimized in our legal, social, economic, political and cultural contacts; and

WHEREAS, the first step in resolving differences is understanding.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council shall appoint a committee comprised of eight members to review Hispanic affairs issues. The Committee shall consist of four members of the Senate and four members of the House of Representatives, with consideration given in appointing members to the Committee to achieve a geographical balance.

BE IT FURTHER RESOLVED that the Committee may seek the advice and suggestions of Hispanic persons and groups in order to further understanding and for resolution of differences concerning, but not necessarily limited to, opportunities in education for Hispanic students in this state, opportunities for employment for Hispanic persons in

this state, and opportunities for full expression and experience of cultural activities.

BE IT FURTHER RESOLVED that the Legislative Council shall report the Committee's findings, recommendations and, if appropriate, legislation to the First Regular Session of the Forty-eighth Idaho Legislature.

Adopted by the House March 29, 1984.
Adopted by the Senate March 31, 1984.

(H.C.R. No. 65)

A CONCURRENT RESOLUTION
RECOGNIZING THE CITY OF RIGBY ON ITS ONE HUNDREDTH BIRTHDAY.

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

WHEREAS, in the early days of Idaho, in the year of 1884, a group of hardy pioneers with commitment and fortitude to establish roots founded Rigby, Idaho; and

WHEREAS, in 1885 these pioneers fought the shoulder-high sagebrush and arid ground to build the Great Feeder Headgates to harness the mighty Snake River and construct a concentrated network of canals and irrigation ditches, which are unique in scope and equal to any in the world. This feat was accomplished by men to match the mountains, who, with great foresight, their horses and wagons, secured a future for the citizens of Rigby, Idaho; and

WHEREAS, from the mighty mountains come the waters to the Snake to nourish the rich volcanic soil; and

WHEREAS, a beautiful and fertile agricultural valley sustained Rigby; and

WHEREAS, in the year 1900 the Oregon Shortline Railroad that carried the vast agricultural products to market established Rigby as "the Hub of Eastern Idaho"; and

WHEREAS, the schools of Rigby contributed to accomplishments of Mr. Philo T. Farnsworth, the inventor of the Cathode Ray television tube; and

WHEREAS, the original cathode tube was bequeathed to Rigby High School and Rigby was established as the birthplace of television; and

WHEREAS, the City of Rigby is the home of a citizenry of vast accomplishments for the betterment of mankind in many fields; and

WHEREAS, the City of Rigby looks to the future with dedication to maintaining the economic health of its agricultural base with the same determination as the hardy pioneers who blazed the way.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein that the members of the Legislature take this opportunity to honor the One Hundredth Anniversary of the founding of the City of Rigby and recognize its resi-

dents, both past and present, for their many memorable achievements.

BE IT FURTHER RESOLVED that a copy of this Resolution be sent to the Honorable Claude Tremelling, Mayor of the City of Rigby, and to the members of the Rigby City Council.

Adopted by the House March 29, 1984.
Adopted by the Senate March 31, 1984.

SENATE JOINT MEMORIALS

(S.J.M. No. 107)

A JOINT MEMORIAL

TO PRESIDENT RONALD REAGAN, SECRETARY OF COMMERCE MALCOLM BALDRIDGE, SECRETARY OF AGRICULTURE JOHN R. BLOCK, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE CHAIRMEN OF THE SENATE AGRICULTURE AND HOUSE AGRICULTURE COMMITTEES IN CONGRESS, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, TO CHAIRMAN ALFRED E. ECKES, JR., INTERNATIONAL TRADE COMMISSION, AND TO THE GOVERNORS OF THE WESTERN STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Forty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States sheep industry has been an integral historic part of the agricultural economy of Idaho and of the nation; and

WHEREAS, the United States stock sheep industry, as of January 1, 1984, has the lowest number of sheep since estimates were started in 1867, with Idaho's sheep population showing a similar decline from 2.3 million head in 1920 to 355,000 head in 1984; and

WHEREAS, the sheep industry contributes substantially to the American economy and to production of food and fiber; and

WHEREAS, the sheep industry, which is nonpolluting and utilizes a rapidly renewing resource, is in grave danger of collapse due to problems, of which one notable problem is the lack of control of foreign lamb imports during key periods into key areas of the United States; and

WHEREAS, other major and minor domestically produced red meats, especially beef, veal, mutton and goat meat, are protected by congressionally mandated import quotas; and

WHEREAS, the sheep industry of this country cannot stand another year of breaking the lamb market with excessive dumping of subsidized New Zealand lamb cuts during key periods in key American markets, which unfairly compete with domestic lamb sales; and

WHEREAS, it has been reported that New Zealand is deliberately and cleverly analyzing our domestic sheep industry and market so as to

cause weakening.

NOW, THEREFORE, BE IT RESOLVED by members of the Second Regular Session of the Forty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that for the immediate future, the President of the United States and the Congress of the United States, direct the United States Department of Commerce to intervene immediately to petition the International Trade Commission to cause New Zealand to forthwith cease and desist the dumping of lamb cuts stored in freezer lockers in this country on key American markets during key periods, causing a devastating impact on the domestic market such as occurred in the spring and summer of 1983.

BE IT FURTHER RESOLVED that the United States Congress is hereby urged to pass import quota legislation dealing with lamb specifically, which would effectively protect the sheep industry of Idaho and the nation from the indiscriminate importation and/or dumping of foreign produced lamb into this nation's wholesale and retail markets.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the Secretary of Commerce, the Secretary of Agriculture, the President of the Senate and the Speaker of the House of Representatives of Congress, the Chairmen of the Senate Agriculture and House Agriculture Committees in Congress, the congressional delegation representing the State of Idaho in the Congress of the United States, the Chairman of the International Trade Commission, and to the Governors of the western states.

Adopted by the Senate February 14, 1984.
Adopted by the House February 24, 1984.

HOUSE JOINT MEMORIALS

(H.J.M. No. 11)

A JOINT MEMORIAL

TO PRESIDENT RONALD REAGAN, SECRETARY OF THE INTERIOR WILLIAM CLARK, SECRETARY OF AGRICULTURE JOHN R. BLOCK, THE PRESIDENT OF THE SENATE AND SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE CHAIRMAN OF THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, THE CHAIRMAN OF THE HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE, THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, AND THE GOVERNORS OF THE WESTERN STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Forty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the latest U.S. Department of Interior Northern Rocky Mountain Wolf (Canis lupus irremotus) Recovery "Technical Review Draft" identifies as "The Idaho Recovery Area" the Selway Bitterroot, River of No Return, Sawtooth and the Gospel Hump wilderness areas totaling about 3.75 million acres as well as about 3 million acres of U.S. Forest Service lands now managed as multiple use; and

WHEREAS, the Northern Rocky Mountain Wolf Recovery Draft Management guidelines call for extreme curtailment of multiple use activities on those lands incorporated into any wolf recovery plan; and

WHEREAS, the vast majority of testimony given at public hearings held in Idaho in regard to a wolf recovery project as well as comments submitted by the public on the Northern Rocky Mountain Wolf Recovery Plan overwhelmingly oppose any wolf recovery plan on lands now managed for multiple use and, indeed, to the entire Northern Rocky Mountain Wolf Recovery Plan itself; and

WHEREAS, the environmental conditions that existed a century ago that were conducive to wolf habitat no longer exist today, particularly on lands now managed for multiple use; and

WHEREAS, the Minnesota Wolf Recovery Plan has shown that the State has no effective control measures once the wolf population is restored.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty-seventh Idaho Legislature, the House of

Representatives and the Senate concurring therein, that the United States Department of Interior Fish and Wildlife Service is hereby urged to terminate any program to reestablish wolf populations in the State of Idaho that would deny Idahoans their historic rights and privileges on federal lands now managed as multiple use.

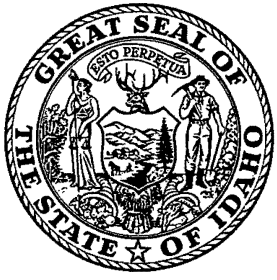
BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to President Ronald Reagan, Secretary of the Interior William Clark, Secretary of Agriculture John R. Block, the President of the Senate and the Speaker of the House of Representatives of the United States in Congress assembled, the Chairman of the Senate Energy and Natural Resources Committee, the Chairman of the House Interior and Insular Affairs Committee, the congressional delegation representing the State of Idaho in the Congress of the United States, and the Governors of the western states.

Adopted by the House March 1, 1984.
Adopted by the Senate March 14, 1984.

CERTIFICATE OF SECRETARY OF STATE

UNITED STATES OF AMERICA)
) ss.
STATE OF IDAHO)

I, PETE T. CENARRUSA, Secretary of the State of Idaho, do hereby certify that the foregoing printed pages contain true, full, and correct and literal copies of all the general laws and resolutions passed by the Forty-seventh Legislature of the State of Idaho, Second Regular Session thereof, which convened January 9, 1984, and adjourned March 31, 1984, as they appear in the enrolled acts and resolutions on file in this office, all of which are published by authority of the Laws of the State of Idaho.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho. Done at Boise City, the Capital of Idaho, this 20th day of April, 1984.

Secretary of State

When errors appear in the enrolled bills received from the Legislature at the office of the Secretary of State, this office has no authority to correct them.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 83-5

ABOLITION OF THE STATEWIDE PRIVATE INDUSTRY COUNCIL, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-10

WHEREAS, the 1978 amendments to the Comprehensive Employment and Training Act (CETA) required each Prime Sponsor to establish a Private Industry Council (PIC); and

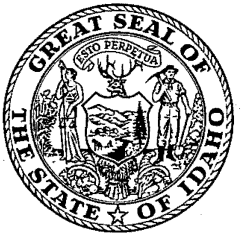
WHEREAS, the Job Training Partnership Act (JTPA) of 1982, which replaces CETA, requires the establishment of a Private Industry Council for each of the designated Service Delivery Areas; and

WHEREAS, each of the Chief Local Elected Officials of the six Service Delivery Areas have had their PICs certified;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, effective June 1, 1983, do hereby repeal Executive Order No. 82-10 and thereby abolish the Statewide Private Industry Council and staff located in the Office of the Governor; and

FURTHER, do hereby transfer any statewide PIC over-site authority that may be required during the remainder of the transition period from CETA to JTPA--June 1, 1983, to September 30, 1983--to an appropriately composed subcommittee of the State Job Training Coordinating Council.

This order shall be in effect on and after June 1, 1983.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-seventh day of May, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred seventh, and of the Statehood of Idaho the ninety-third.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-6

RESTORATION OF GENERAL ACCOUNT ALLOTMENTS AND REPEAL OF EXECUTIVE ORDERS NO. 82-17 AND 82-27

WHEREAS, by Executive Orders No. 82-17 and No. 82-27, I have ordered reductions in allotments pursuant to Section 67-3512A, Idaho Code; and

WHEREAS, the Board of Examiners has reduced appropriations for most state agencies thus rendering the continuation of such allotment reductions unnecessary; and

WHEREAS, I have determined that monies available in the General Account will substantially exceed revenue projections for the current fiscal year; and

WHEREAS, said Section 67-3512A, Idaho Code, authorizes the Governor to restore allotments previously ordered reduced; and

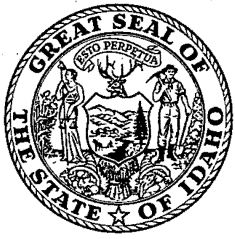
WHEREAS, evidence presented by representatives of the Department of Law Enforcement, Department of Lands, and the State Board of Education at public hearing of this date before the Board of Examiners has demonstrated a need to restore allotments for various programs under their respective direction;

NOW THEREFORE, I, JOHN V. EVANS, by the authority vested in me as Governor of the State of Idaho pursuant to Section 67-3512A, Idaho Code, do hereby order:

1. That Executive Orders No. 82-17 and 82-27 be and the same are hereby repealed.
2. That the General Account allotments on file in the Office of the State Auditor for the following programs and agencies be restored by the following amounts:

Program	Amount Restored	Resulting Allotment
State Board of Education:		
Colleges and University	$3,000,000	$68,690,700
Vocational Education	600,000	14,147,000
Agricultural Research/Exten.	600,000	8,826,700
Department of Law Enforcement	70,000	3,215,600
Department of Lands	47,000	4,862,100

This Order shall take effect immediately upon its execution.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the eighth day of June, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred seventh, and of the Statehood of Idaho the ninety-third.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-7

ESTABLISHMENT OF THE POLICY FOR THE IMPLEMENTATION OF THE 1122 REVIEW PROGRAM IN THE STATE OF IDAHO

WHEREAS, health care and its availability, accessibility, development, cost, quality, and utilization are primary concerns of all Idaho citizens; and

WHEREAS, the need to be able to access quality health care is required for all Idaho citizens; and

WHEREAS, as Governor of the State of Idaho, I have the authority to enter the State of Idaho into an agreement with the Secretary of the United States Department of Health and Human Services for the conduct of a capital expenditure review program for health facilities within the State of Idaho pursuant to Section 1122 of the Social Security Act (42 USC Chapter 7); and

WHEREAS, to assure availability and accessibility of health care to all citizens of the state and to insure that duplication of services, excessive development of health care facilities or services and containment of health care costs are controlled, and implementation of a Section 1122 review program is necessary and proper;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby declare that a health facilities capital expenditure review program pursuant to Section 1122 of the Social Security Act will be implemented effective July 1, 1983.

The 1122 review program is a regulatory review process to be administered by the Department of Health and Welfare which department is hereby proclaimed to be the designated planning agency for purposes of the 1122 review program.

For the purpose of assuring that federal and state funds appropriated pursuant to Titles V, XVIII, and XIX of the Social Security Act are not used to support unnecessary capital expenditures made by or on behalf of health care facilities which are reimbursed under any of such titles or state statutes, expenditures shall be analyzed and a determination as to whether they are appropriate shall be made. The Director of the Department of Health and Welfare or the Director's designee shall, after consideration of the record of review and input from the State Health Planning and Development Agency and the Health Systems Agency, make a recommendation on proposed capital expenditures to the Secretary of the United States Department of Health and Human Services for his final approval or disapproval.

The implementation of this new health facilities capital expenditure review law in the State of Idaho, effective July 1, 1983, further requires that the Department of Health and Welfare as the designated planning agency promulgate the necessary rules and regulations implementing the 1122 review process to be in place at the same time as the law goes into effect.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the thirteenth day of June, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred seventh, and of the Statehood of Idaho the ninety-third.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-8

STATEWIDE HEALTH COORDINATING COUNCIL

WHEREAS, the Congress of the United States has enacted the National Health Planning and Resources Development Act of 1974 (P.L. 93-641) and the Health Planning and Resources Development Amendments of 1979 (P.L. 96-79) for which the stated purpose is to "facilitate the development of recommendations for National Health Planning Policy, to augment area wide and state planning for health service, manpower and facilities, and to authorize financial assistance for the development of resources to further that policy"; and

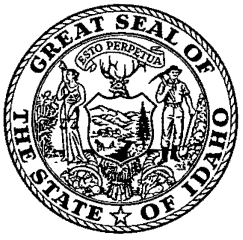
WHEREAS, timely implementation of this Act requires the involvement of all levels of government, cooperation among all participants in both the public and private sectors of the health care field, and consumers;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby continue the Statewide Health Coordinating Council pursuant to the provisions of P.L. 93-641 and P.L. 96-79.

FURTHERMORE, within the compositional restrictions of P.L. 93-641 and P.L. 96-79, the Council shall consist of eighteen (18) members appointed by the Governor. At least eleven (11) of the members will represent Idaho Health Systems Agency, Inc., established pursuant to the provision of P.L. 93-641 and P.L. 96-79. The remaining seven (7) members shall be selected and appointed by the Governor. The Council shall also include, in addition to the appointed members, a representative from the State Veterans' Administration Facility and the State Health Officer as ex-officio members. The Statewide Health Coordinating Council membership will represent the health professions; various units and levels of government, public, private and voluntary health associations; rural and urban medically underserved population; ethnic, racial and other minority groups. In the aggregate, the Council shall include persons from all social-economic stations in life and representing various geographic areas in the state; the majority of the members shall be persons classified as consumers of health ser-

vices as defined by P.L. 93-641 and P.L. 96-79. The Statewide Coordinating Council Chairman shall be appointed by the Governor in consultation with the Senate.

FURTHER, the Idaho Department of Health and Welfare, as previously designated in Executive Order No. 77-6 as the State Health Planning and Resource Development Agency, is hereby directed to serve as the professional staff resource to the Council in accordance with the provisions of P.L. 93-641 and P.L. 96-79.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-first day of June, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred seventh, and of the Statehood of Idaho the ninety-third.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-9

DELEGATION OF RULE-MAKING APPROVAL UNDER SECTION 72-1333(b), IDAHO CODE

WHEREAS, Section 72-1333(b) of the Idaho Code, authorizes the Director of the Idaho Department of Employment to adopt, amend, or rescind such rules and regulations as may be necessary for the proper administration of the Employment Security Law of Idaho, subject to the prior approval of the Governor; and

WHEREAS, it is my belief that the Director of the Department of Employment is in a position to make a more fully informed and expeditious determination as to the need for proposed rules and regulations because of direct involvement in the administration of the Employment Security Law and ready access to critical information and technical advice concerning the administration of the law; and

WHEREAS, it is in the best interest of the State to encourage the prompt resolution of any problems in the administration of the Employment Security Law; and

WHEREAS, the procedures required by the Administrative Procedure Act, Section 67-5201, et.seq., Idaho Code, provide more than adequate opportunities for the public to examine and comment on proposed rules and regulations;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby delegate my right of prior approval under Section 72-1333(b) of the Idaho Code to the Director of the Idaho Department of Employ-

ment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twentieth day of June, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred seventh, and of the Statehood of Idaho the ninety-third.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-10

DESIGNATING THE DEPARTMENT OF EMPLOYMENT AS THE RECIPIENT OF ALL FUNDS UNDER THE WAGNER-PEYSER ACT, AS AMENDED, BY THE JOB TRAINING PARTNERSHIP ACT TO BE ALLOCATED TO IDAHO IN SUPPORT OF THE STATE PLAN.

WHEREAS, the Job Training Partnership Act (JTPA), Public Law 97-300 wherein the Wagner-Peyser Act was amended for the purpose of fostering a new partnership between the federal government, the states, and private sector employers and to provide maximum authority and flexibility to the states in responding to the labor market needs of their jurisdictions; and

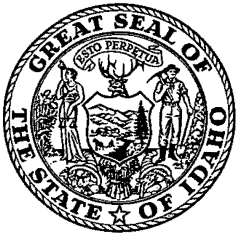
WHEREAS, Executive Order No. 83-1 assigns to the Department of Employment the general responsibility for implementation and administration of the Job Training Partnership Act of 1982; and

WHEREAS, that Act charges the Governor with substantial responsibility for implementing its provisions;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby order the following:

1. The designation of the Department of Employment as the signatory official for all grants and official documents required under the Wagner-Peyser Act, as amended;
2. The designation of the Department of Employment as the recipient of all funds to be allocated to or negotiated with Idaho in support of the state plans as required under Sections 7(a), 7(b), and 7(c) of the Act and as may be approved by the Employment and Training Administration;
3. Designation of the Department of Employment to enter into reimbursable agreements when appropriate for non-Wagner-Peyser authorized activities such as labor certification, migrant housing inspections, national labor market information, Disabled Veterans Outreach, and Local Veterans Employment Representatives; and

4. Further, as prescribed by the Act, Section 8(b), Employment Service component plans applying to each Service Delivery Area (SDA) will be developed jointly with the appropriate SDA officials and will be in accordance with the Governor's Coordination and Special Service Plan and the approved formula for distribution of resources.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twentieth day of June, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred seventh, and of the Statehood of Idaho the ninety-third.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-11

CONTINUING HEALTH SERVICE AREAS FOR THE STATE OF IDAHO

WHEREAS, the Second Session of the 93rd Congress of the United States of America did enact the National Health Planning and Resources Development Act of 1974, such Act being subsequently amended by the 96th Congress; and

WHEREAS, the President of the United States of America did concur with the Second Session of the 93rd Congress by signing into law the National Health Planning and Resources Development Act of 1974 and the subsequent amendments; and

WHEREAS, it is the stated purpose of the Act to "facilitate the development of recommendations for a national health planning policy, to augment area wide and state planning for health services, manpower, and facilities, and to authorize financial assistance for the development of resources to further that policy"; and

WHEREAS, the President and Congress of the United States of America did, through the enactment of the National Health Planning and Resources Development Act of 1974 amended in 1979, direct the governors of the several states to submit their designations to the Secretary of Health, Education and Welfare; and

WHEREAS, in pursuance of his obligation to designate the boundaries of health service areas in the State of Idaho, the Governor of the State of Idaho did cause an Ad Hoc Task Force to define the alternatives available to the Governor in the designation of health service areas in the State of Idaho; and

WHEREAS, in the discharge of its responsibilities, the Governor of

the State of Idaho directed the Ad Hoc Task Force to conduct public hearings throughout the State to solicit and receive statements and opinions of the public at large; and

WHEREAS, members of the Ad Hoc Task Force and the public at large expressed the need for efficiency, effectiveness, productivity, and a lack of duplication in health planning in the State of Idaho; and

WHEREAS, a significant majority of the public at large have clearly stated the desire to preserve, strengthen, and guarantee effective and decisive local input in health planning in the State of Idaho;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by authority vested in me by law, do hereby establish six (6) health service subareas within the State of Idaho, the boundaries of which shall be as follows:

Region I----Boundary, Bonner, Kootenai, Benewah and Shoshone Counties (Panhandle Region)

Region II---Latah, Clearwater, Nez Perce, Lewis and Idaho Counties (Clearwater Region)

Region III--Adams, Valley, Washington, Payette, Gem, Canyon, Boise, Ada, Elmore and Owyhee Counties (Southwest Region)

Region IV---Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka, Twin Falls and Cassia Counties (Magic Valley Region)

Region V----Bingham, Power, Bannock, Oneida, Franklin, Caribou and Bear Lake Counties (Southeast Region)

Region VI---Lemhi, Custer, Butte, Clark, Jefferson, Fremont, Madison, Teton and Bonneville Counties (Eastern Region)

FURTHER, for the purposes of the National Health Planning and Resources Development Act of 1974, As Amended, the six (6) health service subareas established by this Executive Order shall collectively constitute the health service area for the State of Idaho.

It is the explicit intent of this Executive Order to promote efficiency and to prevent duplication in health planning in the State of Idaho, but only in such a manner as to guarantee and actively promote decisive local input in the health planning process.

For that reason, I do further direct the establishment of six (6) subarea health councils, one in each of the six (6) health service subareas within the State. The membership of these councils shall conform with the requirements of the National Health Planning Development Act of 1974, As Amended, and shall be appointed only after consultation with the chief elected official of each local political subdivision within the boundaries of the respective health service subareas.

In order to protect and promote effective local input in health service planning within the State of Idaho, I do further direct that the Health Systems Agency established within the State of Idaho for the purposes of the National Health Planning and Resources Development Act of 1974, As Amended, shall be composed of eighteen (18) members, comprised of three (3) members each from the six (6) subarea councils, plus appropriate representation from the Standard Metropolitan Statistical Area and appropriate state and federal officials.

In order to assist in the prompt and orderly implementation of the

provisions of this Executive Order, I do hereby designate the State Department of Health and Welfare as the State Health Planning and Development Agency pursuant to the National Health Planning and Resources Development Act of 1974, As Amended.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twentieth day of June, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred seventh, and of the Statehood of Idaho the ninety-third.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-12

ESTABLISHMENT OF THE COUNCIL ON THE ECONOMY AND GOVERNMENT REORGANIZATION

WHEREAS, no goal is of greater importance to the people of Idaho than revitalization of the economy on which they depend for their livelihood, the security of their families, and the future of their children; and

WHEREAS, state government, more than federal or local government, can play an instrumental role in laying a foundation for a prosperous economy; and

WHEREAS, to help guarantee success in this endeavor, it is critical that the state's efforts at economic development be coordinated and organized in a manner so as to maximize its impact when these efforts involve many government agencies guided by numerous individuals and operating under a variety of differing legal mandates; and

WHEREAS, I believe a streamlined state government will be a valued partner with business, education, labor, and the citizens of Idaho in building Idaho's economy;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-802, Idaho Code, do hereby order the establishment of the Council on the Economy and Government Reorganization in the Division of Financial Management. The Council shall consist of a chairman and such members as may be appointed by the Governor and who will serve at his pleasure.

The Council shall:

1. Examine state government structure, organization, and activities for the purpose of making recommendations to maximize the state's effectiveness in economic development activities;
2. Make public its findings and recommendations to the Governor and Legislature prior to the opening of the 2nd Regular Session of the 47th Idaho Legislature; and
3. Conduct whatever other business it determines necessary.

Members shall serve without compensation but may be reimbursed for travel and other expenses. Additional support will be provided by the Division of Financial Management and other state agencies as necessary.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the 13th day of July, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-13

EMPLOYEE ORGANIZATIONS AND THE STATE SERVICE

WHEREAS, the public interest requires high standards of performance and morale among employees of the State of Idaho; and

WHEREAS, the well-being of employees and efficient administration of government are benefitted by providing employees an opportunity to participate in employee organizations which advance their interest; and

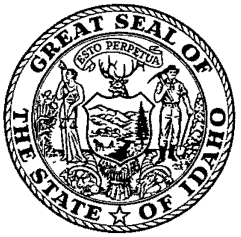
WHEREAS, the right of employees to associate in employee organizations of their choice is a fundamental human and constitutional right;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and Statutes of the State of Idaho, do hereby direct that the following policies shall govern officers and employees of the State of Idaho in dealings with employee organizations.

Section 1. Each employee of the State of Idaho has the right, freely and without fear of penalty or reprisal, to form, join, and assist an employee organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this

section and that no interference, restraint, coercion, or discrimination is practiced within the agency to encourage or discourage membership in an employee organization.

Section 2. Employee organizations have the right of reasonable access to places where state employees work, including the use of bulletin boards and meeting spaces, as long as such access does not interfere with the efficient administration of government.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifth day of September, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-14

ESTABLISHMENT OF THE IDAHO COUNCIL FOR PURCHASES FROM SEVERELY DISABLED PEOPLE

WHEREAS, it is in the public interest to promote employment opportunities for severely disabled people; and

WHEREAS, the rehabilitation facilities of Idaho strive to provide employment opportunities for severely disabled people; and

WHEREAS, the Idaho Code provides for the purchase of goods and services by the agencies of the State of Idaho which are produced by severely disabled people employed by rehabilitation facilities;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and Laws of the State of Idaho, do hereby order the establishment of the Idaho Council for Purchases from Severely Disabled People.

The Council's responsibilities will be:

1. To promote the purchase by state agencies of goods and services produced by severely disabled people in rehabilitation facilities under the auspices of Section 67-2319, Idaho Code;
2. To conduct monitoring and study of the implementation of the purchasing program authorized by said Section 67-2319;
3. To designate a central nonprofit organization to coordinate the participation of rehabilitation facilities in the Idaho purchasing program and develop procedures for such participation;
4. To advise the Division of Purchasing on the development and

operation of a program to purchase products and services from severely disabled people in rehabilitation facilities; and

5. To provide an annual report of activities, products, services, employment opportunities, and other benefits derived from this program.

The Governor shall appoint the Council Chairperson and members of the Council who shall serve at the pleasure of the Governor. Council members shall be selected from rehabilitation facilities, the Division of Purchasing, the private sector, a labor organization, the Division of Vocational Rehabilitation, and the Division of Community Rehabilitation.

The Council shall be administratively supported by the Division of Vocational Rehabilitation and be formed not later than November 1, 1983.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-sixth day of October, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-15

DISABILITY DETERMINATIONS UNIT CONTINUED IN THE EXECUTIVE OFFICE OF THE GOVERNOR--REPEALING AND REPLACING EXECUTIVE ORDER NO. 81-6

WHEREAS, the Disability Determinations Unit was established as a unit of state government within the Executive Office of the Governor on April 12, 1979; and

WHEREAS, there continues to be a need for the important services provided by the Disability Determinations Unit;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me under the Constitution and Laws of the State of Idaho, do hereby order that the Disability Determinations Unit is hereby continued in the Executive Office of the Governor.

This Executive Order repeals and replaces Executive Order No. 81-6.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the sixteenth day of September, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

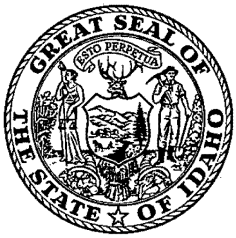
EXECUTIVE ORDER NO. 83-16

PROHIBITING THE USE OF STATE FUNDS TO PAY FOR PROFESSIONAL DUES, FEES AND MEMBERSHIPS IN PROFESSIONAL ASSOCIATIONS-- REPEALING AND REPLACING EXECUTIVE ORDER NO. 81-11

WHEREAS, recognizing that there is need for a uniform state policy in regard to the payment of professional dues, fees, and memberships for state employees, I find it is essential to continue the policy for all state employees in the Executive Department which was initiated through Executive Order No. 81-11.

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do proclaim the following policy to be continued:

> No state money shall be used to pay for any kind of professional, occupational or trade license, certificate, permit or occupational registration for any state employee or officer; nor shall any state monies be used to pay for any kind of dues to any professional, occupational or trade association in which membership is restricted to persons who are licensed, certified or registered under Idaho law. This policy does not preclude the state or state departments from paying dues to organizations relating to their responsibilities in state government.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-sixth day of October, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-17

CONTINUATION OF THE IDAHO YOUTH COMMISSION AND THE OFFICE OF JUVENILE JUSTICE AND YOUTH-- REPEALING AND REPLACING EXECUTIVE ORDER NO. 81-9

WHEREAS, juvenile delinquency results in significant costs to the State of Idaho and its people in terms of human life, personal security and wasted human resources; and

WHEREAS, prevention and early rehabilitation and diversion programs can have a major impact on reducing delinquency; and

WHEREAS, the State of Idaho must offer our youth who come into conflict with the law opportunities to reevaluate their conduct and its impact on their future; and

WHEREAS, the victims of juvenile crime have a right to expect government to approach juvenile offenders in a firm, humane and effective manner; and

WHEREAS, juvenile delinquency is a community problem which requires community involvement and a focus reflecting the experience and values of Idaho; and

WHEREAS, the continuation and enhancement of youth services programs is in the best interests of all Idahoans;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby establish the Idaho Youth Commission and the Office of Juvenile Justice and Youth within the Office of the Governor.

The Commission's responsibilities will be:

1. To advise the Governor on problems, policies, and programs relating to children and youth who are now or may in the future come into conflict with the law;
2. To encourage delinquency prevention programs for youth;
3. To encourage interagency cooperation and coordination;
4. To evaluate the recommendations of the Idaho Planning Committee for Children and Youth Services submitted to the Governor

in January 1980 and to advocate the implementation of those recommendations deemed necessary;

5. To carry out all responsibilities required by the Juvenile Justice and Delinquency Prevention Act (P.L. 93-415) as amended, including distribution, monitoring, and evaluation of federal grant funds made available to the State of Idaho under this Act; and including the preparation and administration of the State plan submitted under Section 223 of P.L. 93-415, as amended; and
6. To present to the Governor on June 30 of each year a report on the Commission's achievements and impact on youth services programs and policies.

The Commission will be composed of not less than 15 or more than 33 members appointed by the Governor according to the following guidelines.

The membership shall include:

1. Locally-elected officials;
2. One-third who are under age 24 when appointed, including three who are or have been under jurisdiction of the juvenile justice system; and
3. No more than ten members who are full-time employees of federal, state or local government.

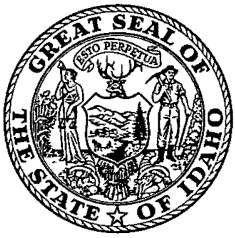
The Council membership may be drawn from representatives of:

--local law enforcement, probation, and corrections
--juvenile or family court judges
--delinquency prevention or treatment agencies--public, private and community-based
--groups serving neglected or dependent children
--organizations, concerned with the quality of juvenile justice, education and social services
--business groups and businesses employing youth
--youth involved in any youth programs
--persons with special experience in the area of learning disabilities
--organizations representing the law enforcement, social work, education, and other related professions.

Commission members will serve a term of one year or at the pleasure of the Governor. The Governor will appoint a chairman and vice-chairman, whose terms will also be one year. The Council may establish an executive committee and subcommittees at its discretion.

The Office of Juvenile Justice and Youth will be headed by an Administrator appointed by the Governor. The position Administrator will be exempt from the provisions of Chapter 53, Title 67, Idaho Code, and responsible for hiring and supervising the support staff who shall be classified as "limited service employees."

The Office of Juvenile Justice and Youth shall assist the Idaho Youth Commission in carrying out its responsibilities. The Office shall report to the Governor or such persons as he might designate any and all information he might request.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-sixth day of October, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-18

ASSIGNMENT OF DISASTER/EMERGENCY PREPAREDNESS AND RESPONSE FUNCTIONS TO STATE AGENCIES FOR NATURAL, MAN-MADE, AND NUCLEAR DISASTERS

WHEREAS, widespread disaster resulting from floods, fires, storms, earthquakes, hazardous materials, tornadoes, landslides, mudslides, drought, explosion, riot, hostile military actions, or other catastrophe is an ever present possibility in this State; and

WHEREAS, Chapter 10, Title 46 of the Idaho Code requires the protection of lives and property of the residents of the State in any type of natural or man-made disaster, enemy attack, sabotage or other emergency that might conceivably confront the State; and

WHEREAS, it is the duty of all State officials to assume active leadership in disaster preparedness, response, and recovery operations; and

WHEREAS, the Legislature has directed the development of such State emergency mitigation, preparedness, response, and recovery plans; and

WHEREAS, effective State preparedness, response, and recovery planning requires the identification of functions that would have to be performed during such emergencies, the assignment of responsibility for performance of these functions, the assignment of responsibility for developing the capability to implement these plans;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this State, and in accordance with the provisions of Section 46-601 of the Idaho Code, do hereby assign emergency mitigation, preparedness, response, and recovery functions to the various agencies. Each department and agency with essential functions, whether expressly identified in the Order or not, shall:

I. GENERAL ASSIGNMENTS

A. Develop and maintain disaster/emergency operations plans to carry out effectively the agency's disaster/emergency functions,

including assignment of disaster/emergency duties to all subdivisions and personnel. Plans shall be kept current and a copy placed on file in the office of the Bureau of Disaster Services.

B. Appoint a disaster coordinator and furnish that name to the Bureau of Disaster Services.

C. When a major disaster or an emergency requires the activation of the State Emergency Operations Center, the agency head or representative will be directed to report to that facility to serve as a member of the Governor's staff. The representative will provide continuing liaison with the Governor and other agencies and establish immediate contact with the Bureau of Disaster Services.

D. Make resources and facilities available for essential emergency use.

E. Provide coordination and support during disaster or emergency operations as required by the State of Idaho Emergency Plan.

F. Grant and/or use waivers in accordance with the applicable Idaho Code for necessary response to and recovery operations from a disaster/emergency.

G. Provide for training of personnel in appropriate disaster mitigation, preparedness, response, and recovery functions.

II. SPECIFIC ASSIGNMENTS

A. OFFICE OF THE ATTORNEY GENERAL

1. Provide legal advise and assistance to all executive officers of State government and to all offices or agencies of the State upon any question of law relating to their respective functions.
2. Provide consumer protection assistance.
3. Provide staff assistance, if available, to the Highway District Engineer at district level when the Emergency Operations Center is activated during an impending or actual nuclear attack.

B. MILITARY DIVISION (Office of the Adjutant General)

1. Provide executive supervision and policy guidance to the Bureau of Disaster Services.
2. Coordinate the activities of all State agencies on behalf of the Governor. (Section 46-1006, Idaho Code).
3. Provide military support and advise and make recommendations to civil authorities on the employment of military forces during a disaster/emergency in accordance with Federal and State laws and regulations.
4. Provide specific guidance as required for emergency preparedness planning and programming for State military forces.
5. Order into the active service of the State, the National Guard or any part thereof as directed by the Governor in the event a state of extreme emergency has been declared. (Section 46-601, Idaho Code).
6. Establish a statewide military emergency communications system. During emergencies, maintain communications between the State Emergency Operations Center and State military headquarters. Develop a capability for utilization of radio

communications between the State military forces, State highway districts, and civil law enforcement agencies. Provide a mobile communications center for joint military/civil use as required at the scene of operations during emergencies.

7. Through the Coordinator, Bureau of Disaster Services:
   a. Coordinate operations of all State agencies during a natural, man-made, or enemy-caused disaster.
   b. Establish and maintain an Emergency Operations Center for controlling and directing emergency operations.
   c. Coordinate plans with local officials for the search, rescue, and care and treatment of injured persons who are lost, entrapped, victimized or threatened by a disaster. When ground search assistance is requested by a county sheriff, the Bureau of Disaster Services will designate a State Coordinator.
   d. Develop and coordinate the preparation and implementation of plans and programs for emergency mitigation, preparedness, response, and recovery which are consistent with national plans and programs.
   e. Ensure the effective coordination and control of State resources in support of radiological emergency response activities concerning fixed nuclear facilities and other nuclear and hazardous materials incidents during transport.
   f. Provide for mutual support between the State's civil government and Federal agencies.
   g. Assist local governments in the development of their emergency disaster preparedness planning.
   h. Coordinate all requests from local governments for disaster assistance.
   i. Administer Federal programs of disaster planning and assistance pertinent to State and local government.
   j. Coordinate use of communications and warning systems in the State Emergency Communications Center.
   k. Provide for annual testing of the State Emergency Plan and training of State agency personnel for damage assessment, damage survey and radiological monitoring.

C. DEPARTMENT OF ADMINISTRATION

1. Through the Administrator, Division of General Services:
   a. Maintain liaison with the communications media, i.e., radio and television and State agencies for improving and maintaining warning and emergency communications systems.
   b. Assist in the development of plans for use of all nonmilitary communications and warning systems within the State during an emergency.
   c. Assist other State and local agencies in procuring communications and warning equipment required to fulfill emergency responsibilities.
   d. Prepare communications and warning studies to improve emergency communications.

2. Through the Administrator, Division of Public Works:
   a. Provide personnel for damage assessment and damage survey teams.
   b. Provide assistance to State and local health authorities with emergency sanitation problems.
   c. Assist in planning for emergency use of public lands, hospitals, institutions and other buildings.
   d. Supervise and coordinate the securing of construction equipment and personnel as pertains to essential facilities and housing.
3. Provide administrative and logistical support services.
4. Provide contractual assistance and guidance to local governments.
5. Responsible to the Bureau of Disaster Services for the administrative direction and support of the Capitol Mall Shelter Complex.
6. Provide security for the State Emergency Operations Center and Capitol Mall Shelter Complex.

D. DEPARTMENT OF AGRICULTURE

1. Act as responsible agency for securing information concerning crop losses during disasters/emergencies.
2. Coordinate with local officials for the evacuation of domestic livestock, animals, and pets, and the establishment of evacuation reception areas for appropriate animal care.
3. Coordinate feeding requirements for livestock and other animals.
4. Coordinate dead animal removal.
5. Provide personnel for radiological monitoring.
6. Coordinate with the Department of Health and Welfare in the control of pesticides.
7. Provide technical assistance concerning livestock health, disease control, and preventive medicine.
8. Coordinate with appropriate agencies in the distribution of medical supplies for livestock, other animals, and pets.
9. Provide for emergency management and operation of the food resource control group.
10. Provide staff assistance to the Highway District Engineer at district level when the Emergency Operations Center is activated during an impending or actual nuclear attack.

E. STATE AUDITOR

1. Perform the required audits following natural or man-made disasters and emergencies.
2. Provide inventory of State employees to the Bureau of Disaster Services when the State Emergency Operations Center is activated during an impending or actual nuclear attack.
3. Initiate the warrant payment process in order to fulfill fiscal obligations resulting from goods and services supplied State agencies during the execution of emergency actions.

F. STATE BOARD OF EDUCATION

1. State Department of Education
   a. Provide guidance and coordinate plans for ensuring the

safety of the school population in time of emergency.

b. Develop and coordinate plans with local school districts for use of buses for emergency transport.

c. Develop and coordinate plans for the utilization of school facilities for reception, shelter, mass feeding, and Disaster Assistance Centers during natural or man-made disasters.

d. Provide personnel to assist in the damage assessment of public school facilities.

2. The Office of the State Board of Education

a. Assist in coordinating activities for damage assessments and damage surveys for higher educational and area vocational-technical facilities.

b. Assist in coordinating the utilization of higher educational facilities for reception, shelter, mass feeding, and Disaster Assistance Centers during natural or man-made disasters, if required.

G. DEPARTMENT OF EMPLOYMENT

1. Survey manpower resources and requirements.
2. Provide recruitment and utilization of the labor force.
3. Identify areas and occupations of labor shortages and supply.
4. Provide unemployment insurance claims service for the disaster victims in the Disaster Assistance Centers.
5. Provide reemployment assistance to individuals unemployed as a result of a natural or man-made disaster.

H. DEPARTMENT OF FINANCE

1. Provide for operation of the economic stabilization control group, which includes money, credit and banking, price and rent controls, and consumer rationing.

I. DEPARTMENT OF FISH AND GAME

1. Provide personnel to be used as auxiliary police during emergencies.
2. Assist in search and rescue operations.
3. Assist the Department of Health and Welfare in determining environmental impact of proposed emergency operations and suggest alternative methods or actions to keep resulting environmental damage to a minimum.
4. Provide personnel for damage assessment and damage survey teams and radiological monitoring.
5. Provide emergency communications assistance.

J. DEPARTMENT OF HEALTH AND WELFARE

1. Coordinate emergency welfare, medical, and health services throughout the State. Such responsibility includes the developing of general plans for public health and sanitation, emergency medical assistance, identification and mortuary services, mass care and feeding, food stamp distribution, crisis counseling, emergency social services, evacuation of sick and injured, use of hospitals and other medical facilities, protection from radiological, chemical, biological, and other hazardous materials, and environmental health and sanitation.

2. Responsible for assuring adequate supplies of potable water and coordinating with other appropriate State agencies for assistance.
3. Maintain and control the use of packaged disaster hospitals.
4. Responsible for general emergency planning, implementation, and direction of radiological emergency response operations activities in support of fixed nuclear facilities, nuclear waste incidents during transport, and other nuclear incidents.
5. Provide damage assessment and survey team personnel for health and welfare related functional activities, systems and structures.
6. Responsible for the environmental impact analysis of proposed emergency operations and for the suggesting of alternative methods or actions to keep resulting environmental damage to a minimum.
7. Provide emergency communications assistance.
8. Provide food stamp and disaster welfare services and personnel for receptionists, registrars, and exit interviewers in the Disaster Assistance Centers.
9. Develop an emergency organization for the coordination of disaster operations at the Regional level under the supervision of the Regional Services Manager.
10. Provide staff assistance to the Highway District Engineer at district level when the Emergency Operations Center is activated during an impending or actual nuclear attack.

K. DEPARTMENT OF INSURANCE

1. Provide insurance counseling services for the disaster victims in the Disaster Assistance Centers.
2. Prepare the insurance certifications that are required prior to receiving Federal disaster assistance.
3. Conduct an investigation as to the cause of a disaster when it pertains to fire or explosion.
4. Prepare preventative measures as a result of an investigation in the case of fire or explosion.
5. Help prepare a criminal case if a disaster is deliberately caused in the case of fire or explosion.

L. DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES

1. Provide inspectors for determining compliance with State Building Codes and Standards.
2. Provide personnel for damage assessment and damage survey teams.

M. DEPARTMENT OF LANDS

1. Cooperate with Federal and local governments in developing plans for and directing activities relating to the prevention and control of fires in the rural areas of the State.
2. Designate a State Fire Coordinator for rural fire suppression.
3. Develop plans and direct activities for the emergency protection, management and utilization of land resources, and facilities under the State's jurisdiction. Also, develop

plans for the emergency protection and processing of forest products in cooperation with other Federal, State and private agencies.

4. Provide emergency communications assistance.
5. Assist in search and rescue operations.
6. Provide staff assistance to the Highway District Engineer at district level when the Emergency Operations Center is activated during an impending or actual nuclear attack.

N. DEPARTMENT OF LAW ENFORCEMENT

1. Provide for the immediate safety and protection of personnel during the initial phase of the disaster; may include evacuation warning, scene protection, traffic control, etc.
2. Coordinate all requests for additional law enforcement personnel.
3. Operate a statewide emergency communications system which will be designated as the primary system during an emergency.
4. Operate the National Warning System (NAWAS) insofar as it relates to the State, until relieved by activation of the State Emergency Operations Center.
5. Develop, operate, and maintain a warning system for alerting State and local governments, with the assistance of the Bureau of Communications and the Bureau of Disaster Services.
6. Develop and implement plans for statewide emergency traffic control measures, to include evacuation.
7. Provide damage assessment and information on disaster incidents to the State Emergency Operations Center when activated.
8. Assist with hazardous materials incidents.
9. Provide brand inspection personnel to determine ownership of animals.
10. Provide public information assistance.
11. Assist in search and rescue operations.
12. Develop an emergency organization for the coordination of disaster operations at the district level under the supervision of the District Lieutenant.
13. Provide for mobile radiological monitoring.
14. Provide staff assistance to the Highway District Engineer at district level when the Emergency Operations Center is activated during an impending or actual nuclear attack.

O. DEPARTMENT OF PARKS AND RECREATION

1. Assist the Department of Lands in preventing and combating fires in rural areas.
2. Cooperate with the Department of Health and Welfare in providing appropriate departmental lands and facilities as mass care and feeding centers during emergencies.
3. Provide personnel for damage assessment and damage survey teams and radiological monitoring.
4. Assist in search and rescue operations.

P. DEPARTMENT OF REVENUE AND TAXATION

1. Provide tax counseling services for the disaster victims in the Disaster Assistance Centers.

Q. DIVISION OF ECONOMIC AND COMMUNITY AFFAIRS

1. Be prepared to develop a current inventory of Idaho industries at the onset of a disaster emergency.
2. Provide public information assistance.
3. Provide assistance to local units of government to restore local governmental functions.
4. Provide assistance and coordination to local units of government in obtaining assistance from other governmental entities.

R. TRANSPORTATION DEPARTMENT

1. Develop an emergency organization for the coordination of disaster operations at the district level under the supervision of the District Engineer.
2. Provide personnel for damage assessment and damage survey teams and radiological monitoring.
3. Provide engineering services, repair and maintenance of state highways, bridges, airfields, and debris clearance.
4. Assist with hazardous materials incidents.
5. Provide for emergency highway traffic regulations.
6. Provide emergency management of resources pertaining to construction and transportation.
7. Coordinate aviation activities within the State, to include the requirement for restricted air space within the disaster area.
8. Provide aviation resources for evacuation, search and rescue operations, and aerial radiological monitoring.
9. Operate a statewide communications system which will be designated as an alternate during an emergency.
10. Provide public information assistance.
11. Coordinate the activation of "Plan Bulldozer."
12. Provide for emergency management of the construction and transportation resource control group.

S. DEPARTMENT OF WATER RESOURCES

1. Conduct dam safety inspections and supervise dam safety during times of flooding or imminent failure by coordinating regulation of releases or emergency maintenance and repair to protect life and property. Advise Emergency Operations Center of impending emergency conditions, either as a result of imminent failure or of other conditions.
2. Coordinate operations of water control structures to minimize flood damage during impending or actual occurrence of a disaster.
3. Establish procedures to grant stream channel protection waivers to entities involved in emergency flood fight situations or when channel work is necessary on an emergency basis to protect life and property.
4. Assist agencies and individuals in obtaining emergency authorization from the Corps of Engineers, U.S. Army, under Public Law 92-500, to conduct flood control activities in waterways.

5. Provide trained personnel to recommend emergency actions before, during, and after flood emergencies.
6. Assist the Department of Health and Welfare in determining environmental impact of proposed emergency operations and suggest alternative methods or actions to keep resulting environmental damage to a minimum.
7. Provide personnel for damage assessment and damage survey teams.
8. Act as responsible agency to coordinate State efforts in drought disasters.
9. Provide assistance in finding and obtaining alternative water supplies during drought emergencies.
10. Assist the Department of Health and Welfare in assuring adequate supplies of potable water.
11. Act as the State Coordinating Agency for the Flood Insurance Program.
12. Provide emergency communications assistance.
13. Provide for emergency management and operation of the water resource control group, when directed.

III. EMERGENCY ACTIONS

Any emergency preparedness function under this Order or parts thereof may be transferred from one governmental agency to another with the consent of the heads of the agencies involved and with the concurrence of the Chief, Bureau of Disaster Services. Any new emergency preparedness function may be assigned to the head of a governmental agency by the Chief, Bureau of Disaster Services, by mutual consent.

The head of each governmental agency is hereby authorized to delegate the functions assigned to him by this Order.

This Order does not confer authority to put into effect any emergency plan, procedure or policy until my proclamation of a state of extreme emergency under the provisions of and as defined in Section 46-601, subparagraph (a), Idaho Code, and/or my proclamation of a disaster emergency under the provisions of Section 46-1008 of the Idaho Code is issued.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-sixth day of October, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-19

RETAINING THE FUNCTIONS OF THE ENERGY RESOURCES BUREAU WITHIN THE DEPARTMENT OF WATER RESOURCES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 81-12

WHEREAS, energy and the availability of long-range supplies are critical to the well-being of our state; and

WHEREAS, energy is as vital a natural resource as our water and land and is inextricably linked to our vital water resources; and

WHEREAS, it is further the responsibility of state government to employ measures to reduce wasteful, uneconomical and unnecessary uses of energy which will diminish Idaho's precious natural resources; and

WHEREAS, we must plan realistically, conserve our current energy resources, and develop new energy sources to assure a strong, healthy, and growing economy; and

WHEREAS, Executive Order No. 81-12 transferred the functions of the Idaho Office of Energy to the Idaho Department of Water Resources; and

WHEREAS, the consolidation of governmental activities relating to water resources and energy has provided for more efficient state services;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me by Article IV, Section 5, of the Idaho Constitution and Section 42-1706, Idaho Code, (1977); and Section 67-802, Idaho Code, (1980); do hereby renew Executive Order No. 81-12 and retain the energy planning, policy and coordination functions within the Idaho Department of Water Resources (hereinafter referred to as the Department) effective November 10, 1983.

SECTION 1. TRANSFER AND RETENTION OF FUNCTIONS: The Department, being authorized to accept and retain pursuant to Section 42-1706, Idaho Code, (1977); Section 42-1734A (1), Idaho Code, (Supp. 1983); Section 42-1805, Idaho Code, (1977); H.C. Res. 48, Policy No. 13, 44 Leg. 2nd Sess. (1978), 1978 Idaho Sess. Laws 1003, and as otherwise provided by law, is vested with the following energy planning, policy and coordination functions:

(a) Provide advice to the Governor, the Legislature and other public officials relating to the state's energy requirements, supply, resources, management, and production.

(b) Prepare and, as necessary, implement contingency plans for the conservation and allocation of non-state-regulated energy supplies during periods of shortages and supply interruptions.

(c) Promote energy conservation through research, public information and other activities.

(d) Promote the increased utilization of renewable energy resources through research, technical assistance, and public information.
(e) Assist local governments, school districts, and public institutions in obtaining funds and carrying out programs of improved energy management.
(f) Assist citizens in developing energy-efficient technologies.
(g) Provide public information and data on energy supplies, demands, resources, technologies, and conservation.
(h) Pursue and accept federal delegations of responsibility and authority for matters that affect the energy supply and consumption of the citizens of Idaho.
(i) Make contracts and enter into agreements and do all other things necessary to carry out the provisions of this Executive Order and in the performance of other duties as may be directed by the Governor.
(j) Serve as the lead state agency to solicit, receive, and disburse any funds which promote the conservation of energy and the development of energy resources from all available sources.
(k) Coordinate and develop state plans and activities affecting energy production and consumption and the use of energy resources by state agencies. The Department may require reports of other executive agencies of energy plans and consumption with all agencies directed to cooperate fully with the Department.
(l) Serve as the central repository within state government for the collection, maintenance, distribution, and analysis of data and information regarding all forms of energy supplies, demand, and consumption.

SECTION 2. SAVINGS PROVISIONS. (1) All orders, regulations, contracts, and licenses which have been issued in the performance of functions which are retained under this Executive Order, and which are in effect at the time this Executive Order takes effect, shall continue in effect according to their terms until modified or terminated.

(2) All appropriations, grants, and other money available to the Idaho Office of Energy transferred to the Department shall remain available for the objectives and purposes for which appropriated, subject to any terms or limitations imposed by federal or state law.

(3) Whenever the Idaho Office of Energy or the Director thereof is referred to in any law, rule, regulation, order, contract, document, judicial or administrative proceedings, or otherwise, the same shall be considered to mean the Department or the Director of the Department of Water Resources.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the tenth day of November, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-20

RISK MANAGEMENT ADVISORY COMMITTEE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 81-13

WHEREAS, the State of Idaho has found it necessary to purchase casualty and property insurance to properly protect state-owned property and to cover exposures of the state where potential risk of loss exists; and

WHEREAS, the cost of said insurance has increased substantially during the past several years; and

WHEREAS, Chapter 57, Title 67, of the Idaho Code has designated the Bureau of Risk Management, Department of Administration, as the State agency responsible for the administration of state insurance programs of all kinds other than life and disability insurance; and

WHEREAS, it is desirable that the state receive professional advice on the management of risks and the administration and procurement of insurance;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me by Section 5, Article 4, of the Idaho Constitution and Section 67-802 of the Idaho Code, do hereby continue the "Risk Management Advisory Committee" to act in an advisory capacity to the Department of Administration in the areas of risk and insurance management for the State of Idaho.

SECTION 1. COMPOSITION OF THE COMMITTEE.

The Risk Management Advisory Committee shall consist of four (4) members appointed by the Governor. Members shall serve for a term of 2 years. Committee members shall serve without remuneration but shall receive their actual expenses of travel and lodging to meetings and be reimbursed for meals as allowed by Idaho laws and regulations.

Committee members will be selected from private industry or the general public and must have insurance experience that will be valuable to the Committee. To maintain the integrity of the Committee, Committee members may not be associated with or employed by any insurance company, insurance agency, or consulting firms providing insurance or risk management consulting services to the State of Idaho.

The Director of the Department of Administration, or his designee shall serve as chairman of the Risk Management Advisory Committee. The Department of Administration shall provide a secretary to record all actions taken by the Committee. The chairman will not have a vote in the decisions of the Committee except in the event of a tie vote.

The Committee may not meet and transact business without a quorum present. A quorum shall be three members and the chairman.

SECTION 2. COMMITTEE SUBJECT TO STATE RULES.

The Risk Management Advisory Committee shall be subject to all laws, rules and regulations of the State of Idaho. All meetings shall be open to the public and reasonable notice shall be given to the public of such meetings. Minutes shall be kept of all Committee meetings and will be available for public inspection after approval by the Committee.

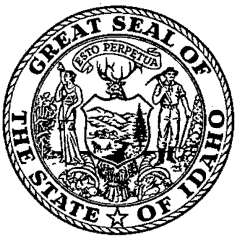
SECTION 3. COMMITTEE RESPONSIBILITIES.

The Risk Management Advisory Committee shall be responsible for advising the state on risk management and insurance matters. Duties of the Committee shall include, but are not limited to:

A. Review and advise on safety and loss prevention programs.
B. Review and advise on risk exposures.
C. Review and advise on risk handling programs.
D. Review and advise on insurance specifications, insurance proposals from companies and/or agents, and the procurement of insurance.
E. Review and advise on self-insurance programs.
F. Review and advise on dealings with insurance companies and insurance agents.

The Risk Management Advisory Committee shall be advisory in nature only, and the advice of the Committee shall be given all due accord. The ultimate responsibility for risk management shall remain with the State Risk Manager and with the Department of Administration as provided by law.

The Risk Management Advisory Committee shall cease to exist and this Executive Order shall cease to be effective when it is determined that the need for the Risk Management Advisory Committee no longer exists.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the eighteenth day of November, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-21

ESTABLISHMENT OF THE IDAHO LEWIS AND CLARK TRAIL COMMITTEE

WHEREAS, the Lewis and Clark Trail has great historical significance to the State of Idaho; and

WHEREAS, it is important that Idaho have an official group to coordinate with other Lewis and Clark Trail states;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby create the Idaho Lewis and Clark Trail Committee as an advisory body to state, local and federal governments on the Lewis and Clark Trail development and management.

The Committee shall:

1. Promote public awareness of the historical significance of the Lewis and Clark Expedition and encourage the development and protection of historical sites and outdoor recreational resources along the Lewis and Clark Trail;
2. Act in an advisory capacity to other Idaho commissions, bureaus, agencies and committees by making recommendations regarding their activities and policies that relate to the history and trail of the Lewis and Clark Expedition; and
3. Serve as the official liaison with other Lewis and Clark Trail states, the national Lewis and Clark Trail Heritage Foundation, Inc., and federal departments, bureaus and committees concerned with the Lewis and Clark Trail in coordinating and planning activities to foster state and national recognition of the significance of the Lewis and Clark Expedition, including promotion of the aims and recommendations of the federal Lewis and Clark Trail Commission, which existed from 1964 to 1969.

The Committee shall consist of no more than 10 persons appointed

by the Governor and serving at his pleasure. The Governor or his designee shall be a member of the Committee and shall call the first meeting at which time a chairperson will be elected. A vice-chairperson shall be designated by the chairperson and shall carry out the duties of the chairperson in his or her absence. The membership of the Committee shall include a representative of the Historical Society and of the Department of Parks and Recreation.

The Committee shall have regular meetings as determined by the majority of the Committee and shall meet on special occasions upon the call of the chairperson.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the ninth day of December, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-22

DEFERRED COMPENSATION PROGRAM FOR EMPLOYEES OF THE STATE OF IDAHO, REPEALING AND REPLACING EXECUTIVE ORDER NO. 81-16

WHEREAS, there is a continuing interest on the part of employees of the State of Idaho in a plan whereby employees may defer the receipt of portions of their earnings until retirement; and

WHEREAS, the Idaho Legislature by and through the implementation of Idaho Code 59-513 has provided for the establishment of a Deferred Compensation Plan; and

WHEREAS, in response to this interest, the Board of Examiners of the State of Idaho has appointed a Deferred Compensation Committee to study implementation of such a plan; and

WHEREAS, a Deferred Compensation Plan has been presented to and approved by the Board of Examiners of the State of Idaho by the Deferred Compensation Committee; and

WHEREAS, administrative entities on the state level are necessary for proper implementation of the plan;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the authority vested in me by law, do hereby order the following:

Under the present plan for administration of a Deferred Compen-

sation Program for employees of the State of Idaho, the following entities will carry out the responsibilities enumerated below:

1. The Deferred Compensation Committee comprised of a representative from the Department of Administration, Office of the Attorney General and the Office of the Secretary of State is hereby named as the policymaking board for the Deferred Compensation Program subject to the authority vested in the Board of Examiners of the State of Idaho by law.
2. The Deferred Compensation Committee shall make the following decisions concerning the implementation and maintenance of a Deferred Compensation Program subject to the approval of the Board of Examiners.
   a. Selection of a third-party administrator.
   b. Selection of product companies which sell or offer securities or other assets to the State of Idaho in accordance with the Deferred Compensation Plan.
   c. Approval and monitoring of the marketing program to introduce the Deferred Compensation Program to state employees.
   d. Review all summary reports produced by the Office of the State Auditor and the third-party administrator to insure proper accounting for all funds.
   e. Review on a yearly basis the viability of all product companies associated with the Deferred Compensation Program and to determine if rebidding is necessary.
   f. Review all financial hardship cases and other unusual circumstances developing with employees enrolled in the Deferred Compensation Program.
   g. Review and approve all plan documents, contracts, bylaws, and rules and regulations.
   h. Review the performance of the third-party administrator.
   i. Review all audits of the Deferred Compensation Program.
3. A representative of the Department of Administration in accordance with the request of the Board of Examiners of the State of Idaho shall be responsible for all daily paperwork and contact with the third-party administrator and employees concerning routine matters. The Department of Administration is hereby required to provide the following routine administrative services:
   a. Insure remittance to the product companies of deferred moneys is made for the periodic payroll.
   b. Review and sign all enrollments, change and claim requests.
   c. Keep or arrange to keep any necessary files concerning the Deferred Compensation Program.
   d. Communicate with state employees and the third-party administrator concerning routine matters.
   e. Provide or arrange to provide completion of any other routine matters as requested by the Deferred Compensation Committee.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the sixteenth day of December, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-23

ESTABLISHMENT OF THE GOVERNOR'S EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION TASK FORCE

WHEREAS, Executive Order No. 83-3 proclaims that the Idaho Code of Fair Employment Practices is the governing policy throughout every department of the Executive Branch of Government of the State of Idaho; and

WHEREAS, the Legislature of the State of Idaho has declared a policy that all individuals are to be free from discrimination in employment based on race, sex, religion, national origin, color, and age and that handicapped persons are to be free from employment discrimination in state service; and

WHEREAS, the implementation of an equal employment opportunity/affirmative action policy is essential to the well-being of individual persons so that their talents and abilities may be developed to their greatest potential unimpeded by artificial barriers; and

WHEREAS, the implementation of an equal employment opportunity/affirmative action policy is also essential to the economic well-being and development of Idaho so that all people may make their fullest contributions to our economy and others may know that Idahoans live and work in an atmosphere of respect and dignity; and

WHEREAS, the State as an employer should assume a leadership role in assuring that equal employment opportunities are available to all persons;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-802, Idaho Code, do hereby order the establishment of the Governor's Equal Employment Opportunity/Affirmative Action Task Force. The Task Force shall consist of a chairperson and such members as may be appointed by the Governor and who will serve at his pleasure.

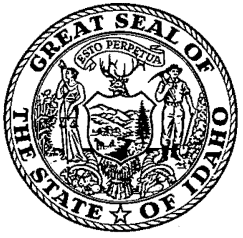
The Task Force shall:

1. Review the equal employment opportunity/affirmative action

posture of the State in all aspects of its role as an employer, including an examination of the annual reports submitted by executive agencies as required by Executive Order No. 83-3;

2. Make recommendations to the Governor regarding implementation of any policies, practices, or training designed to enhance the equal employment opportunity/affirmative action posture of the State of Idaho and to assure its continued role in all employment decisions;
3. Report its findings and recommendations to the Governor by May 15, 1984; and
4. Conduct whatever other business it determines necessary.

Members shall serve without compensation. The Task Force will be staffed by persons from the Idaho Human Rights Commission and other state agencies as necessary.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-first day of December, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 83-24

CONTINUING THE CORRECTIONAL INDUSTRIES ADVISORY BOARD, REPEALING AND REPLACING EXECUTIVE ORDER NO. 81-17

WHEREAS, there exists a Board of Correction responsible for the operation of correctional industries shops within the prison facility; and

WHEREAS, the Correctional Industries, under the Board of Correction above, is required by Idaho Code 20-408 to exercise the duties enumerated therein; and

WHEREAS, the exercise of such duties often requires technical expertise in such areas as marketing, equipment acquisition, production methods, profit margins and the like; and

WHEREAS, the members of the Board of Correction are not necessarily familiar with the operation of industrial enterprises nor do they necessarily have the required technical expertise in such areas as

marketing, equipment acquisition, production methods, profit margins and the like; and

WHEREAS, the creation of an advisory board composed of volunteers from the private sector of our economy has helped provide the required technical expertise and improve the profitability of the state's prison industries program;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me by law, do hereby continue the Correctional Industries Advisory Board for the purpose of providing technical expertise to the Board of Correction or any successor organization charged with the responsibilities contained in Idaho Code 20-408 in such areas as marketing, business operation, finance, production and livestock operation or in other such areas as might be helpful in the area of correctional industries.

The Board shall consist of five (5) members appointed by the Governor from the private sector of the Idaho economy. The term shall be two years. The Governor shall further designate the Chairman of the Advisory Board.

This Executive Order repeals and replaces Executive Order No. 81-17.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fifteenth day of December, in the year of our Lord nineteen hundred eighty-three, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-1

ENERGY CONSERVATION CONSIDERATIONS INCLUDED IN STATE BUILDINGS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 81-10

WHEREAS, the efficient use of energy is of prime importance to the economic and energy well-being of the State of Idaho; and

WHEREAS, the State of Idaho uses, in its owned and leased buildings, a considerable portion of the state's energy demand; and

WHEREAS, the state government's ability to control energy use in leased facilities has been minimal, particularly after signing a lease; and

WHEREAS, it is imperative that the state government of Idaho set an example of energy efficiency for owners and operators of public and

private buildings;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby continue the order that all state building designs and lease agreements will include energy conservation considerations including:

--insulation levels no less stringent than the Code for Energy Conservation in New Building Construction (Uniform Building Code, 1979);

--insulated or storm windows and doors;

--adequate caulking and weatherstripping;

--use of solar hot water where feasible and solar heating where cost effective;

--in the Capitol Mall, use of natural hot water where feasible;

--roof design providing summer shade for sun-facing windows and entryways in the summer and direct sunlight on those walls in the winter.

FURTHER, I order that all lease agreements be reviewed in draft form for compliance with these objectives. All parties are to be notified in any such negotiations that failure to comply with these objectives may be sufficient grounds for voiding the lease agreement. I further order that the signing of such agreements include a statement of accountability to the intent of this order so that compliance will be a part of the lease drafting procedure rather than a source of conflict after a contract has been signed. I further direct the attention of all persons and agencies in all branches of state and local government to the spirit of this order. Consideration of long-term energy costs, including seasonal and peaking demands upon the suppliers of energy, should become a major consideration in construction of all state buildings and lease agreements.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twenty-third day of January, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-2

CONTINUING INFORMATION SERVICES

WHEREAS, House Bill 780 of the Forty-fifth Legislature vested the Office of the Governor with the duty to approve the leasing, purchasing and installing of data processing equipment by state government; and

WHEREAS, House Bill 780 made it the duty of the Governor to provide overall state data processing planning; and

WHEREAS, House Bill 780 expired on June 30, 1981; and

WHEREAS, the need to continue to develop and implement statewide planning for the acquisition and installation of data processing equipment is essential to an efficient government;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the powers vested in me, do hereby issue this Executive Order continuing the function of planning for the acquisition and installation of data processing equipment on a statewide basis.

IT IS HEREBY ORDERED AND DIRECTED that the Director of the Department of Administration, or his designee, shall:

1. Approve the leasing, purchasing or installing of any electronic data processing equipment/word processing equipment and facilities for the Executive Branch of government; and
2. Provide overall state data processing/word processing planning.

IT IS FURTHER ORDERED AND DIRECTED that all agencies within the Executive Branch of government shall obtain the approval of the Director of the Department of Administration, or his designee, prior to purchasing or leasing any data processing/word processing equipment.

IT IS FURTHER ORDERED AND DIRECTED that the Director of the Department of Administration shall consult and confer with appropriate state agencies while preparing and implementing an overall state data processing plan.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fourth day of January, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-3

CONTINUING DATA PROCESSING TASK FORCE

WHEREAS, electronic data processing has become a key management tool to departments in state government; and

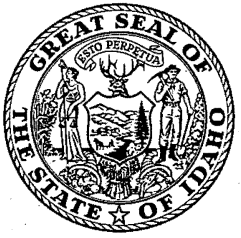
WHEREAS, Executive Order No. 84-2 provides for the continuation of Information Services and designation of the Director of the Department of Administration to be the individual responsible for planning the acquisition and installation of data processing and word processing equipment on a statewide basis and approving the leasing or purchasing of any data processing and word processing equipment and facilities for the Executive Branch of government;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the power vested in me by law, do hereby order that the State Data Processing Master Plan is hereby continued and that there is hereby continued a Data Processing Task Force. This Task Force shall consist of the Director of the Department of Administration, who shall be the Chairman thereof; the Director of the Idaho Transportation Department; the Director of the Department of Health and Welfare; the Director of the Department of Employment; a member to be designated by the State Auditor; and a member of the State Board of Education.

IT IS FURTHER ORDERED AND DIRECTED that all boards, departments and agencies of the Executive Branch of government shall utilize and abide by the State Data Processing Master Plan and the policies, goals, and objectives set forth therein and annually submit to the Data Processing Task Force a comprehensive plan update for data processing and word processing activities following guidelines provided by the Director of the Department of Administration.

IT IS FURTHER DIRECTED that said Data Processing Task Force shall be responsible for reviewing and approving or disapproving the plans of all state agencies for the acquisition of data processing and word processing and computing services.

IT IS FURTHER ORDERED that the members of the Data Processing Task Force shall oversee the implementation and updating of the State Data Processing Master Plan and make such recommendations as they deem necessary to that end.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the fourth day of January, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-4

CONTINUING THE GOVERNOR'S EDUCATION CONSOLIDATION AND IMPROVEMENT ACT ADVISORY COUNCIL, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-2

WHEREAS, the Education Consolidation and Improvement Act of 1981 requires that an advisory council be established by the Governor to advise the Idaho Department of Education; and

WHEREAS, the apportionment of reduced federal funding is particularly crucial to Idaho's school districts; and

WHEREAS, the choices among program opportunities for retained state level funds are many--within the context of federal funding reductions; and

WHEREAS, excellence in our public school system can be enhanced by the fair allocation of funds and program selection targeted to the most critical need of our students; and

WHEREAS, it is in the best interests of all Idaho residents that this Council be broadly representative of concerned educators and citizens statewide;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me by law do hereby continue the Governor's Education Consolidation and Improvement Act Advisory Council.

The duties of the Council shall include:

1. Active and continuing consultation with the Superintendent of Public Instruction and the Department of Education regarding the planning, development, support, implementation, and evaluation of state programs assisted under Chapter 2 of the Federal Education Consolidation and Improvement Act of 1981;
2. Advising the Superintendent of Public Instruction on the allocation of funds reserved for state use from Idaho's

Chapter 2 allotment (not to exceed 20 percent of the state allotment);

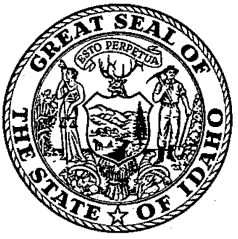
3. Advising the Superintendent of Public Instruction on the formula for allocation to local education agencies of Idaho's Chapter 2 allotment.
4. Ensuring that there is timely public availability of the Council's comments on allocation proposals before the state application and subsequent annual amendments are submitted to the Secretary of Education;
5. Providing comments to be included in the annual evaluation of the effectiveness of programs assisted by these funds, beginning with federal fiscal year 1984; and
6. Reporting to the Governor on the implementation of this program.

The Council shall be limited to no more than 15 members appointed by the Governor who will serve three-year terms. A chairman shall be appointed annually by the Governor.

The Council members will include persons representative of:

1. public and private elementary and secondary schoolchildren,
2. classroom teachers,
3. parents of elementary and secondary schoolchildren,
4. local boards of education,
5. local school administrators,
6. institutes of higher education, and
7. the Idaho Legislature.

Council members will be compensated for travel and expenses. The Council will hold meetings as needed to accomplish its duties.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the twentieth day of January, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-5

DESIGNATING THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR, DARRELL V. MANNING, AS THE RECIPIENT OF FEDERAL GRANTS FOR LOCAL RAIL SERVICE ASSISTANCE, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-5

WHEREAS, the United States Department of Transportation, through the Federal Railroad Administrator, under (1) sections 5(f) through 5(o) of the Department of Transportation Act, as amended, [49 U.S.C. 1654 (f) through (o)]; (2) sections 106(b) and 110 of the Local Rail Service Assistance Act of 1978 (Pub. L. 95-607); and (3) 49 CFR Parts 265 and 266, is authorized to provide rail service assistance funds to states in order to develop, promote, supervise and support safe, adequate and efficient rail transportation services; and

WHEREAS, such aid has been offered to Idaho; and

WHEREAS, section 5(j)(2) of the Act [49 U.S.C. 1654 (j)(2)] requires that an agency of the State of Idaho be designated the authority and administrative jurisdiction to receive and expend such financial assistance;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me by Section 5, Article 4, of the Idaho Constitution and Section 67-802 of the Idaho Code, do hereby designate the Idaho Transportation Department and Darrell V. Manning, its Director, to receive and expend monies from the Federal Railroad Administrator for Local Rail Service Assistance for planning and projects, as provided under the applicable Federal Statutes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the second day of March, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-6

CONTINUATION OF AN IDAHO IMAGE ANALYSIS FACILITY AT THE DEPARTMENT OF WATER RESOURCES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-7

WHEREAS, as the result of past activity by the Department of Water Resources, the image analysis capability to effectively utilize remote sensing data has been established in Idaho; and

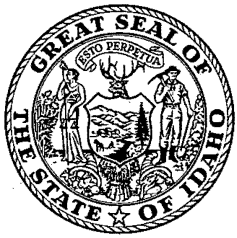
WHEREAS, it is in the interest of the State of Idaho that this capability be shared and further developed in cooperation with federal resource management agencies, local government and private organizations for conducting needed resource inventory and mapping; and

WHEREAS, it is essential that a lead state agency be designated to insure the proper coordination, maintenance, and support of the image analysis capability and to provide for its effective use by various users;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me by Section 5, Article 4, of the Idaho Constitution and Section 67-802 of the Idaho Code, do hereby designate the Idaho Department of Water Resources to be the state agency responsible for the Idaho Image Analysis Facility. The Department will:

1. Provide the necessary coordination and technical support;
2. Generally promote the operational applications of digital image analysis;
3. Provide system management support to insure the proper operation and availability of digital image analysis for applications by various users;
4. Provide technical assistance, in the form of consultation and training to allow and encourage application of digital image analysis techniques and equipment by employees of other agencies and organizations;
5. Cooperate with, receive and expend funds from other sources for the continued development and utilization of image analysis techniques; and
6. Maintain an assessment of the Image Analysis Facility capabilities needed within Idaho by existing and potential users, to cooperate with the Idaho universities and other research institutions for the development and implementation of improved capabilities resulting from research activities.

This order repeals and replaces Executive Order No. 82-7 and is effective immediately.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the sixth day of April, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-7

PROVISIONS FOR THE NECESSARY AND APPROPRIATE STATE COORDINATION AND PARTICIPATION WITH THE FEDERAL INSURANCE ADMINISTRATION UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968, AS AMENDED, AND RULES AND REGULATIONS PROMULGATED THEREUNDER, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-8

WHEREAS, uneconomic uses of the state's flood plains are occurring and potential flood losses are increasing despite substantial efforts to control floods; and

WHEREAS, national, state and local studies of areas and property subject to flooding indicate a further increase in flood damage potential and flood losses, even with continuing investment in flood protection structures; and

WHEREAS, the State of Idaho has continuing programs for the construction of buildings, roads, and other facilities and annually acquires and disposes of lands in flood hazard areas--all of which activities significantly influence patterns of commercial, residential, and industrial development; and

WHEREAS, the availability of flood insurance under the National Flood Insurance Program, as provided by the National Flood Insurance Act of 1968, as amended, is dependent upon state coordination of federal, state, and local aspects of flood plain, mudslide (i.e., mudflow) area and flood-related erosion area management activities in the state; and

WHEREAS, the Department of Water Resources is the state agency responsible for assisting with local regulations necessary for flood insurance provided by the National Flood Insurance Act of 1968 under the Idaho Code, Title 67, Sec. 1911 through 1917; and

WHEREAS, the Federal Insurance Administration has promulgated and adopted rules and regulations governing eligibility of state and local communities to participate in the National Flood Insurance Program,

which participation depends on state coordination and the designation of an agency in the State of Idaho to be responsible for coordinating federal, state and local aspects of flood plain, mudslide (i.e., mudflow) area and flood-related erosion area management activities in the State of Idaho;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the authority vested in me, do hereby order as follows:

Section 1. The Department of Water Resources is hereby designated as the agency to provide implementation of Section 1910.12, Rules and Regulations of the Federal Insurance Administration and will encourage a broad and unified effort to prevent uneconomic uses and development of the state's flood plains and in particular, to lessen the risk of flood losses in connection with state lands and installation and state financed or supported improvement; specifically,

(1) Under the leadership and direction of the Department of Administration, all state agencies directly responsible for the construction of buildings, structures, roads, or other facilities shall preclude the uneconomic, hazardous, or unnecessary use of flood plains in connection with such facilities. In the event of construction in the flood plain, the flood plain management criteria set forth in Sections 1910.3, 1910.4, and 1910.5 of the National Flood Insurance Regulations shall apply as applicable. Flood proofing measures shall be applied to existing facilities in order to reduce flood damage potential.

(2) All state agencies responsible for the administration of grant or loan programs involving the construction of buildings, structures, roads or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future state expenditures for flood protection and flood disaster relief, shall preclude the uneconomic, hazardous, or unnecessary use of flood plains in such connection.

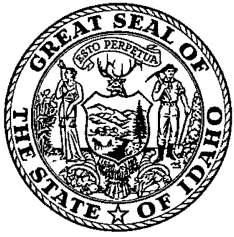
(3) All state agencies responsible for the disposal of lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to other public instrumentalities or private interests and, in order to minimize future state expenditures for flood protection and flood disaster relief, shall notify those instrumentalities and private interests that such hazards exist.

(4) All state agencies responsible for programs which affect land use planning, including state permit programs, shall take flood hazards into account when evaluating plans and shall encourage land use appropriate to the degree of hazard involved.

(5) In evaluating flood hazard potential, all state agencies shall coordinate their work with the Department of Water Resources to assure that the most up-to-date data and/or methods of analysis are utilized.

Section 2. As may be permitted by law, the head of each state agency shall issue appropriate rules and regulations to govern the carrying out of the provisions of Section 1 of this order by his agency to be coordinated with the Department of Administration.

Section 3. This order shall take effect on the sixth day of April 1984 and repeals and replaces Executive Order No. 82-8.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the sixth day of April, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred eighth, and of the Statehood of Idaho the ninety-fourth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

INDEX

SECOND REGULAR SESSION - FORTY-SEVENTH LEGISLATURE

Chapter - Page

ACCOUNTANTS
Accountancy Bd, approp.....Ch.167 - 407
ACCOUNTS
Alcohol Safety Action Program, allocation deleted.....Ch.120 - 276
Budget Reserve, created, approp.....Ch.249 - 596
Central Tumor Registry, cigarette tax allocation.....Ch.146 - 341
Dredge and Placer Mining, created, use.....Ch.102 - 232
Finance Administration, created, bank fees.....Ch.47 - 76
Hazardous Waste Training, Emergency & Monitoring.....Ch.205 - 502
Highway Distribution, created, apportionment.....Ch.195 - 445
Highway, State, drivers license fee increase.....Ch.236 - 564
Highway, State, revenue sources.....Ch.195 - 445
Insurance Administrative, created, fees.....Ch.23 - 38
Law Enforcement, revenue sources.....Ch.195 - 445
Liquor, distribution.....Ch.120 - 276
Liquor Law Enforcement, allocation deleted.....Ch.120 - 276
Personnel Commission, payments to.....Ch.238 - 569
Probation and Parole Receipts, created.....Ch.187 - 436
Revenue Sharing, created, distribution.....Ch.287 - 670
Sales Tax, distribution.....Ch.287 - 670
Social Security Trust, sales tax moneys deleted.....Ch.287 - 670
Water Conservation & Development, approp.....Ch.249 - 596
Water Management, approp.....Ch.249 - 596
Water Pollution Control, sales tax moneys.....Ch.287 - 670
AD VALOREM TAXATION
See TAX AND TAXATION, PROPERTY
ADMINISTRATION DEPARTMENT
Approp.....Ch.172 - 412
Approp, additional.....Ch.13 - 16
ADVERTISING
Honey, Commission, approp.....Ch.264 - 637
AGING, OFFICE ON
Approp.....Ch.247 - 595
AGRICULTURE
Apple Commission, approp.....Ch.69 - 131
Bean Commission, approp.....Ch.69 - 131
Beef Council assessment, cattle brought into Idaho.....Ch.62 - 111

Chapter - Page

AGRICULTURE (Continued)
Beef Council assessmen, increased ..... Ch.5 - 9
Brand Bd, membership requirements.....Ch.48 - 88
Cherry Commission, approp.....Ch.69 - 131
Commodity liens, code reference corrected.....Ch.43 - 71
Cooperative Extension Service Program, approp.....Ch.277 - 651
Dept, approp.....Ch.264 - 637
Dept, approp, maintenance projects.....Ch.218 - 526
Dept, approp, 1983-84 amended.....Ch.10 - 13
Dept, rules, bean diseases, violation, penalty.....Ch.153 - 367
Honey Advertising Commission, approp.....Ch.264 - 637
Land, motor vehicles use on.....Ch.55 - 94
Livestock, instream watering, water rights.....Ch.124 - 299
Milk, cream, produced in Idaho, tax imposed.....Ch.20 - 23
Pesticide applicators, examination, license fees.....Ch.148 - 347
Potato Commission, approp.....Ch.69 - 131
Prune Commission, approp.....Ch.69 - 131
Research Program, approp.....Ch.277 - 651
Sheep Commission, approp.....Ch.264 - 637
Sheep industry, protection requested.....SJM107 - 720
Vehicles, certain, exempt registration, when.....Ch.143 - 334
Vehicles, registration.....Ch.195 - 445
Warehouses, bonded, commodities removed, when.....Ch.19 - 21
Wheat Commission, approp.....Ch.69 - 131

ALCOHOLIC BEVERAGES
See LIQUOR

ANIMALS
See also LIVESTOCK, WILDLIFE
Dogs, guide for hearing impaired.....Ch.147 - 342
Mule racing, included, pari-mutuel wagering.....Ch.83 - 158
Wolf population reestablished, termination asked.....HJM11 - 722

ANNEXATION
Fire Protection Dist, adjoining county.....Ch.117 - 262
Fire Protection Dist, non-contiguous land, budget.....Ch.202 - 493

APPEALS
Death sentence, procedures.....Ch.159 - 386

APPLES
Commission, approp.....Ch.69 - 131

APPROPRIATIONS
Accountancy Bd.....Ch.167 - 407
Administration Dept.....Ch.172 - 412
Administration Dept, additional.....Ch.13 - 16
Aging, Office on.....Ch.247 - 595
Agricultural Research Program.....Ch.277 - 651
Agriculture Dept.....Ch.264 - 637
Agriculture Dept, maintenance projects.....Ch.218 - 526
Agriculture Dept, 1983-84 amended.....Ch.10 - 13
Apple Commission.....Ch.69 - 131
Arts Commission.....Ch.165 - 405
Athletic Director.....Ch.167 - 407

Chapter - Page

APPROPRIATIONS (Continued)
Attorney General.....Ch.185 - 435
Attorney General, Legal Services Program.....Ch.249 - 596
Auditor, Legislative.....Ch.267 - 641
Auditor, State.....Ch.183 - 432
Auditor, State, additional.....Ch.64 - 114
Bean Commission.....Ch.69 - 131
Blind Commission.....Ch.245 - 593
Blind Commission, maintenance projects.....Ch.218 - 526
Blind Commission, maintenance projects.....Ch.249 - 596
Brand Inspection.....Ch.214 - 521
BSU.....Ch.288 - 684
BSU, Morrison Center furnishings.....Ch.249 - 596
Budget Reserve Account.....Ch.249 - 596
Certified Shorthand Reporters Bd.....Ch.167 - 407
Cherry Commission.....Ch.69 - 131
Circuit breaker tax relief.....Ch.219 - 528
Colleges and universities.....Ch.288 - 684
Colleges and universities, library material/equip.....Ch.249 - 596
Commodity Commissions.....Ch.69 - 131
Cooperative Extension Service Program.....Ch.277 - 651
Correction Dept.....Ch.208 - 513
Correction Dept, Community Work Center.....Ch.281 - 655
Correction Dept, correctional industries.....Ch.65 - 114
Correction Dept, maintenance projects.....Ch.218 - 526
Correction Dept, maintenance projects.....Ch.249 - 596
Correction Dept, McKelway Hall, remodel.....Ch.281 - 655
Correction Dept, NICI, dormitory, remodel.....Ch.281 - 655
Correction Dept, Probation & Parole.....Ch.249 - 596
Correction Dept, 1983-84 reduced.....Ch.31 - 52
CSI.....Ch.282 - 655
Deaf & Blind School.....Ch.279 - 653
Deaf & Blind School, equipment acquisition.....Ch.249 - 596
Dentistry Bd.....Ch.167 - 407
District Court.....Ch.209 - 514
Economic & Community Affairs Division.....Ch.206 - 512
Education Bd, Agricultural Research Program.....Ch.277 - 651
Education Bd, colleges & universities.....Ch.288 - 684
Education Bd, Cooperative Extension Service.....Ch.277 - 651
Education Bd, CSI.....Ch.282 - 655
Education Bd, Deaf & Blind School.....Ch.279 - 653
Education Bd, Historical Society.....Ch.278 - 652
Education Bd, maintenance projects.....Ch.218 - 526
Education Bd, maintenance projects.....Ch.249 - 596
Education Bd, NIC.....Ch.282 - 655
Education Bd, Office, administration.....Ch.213 - 520
Education Bd, Public Broadcasting.....Ch.266 - 640
Education Bd, public schools.....Ch.289 - 685
Education Bd, State Library Bd.....Ch.216 - 524
Education Bd, State Library Bd, additional.....Ch.34 - 54

Chapter - Page

APPROPRIATIONS (Continued)
Education Bd, UofI, medical/dental programs.....Ch.217 - 524
Education Bd, various divisions, equip/materials.....Ch.249 - 596
Education Bd, Vocational Education.....Ch.268 - 643
Education Bd, Vocational Education, additional.....Ch.49 - 90
Education Bd, Vocational Rehabilitation.....Ch.220 - 529
Education Dept.....Ch.280 - 653
Education Dept, additional.....Ch.33 - 53
Electrical Bureau.....Ch.211 - 516
Endowment Fund Investment Bd.....Ch.168 - 409
Engineering Examiners Bd.....Ch.167 - 407
F&G Dept.....Ch.162 - 401
F&G Dept, additional, wildlife program.....Ch.186 - 436
Finance-Appropriations Committee.....Ch.267 - 641
Finance Dept.....Ch.249 - 596
Finance Dept.....Ch.169 - 409
Financial Management Division.....Ch.270 - 644
Forest Utilization Research Program.....Ch.277 - 651
General Services.....Ch.172 - 412
Geologists Bd.....Ch.167 - 407
Governor, Office of, additional.....Ch.11 - 15
Governor, Office of, administration, residence.....Ch.269 - 643
Governor, Office of, Aging, Office on.....Ch.247 - 595
Governor, Office of, Blind Commission.....Ch.245 - 593
Governor, Office of, Blind Commission, projects.....Ch.218 - 526
Governor, Office of, Blind Commission, projects.....Ch.249 - 596
Governor, Office of, Economic & Community Affairs.....Ch.206 - 512
Governor, Office of, Emergency Fund.....Ch.182 - 431
Governor, Office of, Emergency Fund.....Ch.2 - 6
Governor, Office of, Endowment Fund Investment Bd.....Ch.168 - 409
Governor, Office of, Financial Mgmt Division.....Ch.270 - 644
Governor, Office of, General Services area.....Ch.168 - 409
Governor, Office of, Human Rights Commission.....Ch.246 - 594
Governor, Office of, Insurance Fund.....Ch.168 - 409
Governor, Office of, Liquor Dispensary.....Ch.168 - 409
Governor, Office of, Military Division.....Ch.265 - 640
Governor, Office of, Military Division, additional.....Ch.32 - 53
Governor, Office of, Military Division, projects.....Ch.218 - 526
Governor, Office of, Military Division, projects.....Ch.249 - 596
Governor, Office of, Retirement System.....Ch.168 - 409
Governor, Office of, Retirement System, additional.....Ch.14 - 17
Health Districts.....Ch.171 - 411
Historical Society.....Ch.278 - 652
Honey Advertising Commission.....Ch.264 - 637
Horse Racing Commission.....Ch.214 - 521
Human Rights Commission.....Ch.246 - 594
H&W.....Ch.249 - 596
H&W, Adult & ADC Assistance.....Ch.272 - 646
H&W, Adult & ADC Assistance, additional.....Ch.3 - 6
H&W, Air Quality Program.....Ch.273 - 647

Chapter - Page

APPROPRIATIONS (Continued)
H&W, Community Developmental Disability Services.....Ch.271 - 645
H&W, Community Mental Health Services.....Ch.271 - 645
H&W, Community Rehabilitation.....Ch.271 - 645
H&W, Eligibility Services.....Ch.272 - 646
H&W, Eligibility Services, additional.....Ch.3 - 6
H&W, Emergency Medical Services.....Ch.275 - 649
H&W, Hazardous Materials Program.....Ch.249 - 596
H&W, Hazardous Materials Program.....Ch.273 - 647
H&W, Health Division.....Ch.275 - 649
H&W, Idaho State School & Hospital, projects.....Ch.249 - 596
H&W, Indirect Support Services.....Ch.276 - 650
H&W, Institutional Developmental Disability Serv.....Ch.271 - 645
H&W, Institutional Mental Health Services.....Ch.271 - 645
H&W, Laboratory Services.....Ch.275 - 649
H&W, maintenance projects.....Ch.218 - 526
H&W, maintenance projects.....Ch.249 - 596
H&W, Medical Assistance.....Ch.272 - 646
H&W, Medical Assistance, additional.....Ch.3 - 6
H&W, Physical Health Services.....Ch.275 - 649
H&W, Social Services.....Ch.272 - 646
H&W, Social Services, additional.....Ch.3 - 6
H&W, State Hospital North.....Ch.271 - 645
H&W, State Hospital South.....Ch.271 - 645
H&W, Substance Abuse Services.....Ch.275 - 649
H&W, Veterans Services Program.....Ch.274 - 648
H&W, Water Quality Program.....Ch.249 - 596
H&W, Water Quality Program.....Ch.273 - 647
H&W, Welfare Division.....Ch.272 - 646
H&W, Welfare Division, additional.....Ch.3 - 6
H&W, Youth Services Center.....Ch.271 - 645
Idaho State School & Hospital, projects.....Ch.249 - 596
Industrial Commission.....Ch.207 - 512
Insurance Dept.....Ch.210 - 515
Insurance Dept.....Ch.249 - 596
Insurance Fund.....Ch.168 - 409
Insurance Management Division.....Ch.172 - 412
ISU.....Ch.288 - 684
Judicial Council.....Ch.209 - 514
Labor & Industrial Services Dept.....Ch.211 - 516
Labor & Industrial Services Dept, additional.....Ch.9 - 13
Lands Dept.....Ch.212 - 518
Lands Dept, maintenance projects.....Ch.218 - 526
Law Enforcement Dept.....Ch.214 - 521
Law Library.....Ch.209 - 514
LCSC.....Ch.288 - 684
Legislative Auditor.....Ch.267 - 641
Legislative Budget Office.....Ch.267 - 641
Legislative Council.....Ch.267 - 641
Library, State Bd.....Ch.216 - 524

Chapter - Page

APPROPRIATIONS (Continued)
Library, State Bd, additional.....Ch.34 - 54
Lieutenant Governor.....Ch.163 - 402
Lieutenant Governor, additional.....Ch.7 - 11
Liquor Dispensary.....Ch.168 - 409
Magistrates Division, Courts.....Ch.209 - 514
Medical/dental education programs.....Ch.217 - 524
Medicine Bd.....Ch.167 - 407
Medicine Bd, additional.....Ch.74 - 139
Military Division.....Ch.265 - 640
Military Division, additional.....Ch.32 - 53
Military Division, maintenance projects.....Ch.218 - 526
Military Division, maintenance projects.....Ch.249 - 596
Multi-State Tax Compact.....Ch.219 - 528
NIC.....Ch.282 - 655
NIC, Library/Computer Science Building.....Ch.249 - 596
Nursing Bd.....Ch.167 - 407
Occupational Licenses Bureau.....Ch.167 - 407
Optometry Bd.....Ch.167 - 407
Outfitters & Guides Bd.....Ch.167 - 407
Parks & Recreation Dept.....Ch.164 - 403
Parks & Recreation Dept, Farragut State Park.....Ch.249 - 596
Permanent Bldg Fund Advisory Council, projects.....Ch.218 - 526
Permanent Bldg Fund Advisory Council, projects.....Ch.249 - 596
Permanent Bldg Fund Advisory Council, projects.....Ch.281 - 655
Personnel Commission.....Ch.166 - 406
Pharmacy Bd.....Ch.167 - 407
Plumbing Bureau.....Ch.211 - 516
Potato Commission.....Ch.69 - 131
Prune Commission.....Ch.69 - 131
Public Broadcasting.....Ch.266 - 640
Public Employee Retirement System.....Ch168 - 409
Public Employee Retirement System, additional.....Ch.14 - 17
Public Health District I, maintenance projects.....Ch.218 - 526
Public Health Districts.....Ch.171 - 411
Public School Income Fund.....Ch.289 - 685
Public School Income Fund, teacher salaries.....Ch.286 - 660
Public Schools.....Ch.289 - 685
Public Schools, instruction material.....Ch.249 - 596
Public Schools, retirement, FICA, unemployment.....Ch.289 - 685
Public Utilities Commission.....Ch.170 - 410
Public Utilities Commission, additional.....Ch.12 - 15
Public Works Contractors License Bd.....Ch.167 - 407
Public Works Contractors License Bd, additional.....Ch.74 - 139
Public Works Division.....Ch.172 - 412
Public Works Division, Correction Dept, projects.....Ch.281 - 655
Public Works Division, maintenance projects.....Ch.218 - 526
Public Works Division, maintenance projects.....Ch.249 - 596
Purchasing Division.....Ch.172 - 412
Real Estate Commission.....Ch.167 - 407

Chapter - Page

APPROPRIATIONS (Continued)
Revenue projections, available funds, 1983-84.....HCR36 - 697
Revenue projections, available funds, 1984-85.....HCR37 - 698
Safety and Labor Relations Bureau.....Ch.211 - 516
Scholarships and grants.....Ch.213 - 520
Secretary of State.....Ch.165 - 405
Self-Governing Agencies.....Ch.167 - 407
Self-Governing Agencies, additional.....Ch.74 - 139
Self-Governing Agencies, Commodity Commissions.....Ch.69 - 131
Sheep Commission.....Ch.264 - 637
Supreme Court.....Ch.209 - 514
Supreme Court, additional.....Ch.26 - 46
Tax Appeals Bd.....Ch.219 - 528
Tax Comm.....Ch.219 - 528
Tax Comm, Ad Valorem Program, additional.....Ch.25 - 46
Tax Comm, circuit breaker relief, additional.....Ch.189 - 439
Tax Comm, Special Fuels Tax Admin, additional.....Ch.248 - 595
Teacher Excellence Program.....Ch.286 - 660
Traffic Safety Commission Account.....Ch.215 - 523
Transportation Dept.....Ch.215 - 523
Treasurer, State.....Ch.181 - 431
Treasurer, State, additional.....Ch.27 - 47
Uniform Building Bureau.....Ch.211 - 516
Uniform State Laws Commission.....Ch.165 - 405
UofI.....Ch.288 - 684
UofI Bd of Regents, higher education.....Ch.288 - 684
UofI Bd of Regents, medical/dental programs.....Ch.217 - 524
UofI, Life Sciences Building.....Ch.218 - 526
UofI, Life Sciences Building.....Ch.249 - 596
Veterinary Medicine Bd.....Ch.167 - 407
Vocational Education.....Ch.268 - 643
Vocational Education, additional.....Ch.49 - 90
Vocational Education, equipment acquisition.....Ch.249 - 596
Vocational Rehabilitation.....Ch.220 - 529
Water Conservation & Development Account.....Ch.249 - 596
Water Management Account.....Ch.249 - 596
Water Resources Dept.....Ch.184 - 433
Water Resources Dept, additional.....Ch.44 - 72
Water Resources Dept, Energy Resources Program.....Ch.249 - 596
Water Resources Dept, Resource Analysis Program.....Ch.249 - 596
Wheat Commission.....Ch.69 - 131

ARCHITECTURE
Professional service contract, gov't, negotiation.....Ch.188 - 437

ARTIFICIAL INSEMINATION
Licensing fee increased.....Ch.17 - 19

ARTS
Commission, approp.....Ch.165 - 405

ASSESSMENTS
See TAX AND TAXATION

Chapter - Page

ATHLETICS
NAIA World Series, Lewiston, appreciation.....HCR48 - 702
ATTORNEY GENERAL
Approp, Legal Services Program.....Ch.249 - 596
ATTORNEYS
Accused right to counsel, written notification.....Ch.229 - 548
Fees, civil actions, state agencies pay, when.....Ch.204 - 501
Prosecuting, four year terms.....Ch.80 - 147
AUDITOR
Legislative, approp.....Ch.267 - 641
State, approp.....Ch.183 - 432
State, approp, additional.....Ch.64 - 114
State, reports, certain, prepared annually.....Ch.134 - 320
BANKS AND BANKING
Checks, dishonored, civil actions, jurisdiction.....Ch.199 - 488
Checks, dishonored, interest rate increased.....Ch.50 - 91
Checks, photocopy, payment, notice.....Ch.145 - 340
Defined, Uniform Commercial Code.....Ch.88 - 183
Fees, various, fund Finance Dept.....Ch.47 - 76
Property, unclaimed, technical amendments.....Ch.36 - 60
BEANS
Commission, approp.....Ch.69 - 131
Diseases, Agric Dept rules, violation, penalty.....Ch.153 - 367
Fine moneys, allocated UofI use.....Ch.153 - 367
BEEF
Council assessment, cattle brought into Idaho.....Ch.62 - 111
Council assessment, increased.....Ch.5 - 9
BEER
See also LIQUOR
License fees, increased.....Ch.133 - 319
Licensee, records, kept four years.....Ch.104 - 242
Tax, inventory destroyed, pymt not required, when.....Ch.104 - 242
Tax, local option, resort cities.....Ch.225 - 542
Wholesaler, authorized to stock shelves.....Ch.232 - 560
BIDS
State contracts, local governments participate.....Ch.136 - 321
BLIND
Commission, approp.....Ch.245 - 593
Commission, approp, maintenance projects.....Ch.218 - 526
Commission, approp, maintenance projects.....Ch.249 - 596
Commission, vending machines, certain highways.....Ch.251 - 603
Deaf&Blind School, approp.....Ch.279 - 653
Deaf&Blind School, approp, equipment acquisition.....Ch.249 - 596
Deaf&Blind School, construction/renovation.....SCR118 - 694
BLUE BOOKS
Compiled biennially, sale authorized.....Ch.15 - 17
BOISE STATE UNIVERSITY
See COLLEGES AND UNIVERSITIES
BONDS
Elections, disclosure certified.....Ch.107 - 249

Chapter - Page

BONDS (Continued)
Fuel, special, permits, deleted.....Ch.87 - 169
Government issued, variable interest rates.....Ch.261 - 630
Idaho Housing Agency, outstanding, maximum.....Ch.194 - 442
Mining, dredge/placer, fees.....Ch.102 - 232
Municipal, denominations, minimum, maximum amount.....Ch.135 - 321
BRANDS
Bd, membership requirements.....Ch.48 - 88
Inspection, approp.....Ch.214 - 521
Inspection certificates, seasonal, all livestock.....Ch.6 - 10
BROADCASTING
See PUBLIC BROADCASTING
BUDGETS
Fire Protection Dist, consolidated, request limit.....Ch.202 - 493
Health District, requests.....Ch.39 - 65
Legislative, Office, approp.....Ch.267 - 641
Legislative, Office, renamed.....Ch.1 - 3
Reserve Account, created, approp.....Ch.249 - 596
State, allotment, state auditor report.....Ch.137 - 326
BUILDINGS
Bureau, approp.....Ch.211 - 516
BUSES
School, contract carriers included, when, fees.....Ch.84 - 158
School, exempt motor carrier regulation/fees, when.....Ch.255 - 610
BUSINESS
Sales tax, cash register conversion, credit.....Ch.287 - 670
Sales tax, return & payment, uniform requirement.....Ch.285 - 658
CANDIDATES
City council, district seats, when.....Ch.108 - 250
Legislative, multi-member dist, seats designated.....Ch.121 - 278
Primary election, filing date.....Ch.8 - 12
Primary election, filing, time extended.....Ch.173 - 414
CEMETERIES
Desecration, penalty.....Ch.73 - 135
Indian burial ground, protection.....Ch.73 - 135
CHECKS
See BANKS AND BANKING
CHILDREN
Adult & ADC Assistance, approp.....Ch.272 - 646
Adult & ADC Assistance, approp, additional.....Ch.3 - 6
Injury, wrongful, civil actions.....Ch.158 - 385
Lewd conduct, additional definition.....Ch.63 - 112
Safety restraints required, motor vehicles, when.....Ch.193 - 441
Uniform Transfers to Minors Act.....Ch.152 - 356
Youth Services Center, approp.....Ch.271 - 645
CIGARETTES
Package, number requirement.....Ch.228 - 547
Tax, Central Tumor Registry Acct, allocation.....Ch.146 - 341
CITIES
Bonds issued, variable interest rates allowed.....Ch.261 - 630

Chapter - Page

CITIES (Continued)
Council-manager form of government provided.....Ch.156 - 381
Councils, district seats, election, when.....Ch.108 - 250
Gun control, prohibited.....Ch.243 - 590
Highway Distribution Account, apportionment.....Ch.195 - 445
Lewiston, NAIA World Series, appreciation.....HCR48 - 702
Manager, changed to council manager.....Ch.156 - 381
Municipal bond denomination, min/max amount.....Ch.135 - 321
Purchasing contracts, state, participation.....Ch.136 - 321
Resort, local option, certain authorized.....Ch.225 - 542
Revenue Sharing Acct distribution, sales tax money.....Ch.287 - 670
Rigby, congratulated, 100th birthday.....HCR65 - 718
Tax, local option, resort cities.....Ch.225 - 542
Tort claims, liability, dollar amount increased.....Ch.96 - 221
Wallace contratulated, 100th birthday.....HCR43 - 700
CIVIL ACTIONS
Expenses, certain, state agencies pay, when.....Ch.204 - 501
Personal injury, children, wrongful.....Ch.158 - 385
Public employees, claims against, responsibility.....Ch.140 - 328
Torts, public agency liability, dollar amount.....Ch.96 - 221
Wrongful death, who may file.....Ch.158 - 385
COLLEGE OF SOUTHERN IDAHO
See COLLEGES AND UNIVERSITIES
COLLEGES AND UNIVERSITIES
Approp.....Ch.288 - 684
Approp, library material, equipment acquisition.....Ch.249 - 596
BSU, approp.....Ch.288 - 684
BSU, approp, Morrison Center furnishing.....Ch.249 - 596
CSI, approp.....Ch.282 - 655
Fees, manditory, political use, study urged.....HCR58 - 714
ISU, approp.....Ch.288 - 684
Junior, employees, Social Security payments.....Ch.180 - 426
LCSC, approp.....Ch.288 - 684
Medical/dental education programs, approp.....Ch.217 - 524
NIC, approp.....Ch.282 - 655
NIC, approp, Library/Computer Science Building.....Ch.249 - 596
Public Broadcasting, approp.....Ch.266 - 640
UofI, approp.....Ch.288 - 684
UofI, approp, Life Sciences Building.....Ch.218 - 526
UofI, approp, Life Sciences Building.....Ch.249 - 596
UofI, bean disease violation fine, use.....Ch.153 - 367
UofI, Geological Survey created, offices, where.....Ch.101 - 229
COMMODITY COMMISSIONS
Approp.....Ch.69 - 131
COMPUTERS
See DATA PROCESSING
COMSTOCK, DR. TED
Congratulated, Pres, National School Bd Assn.....HCR56 - 714
CONDOMINIUMS
Time shared property, defined, sale.....Ch.61 - 109

Chapter - Page

CONSERVATION
Soil, District, money received, maximum increased.....Ch.16 - 18
Weatherization, residential, income tax deduction.....Ch.122 - 279
West Cassia Soil&Water Dist, grant authorized, use.....HCR55 - 713
CONSTITUTIONAL AMENDMENTS
Article III, Section 5, proposed.....HJR5 - 691
Article XV, Section 7, proposed.....SJR117 - 689
CONSUMERS
Food products, imported, package, information.....Ch.127 - 302
Motor vehicle dealer/manufacturer, responsibility.....Ch.151 - 355
CONTRACTS
Government, prof service, certain, negotiations.....Ch.188 - 437
Purchasing, state, local governments participate.....Ch.136 - 321
Sale, property, certain, exempt add'l sales tax.....Ch.28 - 47
CONTROLLED SUBSTANCES ACT
Drugs, simulated, possession prohibited.....Ch.200 - 489
Federal Act, conformance.....Ch.160 - 390
CONVENTIONS
Travel and convention tax, payment, Tax Comm.....Ch.126 - 301
CORPORATIONS
Certificate of authority, issuance.....Ch.67 - 117
Filing fees, certain deleted.....Ch.67 - 117
Name change, procedure eliminated, when.....Ch.67 - 117
Registered, certain, credit on filing fee.....Ch.67 - 117
Tax, income, deduction, computer donated schools.....Ch.103 - 241
Tax, income, deduction, interest expense.....Ch.35 - 55
CORRECTION
Dept, approp.....Ch.208 - 513
Dept, approp, Community Work Center.....Ch.281 - 655
Dept, approp, correctional industries.....Ch.65 - 114
Dept, approp, maintenance projects.....Ch.218 - 526
Dept, approp, maintenance projects.....Ch.249 - 596
Dept, approp, McKelway Hall, remodel.....Ch.281 - 655
Dept, approp, NICI, dormitory, remodel.....Ch.281 - 655
Dept, approp, Probation and Parole.....Ch.249 - 596
Dept, approp, 1983-84 reduced.....Ch.31 - 52
CORRECTIONAL INSTITUTIONS
Approp.....Ch.208 - 513
Community Work Center, approp.....Ch.281 - 655
Correctional industries, approp.....Ch.65 - 114
McKelway Hall, Orofino, remodel.....Ch.281 - 655
NICI, dormitory, remodel.....Ch.281 - 655
Rules, discipline, prisoners receive, when.....Ch.178 - 425
COUNTIES
Bond elections, disclosure certified.....Ch.107 - 249
Bonds issued, variable interest rates allowed.....Ch.261 - 630
Fire Protection Dist, annex, adjoining county.....Ch.117 - 262
Fire Protection Dist, annex, non-contiguous land.....Ch.202 - 493
Fire Protection Dist, consolidated, budget request.....Ch.202 - 493
Gun control, prohibited.....Ch.243 - 590

Chapter - Page

COUNTIES (Continued)
Health District Bd, members, appointment.....Ch.38 - 64
Health District, budget requests.....Ch.39 - 65
Highway Distribution Account, apportionment.....Ch.195 - 445
Mutual insurers, investments, certain allowed.....Ch.241 - 587
Offices, vacancies, qualification for appointment.....Ch.192 - 441
Property, exempt tax, market value shown on rolls.....Ch.222 - 539
Prosecuting attorney, four year terms.....Ch.80 - 147
Purchasing contracts, state, participation.....Ch.136 - 321
Reapportionment, division allowed.....HJR5 - 691
Revenue Sharing Acct distribution, sales tax money.....Ch.287 - 670
Sheriff, provided parole agreement/information.....Ch.85 - 168
Tax, records, daily pymt, required to keep, time.....Ch.89 - 187
Tort claims, liability, dollar amount increased.....Ch.96 - 221
Trial, expense claim, certain, approval required.....Ch.79 - 146
Warrants, registered, maximum amount deleted.....Ch.111 - 255

COURTS
Accused right to counsel, written notification.....Ch.229 - 548
Civil actions, state agencies pay expenses, when.....Ch.204 - 501
District, approp.....Ch.209 - 514
Judicial Council, approp.....Ch.209 - 514
Juvenile offenders, treatment.....Ch.81 - 148
Juveniles, incarcerated, detention facility, when.....Ch.82 - 157
Magistrates Division, approp.....Ch.209 - 514
Military Justice Code, federal conformance.....Ch.92 - 190
Penal laws, repealed, prosecution not barred.....Ch.24 - 45
Prisoners, female, transportation.....Ch.93 - 218
Sentence, death, appeals, procedures.....Ch.159 - 386
Sentencing arguments recorded, parole comm use.....Ch.230 - 549
Small claims, jurisdiction, dishonored checks.....Ch.199 - 488
Supreme, approp.....Ch.209 - 514
Supreme, approp, additional.....Ch.26 - 46
Trial, expense claim, certain, approval required.....Ch.79 - 146
Trial, misdemeanor, not held, 6 months/dismissed.....Ch.51 - 91
Victims of crime, restitution priority.....Ch.86 - 168

CREDIT UNIONS
Share & Deposit Insurance Programs, participation.....Ch.59 - 107
State, certain activities allowed.....Ch.95 - 220

CRIMINAL OFFENSES & PROCEDURES
Accused right to counsel, written notification.....Ch.229 - 548
Computer crime, defined, penalties.....Ch.68 - 129
Controlled Substances Act, Federal, conformance.....Ch.160 - 390
Controlled substances, simulated, possession.....Ch.200 - 489
Drivers license, driving while suspended, penalty.....Ch.22 - 25
DUI, fines, disposition.....Ch.161 - 399
DUI, penalties.....Ch.22 - 25
Firearm confiscation, felony conviction, procedure.....Ch.177 - 423
Juvenile offender, detention facility, segregation.....Ch.190 - 439
Juveniles, offenses, certain, treated as adult.....Ch.81 - 148
Parole agreement/information, provided to sheriff.....Ch.85 - 168

Chapter - Page
CRIMINAL OFFENSES & PROCEDURES (Continued)
Parole/probation, parolee pay for costs.....Ch.187 - 436
Penal laws, repealed, prosecution not barred.....Ch.24 - 45
Prisoners, furlough, work projects.....Ch.58 - 106
Sentence, death, appeals, procedures.....Ch.159 - 386
Sentencing arguments recorded, parole comm use.....Ch.230 - 549
Trespassing, removal/damage, "No Trespass" signs.....Ch.37 - 63
Trial, expense claim, certain, approval required.....Ch.79 - 146
Trial, misdemeanor, not held, 6 months/dismissed.....Ch.51 - 91
Victims of crime, medical exam, payment.....Ch.191 - 440
Victims of crime, restitution priority.....Ch.86 - 168
DAIRY PRODUCTS
See AGRICULTURE, MILK & MILK PRODUCTS
DATA PROCESSING
Computer crime, defined, penalties.....Ch.68 - 129
Equipment, donated schools, income tax deduction.....Ch.103 - 241
DEAF
Deaf&Blind School, approp.....Ch.279 - 653
Deaf&Blind School, approp, equipment acquisition.....Ch.249 - 596
Deaf&Blind School, construction/renovation.....SCR118 - 694
DEATH
Sentence, appeals, procedures.....Ch.159 - 386
Wrongful, suits, who may file.....Ch.158 - 385
DEER
See WILDLIFE
DENTISTS AND DENTISTRY
Creighton University Boyne School Prog, approp.....Ch.217 - 524
Dentistry Bd, approp.....Ch.167 - 407
Idaho Dental Education Program, approp.....Ch.217 - 524
DEPOSITORIES
State, service fees authorized.....Ch.76 - 140
State, uninsured state funds, maximum.....Ch.76 - 140
DISABLED
Community Developmental Disability Serv, approp.....Ch.271 - 645
Developmentally, dependent, income tax deduction.....Ch.176 - 422
Hearing impaired, protection guide dogs.....Ch.147 - 342
Institutional Developmental Dsblty Serv, approp.....Ch.271 - 645
Parking spaces, marking and signing.....Ch.77 - 141
Parking, special card provided, motor vehicles.....Ch.77 - 141
DISASTERS
Expense, agreements authorized, federal gov't.....Ch.4 - 7
Services, Military Division, approp.....Ch.265 - 640
DISEASES
Renal, program, approp.....Ch.220 - 529
DISTRICT COURT
See COURTS
DISTRICTS
See also SCHOOL DISTRICTS
City council seats, elections, when.....Ch.108 - 250
Fire Protection, annexation, adjoining county.....Ch.117 - 262

Chapter - Page

DISTRICTS (Continued)
Fire Protection, annexation, non-contiguous land.....Ch.202 - 493
Fire Protection, consolidated, budget request limit.....Ch.202 - 493
Flood Control, exclusion of a division.....Ch.240 - 585
Health, approp.....Ch.171 - 411
Health Bd, compensation increased.....Ch.40 - 66
Health Bd, members, appointment.....Ch.38 - 64
Health, budget requests.....Ch.39 - 65
Health, I, approp, maintenance projects ..... Ch.218 - 526
Highway, commissioners, salaries.....Ch.138 - 327
Highway, commissioners, salaries.....Ch.198 - 488
Irrigation, redemption certificates, recording fee.....Ch.174 - 419
Soil Conservation, money received, maximum.....Ch.16 - 18
West Cassia Soil&Water Conservation, grant, use.....HCR55 - 713

DOGS
See ANIMALS

DREDGE MINING
See MINES AND MINING

DRIVERS
See also MOTOR VEHICLES
DUI, fines, disposition.....Ch.161 - 399
DUI, penalties.....Ch.22 - 25
License, driving while suspended, penalties.....Ch.22 - 25
License fee, increased, distribution.....Ch.236 - 564
License, suspension, chemical test refused.....Ch.22 - 25

DRUGS
Abuse evaluators, H&W Dept rules, amended.....HCR47 - 701
Controlled Substances Act, Federal, conformance.....Ch.160 - 390
Controlled substances, simulated, possession.....Ch.200 - 489
DUI, penalties.....Ch.22 - 25
Substance Abuse Services, approp.....Ch.275 - 649

ECONOMIC AND COMMUNITY AFFAIRS
Division, approp.....Ch.206 - 512

EDUCATION
See also COLLEGES AND UNIVERSITIES, VOCATIONAL EDUCATION
Bd, approp, Agric Research Program.....Ch.277 - 651
Bd, approp, BSU, Morrison Center furnishings.....Ch.249 - 596
Bd, approp, BSU, Vocational Education, equipment.....Ch.249 - 596
Bd, approp, colleges & universities.....Ch.288 - 684
Bd, approp, colleges & universities, material/equip.....Ch.249 - 596
Bd, approp, Cooperative Extension Program.....Ch.277 - 651
Bd, approp, CSI.....Ch.282 - 655
Bd, approp, Deaf & Blind School.....Ch.279 - 653
Bd, approp, Deaf & Blind School, equipment.....Ch.249 - 596
Bd, approp, Forest Utilization Research Program.....Ch.277 - 651
Bd, approp, Historical Society.....Ch.278 - 652
Bd, approp, maintenance projects.....Ch.218 - 526
Bd, approp, maintenance projects.....Ch.249 - 596
Bd, approp, medical/dental programs.....Ch.217 - 524
Bd, approp, NIC.....Ch.282 - 655

Chapter - Page

EDUCATION (Continued)
Bd, approp, NIC Library/Computer Science Building.....Ch.249 - 596
Bd, approp, Office, administration.....Ch.213 - 520
Bd, approp, Public Broadcasting.....Ch.266 - 640
Bd, approp, Public Schools.....Ch.289 - 685
Bd, approp, Public Schools, instructional material.....Ch.249 - 596
Bd, approp, State Library Bd.....Ch.216 - 524
Bd, approp, State Library Bd, additional.....Ch.34 - 54
Bd, approp, UofI, Life Sciences Building.....Ch.218 - 526
Bd, approp, UofI, Life Sciences Building.....Ch.249 - 596
Bd, approp, various divisions, equipment/materials.....Ch.249 - 596
Bd, approp, Vocational Education.....Ch.268 - 643
Bd, approp, Vocational Education, additional.....Ch.49 - 90
Bd, approp, Vocational Rehabilitation.....Ch.220 - 529
Bd, rules, Professional Studies Program.....HCR61 - 716
Bd, study, college & university fees, use.....HCR58 - 714
Dept, approp.....Ch.280 - 653
Dept, approp, additional.....Ch.33 - 53
Medical/dental programs, approp.....Ch.217 - 524
Public School Income Fund, approp.....Ch.289 - 685
Public School Income Fund, sales tax moneys.....Ch.287 - 670
Public School, retirement, FICA, unemployment.....Ch.289 - 685
Scholarships and grants, approp.....Ch.213 - 520
School dist, preconsolidation support prog, time.....Ch.97 - 223
School fiscal year change study.....HCR49 - 703
Schools, public, approp.....Ch.289 - 685
Teacher certificate, revoked/suspended, grounds.....Ch.150 - 353
Teacher Excellence Program established, approp.....Ch.286 - 660
Teachers, evaluation, contract renewal.....Ch.286 - 660
Teachers, salaries increased, approp.....Ch.286 - 660

ELECTIONS
Ballots, absentee, printed/forward to cnty, date.....Ch.131 - 305
Bond, disclosure, certification.....Ch.107 - 249
City council, district seats, when.....Ch.108 - 250
Council-manager, cities, discontinuance clarified.....Ch.156 - 381
County office, vacancy, qualification for appt.....Ch.192 - 441
Legislative, multi-member dist, seats designated.....Ch.121 - 278
Primary, candidates, filing date.....Ch.8 - 12
Primary, candidates, filing, time extended.....Ch.173 - 414
School district trustee, new trustee zone.....Ch.94 - 218
School, registration, illegal, penalty.....Ch.46 - 75
Voter, absentee registration, federal application.....Ch.131 - 305
Voter pamphlets, distribution.....Ch.114 - 258
Watermaster, voter eligibility, water rights.....Ch.175 - 420

ELECTRICAL
Bureau, approp.....Ch.211 - 516
Division created, Labor and Industrial Services.....Ch.123 - 281

ELK
See WILDLIFE

Chapter - Page

EMPLOYEES AND EMPLOYMENT
National Guard members, active duty, reemployment.....Ch.139 - 327
Public, claims against, certain, responsibility.....Ch.140 - 328
Public, Retirement, approp.....Ch.168 - 409
Public, Retirement, erroneous contributions.....Ch.130 - 304
Public, Retirement, minimum benefits.....Ch.132 - 308
Public, Retirement, National Guard employees.....Ch.132 - 308
Public, Retirement, reinstatement, interest.....Ch.129 - 304
School dist, junior college, social security.....Ch.180 - 426
School, tuberculosis exam requirement deleted.....Ch.71 - 132
State, salary policies.....HCR54 - 712
State, travel, mileage allowance increased.....Ch.78 - 145
ENDOWMENT FUND
Investment Bd, approp.....Ch.168 - 409
ENERGY
Conservation, weatherization program, income tax.....Ch.122 - 279
Resources Program, approp.....Ch.249 - 596
ENGINEERS
Examiners Bd, approp.....Ch.167 - 407
Professional, fees increased.....Ch.254 - 605
Professional service contract, gov't, negotiation.....Ch.188 - 437
ENVIRONMENT
Division, H&W Dept, approp.....Ch.273 - 647
Hazardous waste disposal facilities siting study.....SCR119 - 695
Hazardous waste disposal fees.....Ch.205 - 502
Hazardous waste, reports, additional required.....Ch.258 - 618
Hazardous Waste Training, Emergency&Monitoring Acct.....Ch.205 - 502
Hazardous waste transporters fees.....Ch.205 - 502
Hazardous waste violation, each day, offense.....Ch.54 - 94
Hazardous waste violation, property/health damage.....Ch.157 - 383
Injection wells, permits, regulation.....Ch.155 - 370
Uranium Mill Tailings Act, participation.....Ch.257 - 617
Water Pollution Control Acct, sales tax moneys.....Ch.287 - 670
EXECUTIVE ORDERS
83-5 thru 83-24..... 727
84-1 thru 84-7..... 760
FARMING
See AGRICULTURE
FEDERAL LAWS
Uranium Mill Tailings Act, participation.....Ch.257 - 617
FEES
Artificial inseminators license, increased.....Ch.17 - 19
Banking, various, fund Finance Dept.....Ch.47 - 76
Beer license, increased.....Ch.133 - 319
Corporate filing, certain deleted.....Ch.67 - 117
Corporate filing, credits received, when.....Ch.67 - 117
Drivers license, increased, distribution.....Ch.236 - 564
Engineers, professional, increased.....Ch.254 - 605
Florist license.....Ch.231 - 552
Game tag, certain, increased, winter feeding.....Ch.197 - 484

Chapter - Page

FEES (Continued)
Garnishment, increased, debt owed by state.....Ch.223 - 540
Government records, papers, sale, exempt sales tax.....Ch.284 - 657
Hazardous waste disposal.....Ch.205 - 502
Hazardous waste transporters.....Ch.205 - 502
Injection well, permit application, increased.....Ch.155 - 370
Insurance, fund Insurance Dept.....Ch.23 - 38
Liquor license, equestrian facilities.....Ch.244 - 590
Marriage license, increased.....Ch.29 - 50
Mining, dredge/placer, various.....Ch.102 - 232
Motor carrier, temporary operating authority letter.....Ch.149 - 351
Motor vehicle, various, Highway Distribution Acct.....Ch.195 - 445
Notary Public.....Ch.259 - 620
Nursery license.....Ch.231 - 552
Nurses license, increased.....Ch.57 - 101
Pesticide applicators, examination, licensing.....Ch.148 - 347
Pilots, registration, increased.....Ch.227 - 544
PUC, copy, established by rule.....Ch.109 - 252
Recording, hospital liens.....Ch.30 - 51
Recording, Irrigation Dist redemption certificates.....Ch.174 - 419
Recording, livestock leases.....Ch.116 - 261
Service, state depositories, authorized.....Ch.76 - 140
Student, college&university, political use, study.....HCR58 - 714
Surveyors, land, increased.....Ch.254 - 605
Temporary trip permits.....Ch.87 - 169
Trademarks, filing registration.....Ch.56 - 95
Weighmasters license, increased.....Ch.18 - 20
Wine license, increased.....Ch.221 - 530
Winery license.....Ch.221 - 530

FINANCE
Administration, Account created, bank fees.....Ch.47 - 76
Dept, approp.....Ch.249 - 596
Dept, approp.....Ch.169 - 409
Dept, fees, various, fund Finance Dept.....Ch.47 - 76
Finance-Appropriations Committee, approp.....Ch.267 - 641

FINANCIAL MANAGEMENT
Division, approp.....Ch.270 - 644

FINES
DUI, disposition.....Ch.161 - 399

FIRE
Protection Dist, annexation, adjoining county.....Ch.117 - 262
Protection Dist, annexation, non-contiguous land.....Ch.202 - 493
Protection Dist, consolidated, budget request.....Ch.202 - 493

FIREARMS
See GUNS

FIREMEN
Paid, health standards, Labor&Industrial Services.....Ch.242 - 588

FISH AND GAME
Big game tags, fees, certain, increased.....Ch.197 - 484
Big game winter feeding, game tag moneys.....Ch.197 - 484

Chapter - Page

FISH AND GAME (Continued)
Dept, approp.....Ch.162 - 401
Dept, approp, additional, wildlife program.....Ch.186 - 436
Furbearers, damaging property, licensed trappers.....Ch.144 - 338
License, certain, revoked, trespassing violation.....Ch.112 - 256
Wildlife, open depredation seasons declared, when.....Ch.154 - 368
FISHING
See FISH AND GAME
FLOODS
Control Districts, exclusion of a division.....Ch.240 - 585
FLORISTS
Licenses, inspection, fees.....Ch.231 - 552
FOOD
Products, imported, package, information included.....Ch.127 - 302
FORESTS AND FORESTRY
Products, lands, yield tax.....Ch.237 - 566
Utilization Research Program, approp.....Ch.277 - 651
FRUIT
Apple Commission, approp.....Ch.69 - 131
Cherry Commission, approp.....Ch.69 - 131
Prune Commission, approp.....Ch.69 - 131
FUELS
Special, permit, bonds deleted.....Ch.87 - 169
Special, permit, exemptions.....Ch.87 - 169
Special, Tax Administration, approp, additional.....Ch.248 - 595
Tax law, technical amendments.....Ch.87 - 169
FUNDS
Money market, permitted investments, Investment Bd.....Ch.226 - 542
State, uninsured in state depositories, maximum.....Ch.76 - 140
FURBEARERS
Property damaged by, licensed trappers may trap.....Ch.144 - 338
GAME
See FISH AND GAME
GARNISHMENT
Debts, owed by state, fee increased.....Ch.223 - 540
GENERAL SERVICES
Approp.....Ch.172 - 412
GEOLOGISTS AND GEOLOGY
Bd, approp.....Ch.167 - 407
Geological Survey created, Bd, membership.....Ch.101 - 229
GIFTS
Uniform, Minors Act repealed.....Ch.152 - 356
GOVERNMENT
Bonds issued, variable interest rates allowed.....Ch.261 - 630
Contract, professional service, certain, negotiate.....Ch.188 - 437
Federal, agreements authorized, disaster expense.....Ch.4 - 7
Public agencies, Indian tribes, agreements.....Ch.72 - 133
Public agencies, Indian tribes not included.....Ch.72 - 133
Records, papers, fee charged, exempt sales tax.....Ch.284 - 657
State, debt owed by, garnishment, fee.....Ch.223 - 540

Chapter - Page

GOVERNMENT (Continued)
State purchasing contracts, local govt participate.....Ch.136 - 321
Torts, public agency liability, dollar amount.....Ch.96 - 221
U.S., sheep industry, protection urged.....SJM107 - 720
GOVERNOR
Agreements, federal government, disaster expense.....Ch.4 - 7
Executive Orders
83-5 thru 83-24..... 727
84-1 thru 84-7..... 760
Office of, approp.....Ch.269 - 643
Office of, approp, additional.....Ch.11 - 15
Office of, approp, Aging, Office on.....Ch.247 - 595
Office of, approp, Blind Commission.....Ch.245 - 593
Office of, approp, Blind Commission, projects.....Ch.218 - 526
Office of, approp, Blind Commission, projects.....Ch.249 - 596
Office of, approp, Economic & Community Affairs.....Ch.206 - 512
Office of, approp, Emergency Fund.....Ch.182 - 431
Office of, approp, Emergency Fund.....Ch.2 - 6
Office of, approp, Endowment Fund Investment Bd.....Ch.168 - 409
Office of, approp, Financial Mgmt Division.....Ch.270 - 644
Office of, approp, General Services area.....Ch.168 - 409
Office of, approp, Human Rights Commission.....Ch.246 - 594
Office of, approp, Insurance Fund.....Ch.168 - 409
Office of, approp, Liquor Dispensary.....Ch.168 - 409
Office of, approp, Military Division.....Ch.265 - 640
Office of, approp, Military Division, additional.....Ch.32 - 53
Office of, approp, Military Division, projects.....Ch.218 - 526
Office of, approp, Military Division, projects.....Ch.249 - 596
Office of, approp, Retirement System.....Ch.168 - 409
Office of, approp, Retirement System, additional.....Ch.14 - 17
Residence, approp.....Ch.269 - 643
State of State message.....HCR35 - 697
GRAPES
Grape Growers and Wine Commission established.....Ch.42 - 67
GUNS
Confiscation, felony conviction, procedure.....Ch.177 - 423
Control, cities/counties, prohibited.....Ch.243 - 590
HANDICAPPED
See DISABLED
HAZARDOUS SUBSTANCES
H&W Program, approp.....Ch.249 - 596
H&W Program, approp.....Ch.273 - 647
Injection wells, permits, regulation.....Ch.155 - 370
Uranium Mill Tailings Act, participation.....Ch.257 - 617
Waste disposal facilities siting.....SCR119 - 695
Waste disposal, fees.....Ch.205 - 502
Waste law violations, each day, separate offense.....Ch.54 - 94
Waste law violations, property, health, damage.....Ch.157 - 383
Waste, reports, additional required.....Ch.258 - 618
Waste Training, Emergency&Monitoring Acct created.....Ch.205 - 502

Chapter - Page

HAZARDOUS SUBSTANCES (Continued)
Waste transporters, fees.....Ch.205 - 502
HEALTH
Care activities, certain, H&W Dept rules amended.....HCR50 - 704
District Bd, compensation increased.....Ch.40 - 66
District Bd, members, appointment.....Ch.38 - 64
District, budget requests.....Ch.39 - 65
District, public, approp.....Ch.171 - 411
District, public, I, approp, maintenance projects.....Ch.218 - 526
Division, approp.....Ch.275 - 649
Firemen, standards, Labor&Industrial Services.....Ch.242 - 588
Personal, damaged, hazardous waste violations.....Ch.157 - 383
Physical Health Services, approp.....Ch.275 - 649
HEALTH AND WELFARE
Dept, approp.....Ch.249 - 596
Dept, approp, Adult & ADC Assistance.....Ch.272 - 646
Dept, approp, Adult & ADC Assistance, additional.....Ch.3 - 6
Dept, approp, Air Quality Program.....Ch.273 - 647
Dept, approp, Community Developmental Disability.....Ch.271 - 645
Dept, approp, Community Mental Health Services.....Ch.271 - 645
Dept, approp, Community Rehabilitation.....Ch.271 - 645
Dept, approp, Eligibility Services.....Ch.272 - 646
Dept, approp, Eligibility Services, additional.....Ch.3 - 6
Dept, approp, Emergency Medical Services.....Ch.275 - 649
Dept, approp, Hazardous Materials Program.....Ch.249 - 596
Dept, approp, Hazardous Materials Program.....Ch.273 - 647
Dept, approp, Health Division.....Ch.275 - 649
Dept, approp, Idaho State School&Hosp, projects.....Ch.249 - 596
Dept, approp, Indirect Support Services.....Ch.276 - 650
Dept, approp, Institutional Developmental Dsblty.....Ch.271 - 645
Dept, approp, Institutional Mental Health Serv.....Ch.271 - 645
Dept, approp, Laboratory Services.....Ch.275 - 649
Dept, approp, maintenance projects.....Ch.218 - 526
Dept, approp, maintenance projects.....Ch.249 - 596
Dept, approp, Medical Assistance.....Ch.272 - 646
Dept, approp, Medical Assistance, additional.....Ch.3 - 6
Dept, approp, Physical Health Services.....Ch.275 - 649
Dept, approp, Social Services.....Ch.272 - 646
Dept, approp, Social Services, additional.....Ch.3 - 6
Dept, approp, State Hospital North.....Ch.271 - 645
Dept, approp, State Hospital South.....Ch.271 - 645
Dept, approp, Substance Abuse Services.....Ch.275 - 649
Dept, approp, Veterans Services Program.....Ch.274 - 648
Dept, approp, Water Quality Program.....Ch.249 - 596
Dept, approp, Water Quality Program.....Ch.273 - 647
Dept, approp, Welfare Division.....Ch.272 - 646
Dept, approp, Welfare Division, additional.....Ch.3 - 6
Dept, approp, Youth Services Center.....Ch.271 - 645
Dept, rule, alcohol/drug abuse evaluators, amend.....HCR47 - 701
Dept, rule, health care activities, certain.....HCR50 - 704

Chapter - Page
HEALTH AND WELFARE (Continued)
Hazardous waste reports, additional required.....Ch.258 - 618
HIGHWAYS
Dist, commissioners, salary.....Ch.138 - 327
Dist, commissioners, salary.....Ch.198 - 488
Distribution Account, created, apportionment.....Ch.195 - 445
Program, state, independent review.....SCR117 - 693
Prohibited access, vending machines allowed.....Ch.251 - 603
State, Account, drivers license fee increased.....Ch.236 - 564
State, Account, revenue sources.....Ch.195 - 445
HISPANICS
Hispanic affairs issues study.....HCR64 - 717
HISTORIC SITES
Maintenance, approp.....Ch.278 - 652
HISTORICAL SOCIETIES
State, approp.....Ch.278 - 652
HOMES
Homestead, execution, deeds of trust.....Ch.53 - 93
Homestead, value increased, in excess of mortgage.....Ch.234 - 563
HOMESTEADS
See HOMES
HONEY
Advertising Commission, approp.....Ch.264 - 637
HORSE RACING
Commission, approp.....Ch.214 - 521
HOSPITALS
Idaho State School & Hospital, approp, projects.....Ch.249 - 596
Liability trusts, insurance premium tax, payment.....Ch.253 - 604
Liens, recording fee.....Ch.30 - 51
Real estate investment allowed, when.....Ch.98 - 226
Records, confidentiality.....Ch.113 - 257
State Hospital North, approp.....Ch.271 - 645
State Hospital South, approp.....Ch.271 - 645
HOTELS AND MOTELS
Tax, local option, resort cities.....Ch.225 - 542
Tax, travel and convention, payment, Tax Comm.....Ch.126 - 301
HUMAN RIGHTS
Commission, approp.....Ch.246 - 594
HUNTING
See FISH AND GAME
IDAHO HOUSING AGENCY
Bonds, outstanding, maximum.....Ch.194 - 442
IDAHO NATIONAL ENGINEERING LABORATORY
Nuclear material, reprocessing, use tax exemption.....Ch.239 - 570
IDAHO STATE UNIVERSITY
See COLLEGES AND UNIVERSITIES
INDIANS
Burial ground, protection.....Ch.73 - 135
Reservation sales, exempt sales tax, when.....Ch.119 - 271
Tribes, not public agency.....Ch.72 - 133

Chapter - Page
INDIANS (Continued)
Tribes, public agencies, agreements.....Ch.72 - 133
INDIGENTS
Accused right to counsel, written notification.....Ch.229 - 548
Medically, nursing home costs, reimbursement rates.....Ch.99 - 227
INDUSTRIAL COMMISSION
Approp.....Ch.207 - 512
INHERITANCE
Tax, exemption, property transferred to spouse.....Ch.115 - 259
INSPECTIONS
Brand, approp.....Ch.214 - 521
Brand, certificates, seasonal, all livestock.....Ch.6 - 10
INSURANCE
Administrative Account created, fees.....Ch.23 - 38
Agent, disability ins license required, when.....Ch.256 - 612
Agent, fees, appointments, licenses.....Ch.256 - 612
Agent, signature, facsimile allowed, when.....Ch.60 - 108
County mutual insurers, investment, certain allowed.....Ch.241 - 587
Dept, approp.....Ch.210 - 515
Dept, approp.....Ch.249 - 596
Dept, fees, various, fund Insurance Dept.....Ch.23 - 38
Examination expense, premium taxes, offset, when.....Ch.100 - 228
Guaranty Association, claims, filing date.....Ch.66 - 115
Insurer, guaranty deposits.....Ch.125 - 300
Life, state police, increased.....Ch.196 - 482
Management Division, approp.....Ch.172 - 412
Premium tax, hospital liability trusts, payment.....Ch.253 - 604
Share&Deposit, program, credit union participation.....Ch.59 - 107
State, Fund, approp.....Ch.168 - 409
Tort claims, public agency, liability, amount.....Ch.96 - 221
Tort claims, public employees, responsibility.....Ch.140 - 328
Workmen's Comp, premiums, dividends not deducted.....Ch.90 - 189
INTEREST
Corporate, expense, income tax deduction.....Ch.35 - 55
Public Employee Retirement, erroneous contribution.....Ch.130 - 304
Public Employee Retirement, reinstatement.....Ch.129 - 304
Public School Income Fund, earned, investment.....Ch.180 - 426
Rate increased, checks, dishonored.....Ch.50 - 91
Rate, property tax, delinquent, increased.....Ch.89 - 187
Rate, variable allowed, government bonds issued.....Ch.261 - 630
INVESTMENTS
Bd, permitted investments.....Ch.226 - 542
County mutual insurers, certain allowed.....Ch.241 - 587
Public School Income Fund, interest earned.....Ch.180 - 426
Real estate, hospitals/service corps, allowed.....Ch.98 - 226
IRRIGATION
See also WATER
District, redemption certificates, recording fee.....Ch.174 - 419

Chapter - Page

JAILS
See also CORRECTIONAL INSTITUTIONS
Juveniles, alternative provided, when.....Ch.82 - 157
JUDGES
Judicial Council, approp.....Ch.209 - 514
Retirement, manditory, repealed.....Ch.91 - 190
JUDGMENTS
Execution, homesteads, deeds of trust included.....Ch.53 - 93
Unclaimed, included unclaimed property law, when.....Ch.36 - 60
JUNIOR COLLEGES
See COLLEGES AND UNIVERSITIES
JUVENILES
Custody, other than parents, support.....Ch.81 - 148
Incarceration, juvenile detention facility, when.....Ch.82 - 157
Offenders, detention facility, segregation.....Ch.190 - 439
Offenders, various offenses, treatment.....Ch.81 - 148
KILLEBREW, HARMON
Commended, Baseball Hall of Fame.....HCR39 - 699
LABOR AND INDUSTRIAL SERVICES
Dept, adopt firemen health/medical standards.....Ch.242 - 588
Dept, approp.....Ch.211 - 516
Dept, approp, additional.....Ch.9 - 13
Electrical division created.....Ch.123 - 281
Plumbing division created.....Ch.123 - 281
LABORATORY
Services, approp.....Ch.275 - 649
LAND
Dept, approp.....Ch.212 - 518
Dept, approp, maintenance projects.....Ch.218 - 526
Forest products/lands, yield tax.....Ch.237 - 566
Mining, dredge/placer, restoration required.....Ch.102 - 232
LAVA HOT SPRINGS
Foundation, approp.....Ch.164 - 403
LAW ENFORCEMENT
Account, revenue sources.....Ch.195 - 445
Agency, crime victim, medical exam, payment.....Ch.191 - 440
Dept, approp.....Ch.214 - 521
Liquor, Account, allocation deleted.....Ch.120 - 276
Police, state, life insurance increased.....Ch.196 - 482
LEASES
Livestock, recording, fees.....Ch.116 - 261
LEGISLATIVE AUDITOR
See AUDITOR
LEGISLATIVE COUNCIL
Approp.....Ch.267 - 641
Hazardous waste disposal facilities siting study.....SCR119 - 695
Highway program, state, independent review.....SCR117 - 693
Hispanic affairs issues study.....HCR64 - 717
School fiscal year change study.....HCR49 - 703

Chapter - Page

LEGISLATIVE DISTRICTS
Reapportionment, counties may be divided.....HJR5 - 691
Reapportionment, HB746 amended.....Ch.250 - 600
Reapportionment, 36 created.....Ch.173 - 414
LEGISLATURE
Budget Office, approp.....Ch.267 - 641
Deaf&Blind School, construction/renovation.....SCR118 - 694
Districts, multi-member, seats designated.....Ch.121 - 278
Fiscal Office, renamed Legislative Budget Office.....Ch.1 - 3
Governor's State of State message.....HCR35 - 697
Hazardous waste disposal facilities siting study.....SCR119 - 695
Highway program, state, independent review.....SCR117 - 693
Hispanic affairs issues study.....HCR64 - 717
Reapportionment, appeal, legal counsel, payment.....SCR116 - 692
Reapportionment, counties may be divided.....HJR5 - 691
Reapportionment, HB746 amended.....Ch.250 - 600
Reapportionment, 36 districts created.....Ch.173 - 414
School fiscal year change study.....HCR49 - 703
Trial expense claim, certain, approval.....Ch.79 - 146
Water plan, amend/reject.....SJR117 - 689
LEWIS-CLARK STATE COLLEGE
See COLLEGES AND UNIVERSITIES
LEWISTON
NAIA World Series, appreciation expressed.....HCR48 - 702
LEWISTON PORT
See PORT DISTRICTS
LIBRARIES
Law, approp.....Ch.209 - 514
Public, contributions, income tax credit.....Ch.286 - 660
State, Bd, approp.....Ch.216 - 524
State, Bd, approp, additional.....Ch.34 - 54
LICENSES
Artificial inseminators, fee increased.....Ch.17 - 19
Beer, fees increased.....Ch.133 - 319
Drivers, driving while suspended, penalties.....Ch.22 - 25
Drivers, fees, increased, distribution.....Ch.236 - 564
Drivers, suspension, chemical test refused.....Ch.22 - 25
F&G, certain, revoked, trespass violation.....Ch.112 - 256
Florists, fees.....Ch.231 - 552
Liquor, equestrian facility, issuance, when.....Ch.244 - 590
Marriage, fee increased.....Ch.29 - 50
Motor club agents, qualifications.....Ch.252 - 603
Nursery, fees.....Ch.231 - 552
Nurses, fee increased.....Ch.57 - 101
Occupational Licenses Bureau, approp.....Ch.167 - 407
Outfitters and Guides, application, fees.....Ch.262 - 632
Outfitters and Guides, suspension, fines, when.....Ch.262 - 632
Pesticide applicators, fees.....Ch.148 - 347
Psychologist Examiners Bd rules, unlicensed persons.....Ch.141 - 330
Weighmasters, fee increased.....Ch.18 - 20

Chapter - Page

LICENSES (Continued)
Wine, fees increased.....Ch.221 - 530
Winery, established, fees.....Ch.221 - 530
LIENS
Agriculture commodity, code reference corrected.....Ch.43 - 71
Hospital, recording fee.....Ch.30 - 51
LIEUTENANT GOVERNOR
Approp.....Ch.163 - 402
Approp, additional.....Ch.7 - 11
Expense allowance, clarified.....Ch.203 - 499
LIQUOR
See also BEER, WINE
Account, distribution.....Ch.120 - 276
Alcohol abuse evaluators, H&W Dept rules, amended.....HCR47 - 701
Alcohol Safety Action Prog Acct, allotment deleted.....Ch.120 - 276
Dispensary, approp.....Ch.168 - 409
DUI, fines, disposition.....Ch.161 - 399
DUI, penalties.....Ch.22 - 25
DUI, test refused, penalty.....Ch.22 - 25
Law Enforcement Account, allocation deleted.....Ch.120 - 276
License, equestrian facility, issuance, when.....Ch.244 - 590
Substance Abuse Services, approp.....Ch.275 - 649
LIVESTOCK
See also ANIMALS
Brand Bd, membership requirements.....Ch.48 - 88
Brand inspection certificates, seasonal.....Ch.6 - 10
Leases, recording, fee.....Ch.116 - 261
Watering, instream, water rights not required.....Ch.124 - 299
MARRIAGE
License, fee increased.....Ch.29 - 50
MEDICAL
Care, service corporations, invest, real estate.....Ch.98 - 226
Emergency Medical Services, approp.....Ch.275 - 649
Exam, crime victim, payment.....Ch.191 - 440
MEDICAL ASSISTANCE
See PUBLIC ASSISTANCE, Medical
MEDICINE
Bd, approp.....Ch.167 - 407
Bd, approp, additional.....Ch.74 - 139
UofUtah Medical School Program, approp.....Ch.217 - 524
WAMI Medical Education Program, approp.....Ch.217 - 524
WICHE, approp.....Ch.217 - 524
MEMORIALS
Sheep industry, protection requested.....SJM107 - 720
Wolf population reestablished, termination asked.....HJM11 - 722
MENTAL HEALTH
Community, Services, approp.....Ch.271 - 645
Institutional, Services, approp.....Ch.271 - 645
MILITARY AND MILITIA
Courts-martial, procedures.....Ch.92 - 190

Chapter - Page
MILITARY AND MILITIA (Continued)
Division, approp.....Ch.265 - 640
Division, approp, additional.....Ch.32 - 53
Division, approp, maintenance projects.....Ch.218 - 526
Division, approp, maintenance projects.....Ch.249 - 596
Justice code, federal conformance.....Ch.92 - 190
MILK AND MILK PRODUCTS
Milk, cream, produced in Idaho, tax imposed.....Ch.20 - 23
MINES AND MINING
Dredge and Placer Mining Account created, use.....Ch.102 - 232
Dredge/placer, permits, bonds, fees.....Ch.102 - 232
Dredge/placer, restoration of lands.....Ch.102 - 232
Geological Survey created, Bd, membership.....Ch.101 - 229
Sunshine Mine centennial, commemoration.....HCR63 - 716
MINORS
See CHILDREN, JUVENILES
MOTELS
See HOTELS AND MOTELS
MOTOR CARRIERS
Fees, temporary operating authority letters.....Ch.149 - 351
Regulation, fees, school buses, exempt, when.....Ch.255 - 610
MOTOR CLUBS
Agents, licensure.....Ch.252 - 603
MOTOR VEHICLES
See also DRIVERS
Commercial, certain, mileage reports.....Ch.195 - 445
Commercial, maximum length, certain roads.....Ch.142 - 333
Commercial, special fuel permit bonds deleted.....Ch.87 - 169
Commercial, temporary trip permits, fees.....Ch.87 - 169
Commercial/farm, registration.....Ch.195 - 445
Commercial/farm, registration, certain exempt.....Ch.143 - 334
Exempt personal property tax, when.....Ch.179 - 425
Fees, various, Highway Distribution Account.....Ch.195 - 445
Fuel, special, permits, exemptions.....Ch.87 - 169
Fuel, tax law, technical amendments.....Ch.87 - 169
Parking violations, state parks.....Ch.233 - 562
Pedestrians, right-of-way, requirements.....Ch.41 - 66
Product liability, dealer, manufacturer.....Ch.151 - 355
Registration, certain, exempt, Transp Dept rule.....Ch.143 - 334
Registration, certain, violations, not misdemeanor.....Ch.235 - 564
Safety restraints required, children, when.....Ch.193 - 441
Title, application, procedure.....Ch.143 - 334
Title, limited, vehicle 25 years or older, when.....Ch.260 - 628
Traffic Infractions Act, Transportation Dept.....Ch.52 - 92
Use on agricultural land, trespass.....Ch.55 - 94
MULES
See ANIMALS
NATIONAL GUARD
Employees, certain, Public Employment Retirement.....Ch.132 - 308
Members, active duty, reemployment rights.....Ch.139 - 327

Chapter - Page
NEWSPAPERS
Notices, official, publication, rate increased.....Ch.224 - 541
NORTH IDAHO COLLEGE
See COLLEGES AND UNIVERSITIES
NOTARIES
Idaho Notary Public Act.....Ch.259 - 620
Qualifications, powers, duties, etc.....Ch.259 - 620
NOTICES
Official, publication, rate increased.....Ch.224 - 541
NUCLEAR ENERGY
Nuclear material, reprocessing, use tax exemption.....Ch.239 - 570
NUCLEAR WASTES
See WASTES
NURSERIES
Licenses, inspection, fees.....Ch.231 - 552
State Nursery Advisory Committee established.....Ch.231 - 552
NURSES AND NURSING
Bd, duties.....Ch.57 - 101
Defined, regulation.....Ch.57 - 101
License fee, increased.....Ch.57 - 101
Nursing Bd, approp.....Ch.167 - 407
NURSING HOMES
Care, indigents, medically, reimbursement rates.....Ch.99 - 227
Property costs, reimbursements, certain, limited.....Ch.118 - 264
OCCUPATIONAL LICENSES BUREAU
Approp.....Ch.167 - 407
OFFICIALS
State, travel, mileage allowance increased.....Ch.78 - 145
OPTOMETRY AND OPTOMETRISTS
Optometry Bd, approp.....Ch.167 - 407
OUTFITTERS AND GUIDES
Bd, approp.....Ch.167 - 407
License, application, fees.....Ch.262 - 632
License, suspension, fine, when.....Ch.262 - 632
PACKAGING
Food products, imported, information included.....Ch.127 - 302
PARI-MUTUEL WAGERING
Mule racing included.....Ch.83 - 158
PARKING
Handicapped, marking and signing.....Ch.77 - 141
Handicapped, special card, motor vehicles.....Ch.77 - 141
Violation, state parks.....Ch.233 - 562
PARKS AND RECREATION
Dept, approp.....Ch.164 - 403
Dept, approp, Farragut State Park.....Ch.249 - 596
Parks, state, parking violation.....Ch.233 - 562
PAROLE
Agreement/information provided to sheriff.....Ch.85 - 168
Commission, sentencing arguments used, when.....Ch.230 - 549
Probation and Parole, approp.....Ch.249 - 596

Chapter - Page
PAROLE (Continued)
Probation and Parole Receipts Account created.....Ch.187 - 436
Supervision, parolee pay for costs.....Ch.187 - 436
PEDESTRIANS
Right-of-way, requirements.....Ch.41 - 66
PENITENTIARY
See CORRECTIONAL INSTITUTIONS
PERMANENT BUILDING FUND ADVISORY COUNCIL
Approp, Correction Dept projects.....Ch.281 - 655
Approp, maintenance projects.....Ch.218 - 526
Approp, maintenance projects.....Ch.249 - 596
PERMITS
Injection well, application, fees.....Ch.155 - 370
Mining, dredge/placer, fees.....Ch.102 - 232
PERSONNEL COMMISSION
Account, payments to.....Ch.238 - 569
Approp.....Ch.166 - 406
PESTICIDES
Applicators, examination, licensing fees.....Ch.148 - 347
PHARMACIES AND PHARMACISTS
Bd, approp.....Ch.167 - 407
PILOTS
Registration, biennial, fee increased.....Ch.227 - 544
PLACER MINING
See MINES AND MINING
PLUMBERS AND PLUMBING
Plumbing Bureau, approp.....Ch.211 - 516
Plumbing division created, Labor&Industrial Serv.....Ch.123 - 281
POLICEMEN
Authority to suspend drivers license.....Ch.22 - 25
State, approp.....Ch.214 - 521
State, life insurance increased.....Ch.196 - 482
POLLUTION
See ENVIRONMENT
PORT DISTRICTS
Lewiston, commissioners, compensation.....Ch.128 - 303
POTATOES
Commission, approp.....Ch.69 - 131
PRISONERS
Discipline rules, correctional institutions.....Ch.178 - 425
Female, transportation, court appearances.....Ch.93 - 218
Furlough, work projects.....Ch.58 - 106
Parole consideration, sentencing arguments used.....Ch.230 - 549
Trial, county expense claims, certain, approval.....Ch.79 - 146
PROPERTY
See also TAX AND TAXATION, PROPERTY
Damaged by furbearers, licensed trappers may trap.....Ch.144 - 338
Damaged, hazardous waste violations, compensation.....Ch.157 - 383
Homestead, value increased, in excess of mortgage.....Ch.234 - 563
Inheritance tax exemption, transferred to spouse.....Ch.115 - 259

Chapter - Page

PROPERTY (Continued)
Nursing home, cost reimbursement, certain, limited.....Ch.118 - 264
Personal, sold on contract, exempt add'l sales tax.....Ch.28 - 47
Real, surveying, error of closure, allowable.....Ch.263 - 637
School district, disposal.....Ch.45 - 72
Time shared, defined, sale, requirement.....Ch.61 - 109
Unclaimed, judgments included, when.....Ch.36 - 60
Unclaimed, law, technical amendments.....Ch.36 - 60
Utility, not providing service, excluded rate base.....Ch.21 - 24
PROPERTY TAX
See TAX AND TAXATION, PROPERTY
PROSECUTING ATTORNEYS
See ATTORNEYS
PSYCHOLOGISTS
Examiners Bd, rules, unlicensed persons.....Ch.141 - 330
PUBLIC ASSISTANCE
Adult & ADC Assistance, approp.....Ch.272 - 646
Adult & ADC Assistance, approp, additional.....Ch.3 - 6
Eligibility Services, approp.....Ch.272 - 646
Eligibility Services, approp, additional.....Ch.3 - 6
Medical Assistance, approp.....Ch.272 - 646
Medical Assistance, approp, additional.....Ch.3 - 6
Medical, nursing home costs, reimbursement rates.....Ch.99 - 227
Medical, nursing home property cost reimbursements.....Ch.118 - 264
Social Services, approp.....Ch.272 - 646
Social Services, approp, additional.....Ch.3 - 6
Welfare Division, approp.....Ch.272 - 646
Welfare Division, approp, additional.....Ch.3 - 6
PUBLIC BROADCASTING
Approp.....Ch.266 - 640
PUBLIC EMPLOYEES
See EMPLOYEES AND EMPLOYMENT
PUBLIC UTILITIES
See UTILITIES
PUBLIC WORKS
Contractors License Bd, approp.....Ch.167 - 407
Contractors License Bd, approp, additional.....Ch.74 - 139
Division, approp.....Ch.172 - 412
Division, approp, Correction Dept projects.....Ch.281 - 655
Division, approp, maintenance projects.....Ch.218 - 526
Division, approp, maintenance projects.....Ch.249 - 596
PURCHASING
Division, approp.....Ch.172 - 412
State, contract, local governments participate.....Ch.136 - 321
RAILROADS
Retirement benefits, income tax deduction, when.....Ch.35 - 55
REAL ESTATE
Commission, approp.....Ch.167 - 407
Hospitals, service corporations, investment.....Ch.98 - 226

Chapter - Page

REAPPORTIONMENT
Appeal, legal counsel, payment.....SCR116 - 692
Legislative, counties may be divided.....HJR5 - 691
Legislative districts, HB746 amended.....Ch.250 - 600
Legislative districts, 36 created.....Ch.173 - 414

RECORDS
Beer licensee, kept four years.....Ch.104 - 242
Hospital, confidentiality.....Ch.113 - 257
Property tax, daily pymts, required to keep, time.....Ch.89 - 187
Wine licensee, kept four years.....Ch.105 - 244

REPORTS
Auditor, state, certain, prepared annually.....Ch.134 - 320
Auditor, state, state agency allotment.....Ch.137 - 326
Hazardous waste, additional required.....Ch.258 - 618
Mileage, commercial vehicles, certain.....Ch.195 - 445

RESOLUTIONS, CONCURRENT
College & university, fees, political use, study.....HCR58 - 714
Comstock, Dr. Ted, congratulated, Pres, NSBA.....HCR56 - 714
Deaf&Blind School, construction/renovation.....SCR118 - 694
Education Bd rules, Professional Studies Program.....HCR61 - 716
Employees, state, salary policies.....HCR54 - 712
Governor's State of State message.....HCR35 - 697
Hazardous waste disposal facilities siting study.....SCR119 - 695
Highway program, state, independent review.....SCR117 - 693
Hispanic affairs issues study.....HCR64 - 717
H&W Dept, rules, alcohol/drug abuse evaluators.....HCR47 - 701
H&W Dept, rules, health care activities, certain.....HCR50 - 704
Killebrew, Harmon, commended.....HCR39 - 699
NAIA World Series, Lewiston, appreciation.....HCR48 - 702
Reapportionment, appeal, legal counsel, payment.....SCR116 - 692
Revenue projections, available funds, 1983-84.....HCR36 - 697
Revenue projections, available funds, 1984-85.....HCR37 - 698
Rigby, congratulated, 100th birthday.....HCR65 - 718
School fiscal year change study.....HCR49 - 703
Sunshine Mine centennial, commemoration.....HCR63 - 716
Tax Comm rules, property tax, rejected.....HCR46 - 701
Wallace contratulated, 100th birthday.....HCR43 - 700
West Cassia Soil&Water Conservation Dist, grant.....HCR55 - 713
Yost, Max, contributions recognized.....HCR52 - 711

RESOLUTIONS, JOINT
Reapportionment, counties may be divided.....HJR5 - 691
State water plan, legislature amend/reject.....SJR117 - 689

RESORTS
Cities, tax, local option, certain authorized.....Ch.225 - 542

RETIREMENT
Judges, manditory, repealed.....Ch.91 - 190
Public Employee, approp.....Ch.168 - 409
Public Employee, approp, additional.....Ch.14 - 17
Public Employee, erroneous contribution, interest.....Ch.130 - 304
Public Employee, minimum benefits.....Ch.132 - 308

Chapter - Page

RETIREMENT (Continued)
Public Employee, National Guard employees.....Ch.132 - 308
Public Employee, reinstatement, interest.....Ch.129 - 304
Railroad/social security, income tax deduction.....Ch.35 - 55
REVENUE
Projections, available funds, 1983-84.....HCR36 - 697
Projections, available funds, 1984-85.....HCR37 - 698
RIGBY
Congratulated, 100th birthday.....HCR65 - 718
RODEO
Equestrian facility, liquor license issued, when.....Ch.244 - 590
RULES
Agriculture Dept, bean disease, violation, penalty.....Ch.153 - 367
Education Bd, Professional Studies Program.....HCR61 - 716
H&W Dept, alcohol/drug abuse evaluators, amended.....HCR47 - 701
H&W Dept, health care activities, certain amended.....HCR50 - 704
Psychologist Examiners Bd, unlicensed persons.....Ch.141 - 330
PUC, copy fees, established by rule.....Ch.109 - 252
Tax Comm, property tax, rejected.....HCR46 - 701
Transp Dept, motor vehicle registration exemptions.....Ch.143 - 334
SAFETY
Restraints, motor vehicles, children, when.....Ch.193 - 441
SALARIES
Employees, state, policies.....HCR54 - 712
Health District Bd, increased.....Ch.40 - 66
Highway District commissioners.....Ch.138 - 327
Highway District commissioners.....Ch.198 - 488
Lewiston Port commissioners.....Ch.128 - 303
Lieutenant-Governor, expense allowance clarified.....Ch.203 - 499
Teachers, increased, approp.....Ch.286 - 660
SCHOOL DISTRICTS
Discipline code adopted.....Ch.286 - 660
Elections, registration, illegal, penalty.....Ch.46 - 75
Employees, social security payments.....Ch.180 - 426
Employees, tuberculosis exam, requirement deleted.....Ch.71 - 132
Preconsolidation support program, adjustment, time.....Ch.97 - 223
Property, disposal.....Ch.45 - 72
Teacher Excellence Program established, approp.....Ch.286 - 660
Teachers certificates, valid, over 70, when.....Ch.70 - 132
Teachers, evaluation, contract renewal.....Ch.286 - 660
Teachers, salaries increased, approp.....Ch.286 - 660
Trustees, appointment, vacancy.....Ch.94 - 218
Trustees, election/appointment, new trustee zone.....Ch.94 - 218
SCHOOLS
Bus, contract carriers included, when, fees.....Ch.84 - 158
Bus, exempt motor carrier regulations, fees, when.....Ch.255 - 610
Computers donated, income tax deduction.....Ch.103 - 241
Fiscal year change study.....HCR49 - 703
National, Bd Assn Pres, Dr. Ted Comstock.....HCR56 - 714
Public, approp.....Ch.289 - 685

Chapter - Page

SCHOOLS (Continued)
Public, approp, instructional material.....Ch.249 - 596
Public, approp, retirement, FICA, unemployment.....Ch.289 - 685
Public, contributions, income tax credit.....Ch.286 - 660
Public, Income Fund, approp.....Ch.289 - 685
Public, Income Fund, interest earned.....Ch.180 - 426
Public, Income Fund, sales tax moneys deleted.....Ch.287 - 670
Teachers, social security payments.....Ch.180 - 426
SEAT BELTS
Safety restraints required, children, when.....Ch.193 - 441
SECRETARY OF STATE
Approp.....Ch.165 - 405
Blue books, compiled biennially, sale.....Ch.15 - 17
Voter pamphlets, distribution.....Ch.114 - 258
SELF-GOVERNING AGENCIES
Approp.....Ch.167 - 407
Approp, additional.....Ch.74 - 139
Approp, Agricultural Commodity Commissions.....Ch.69 - 131
Grape Growers and Wine Commission established.....Ch.42 - 67
SENIOR CITIZENS
Aging, Office on, approp.....Ch.247 - 595
SEX
Lewd conduct, minor, additional definition.....Ch.63 - 112
SHEEP
Commission, approp.....Ch.264 - 637
Industry, protection urged.....SJM107 - 720
SHERIFFS
Expense claims, service for state, legislature.....Ch.79 - 146
Parole agreement/information, provided.....Ch.85 - 168
SHORTHAND REPORTERS
Bd, approp.....Ch.167 - 407
SMALL CLAIMS COURT
See COURTS
SOCIAL SECURITY
Payments, school district/junior college employees.....Ch.180 - 426
Retirement benefits, income tax deduction, when.....Ch.35 - 55
Trust Account, sales tax moneys.....Ch.287 - 670
SOIL
Conservation District, money received, maximum.....Ch.16 - 18
West Cassia, Water Conservation Dist, grant, use.....HCR55 - 713
STATE AGENCIES
Budget, allotment, state auditor report.....Ch.137 - 326
Civil actions, pay expenses, when.....Ch.204 - 501
Personnel Commission Account payments.....Ch.238 - 569
STUDENTS
College & university, fees, political use, study.....HCR58 - 714
Discipline code.....Ch.286 - 660
STUDIES
College & university, fees, political use.....HCR58 - 714
Hazardous waste disposal facilities siting.....SCR119 - 695

Chapter - Page
STUDIES (Continued)
Highway program, state, independent review.....SCR117 - 693
Hispanic affairs issues.....HCR64 - 717
Professional, Program, rules rejected.....HCR61 - 716
School fiscal year change.....HCR49 - 703
West Cassia Soil&Water Conservation Dist, grant.....HCR55 - 713
SUBDIVISIONS
Time shared property, defined, sale.....Ch.61 - 109
SUNSHINE MINE
Centennial, commemoration.....HCR63 - 716
SUPREME COURT
See COURTS
SURVEYING AND SURVEYORS
Error of closure, allowable, limits.....Ch.263 - 637
Land, fees increased.....Ch.254 - 605
Professional service contract, gov't, negotiation.....Ch.188 - 437
TAX AND TAXATION
Appeals Bd, approp.....Ch.219 - 528
Beef Council assessment, cattle brought into Idaho.....Ch.62 - 111
Beef Council assessment, increased.....Ch.5 - 9
Beer, inventory destroyed, pymt not required, when.....Ch.104 - 242
Cigarette, Central Tumor Registry Acct, allocation.....Ch.146 - 341
Comm, approp.....Ch.219 - 528
Comm, approp, Ad Valorem Program, additional.....Ch.25 - 46
Comm, approp, circuit breaker relief, additional.....Ch.189 - 439
Comm, approp, Special Fuels Tax Admin, add'l.....Ch.248 - 595
Comm, rules, property tax, rejected.....HCR46 - 701
Fuel, law, technical amendments.....Ch.87 - 169
Fuel, special, permits, bonds deleted.....Ch.87 - 169
Fuel, special, permits, exemptions.....Ch.87 - 169
Fuel, Special Admin, approp, additional.....Ch.248 - 595
Inheritance, exemption, property transfer, spouse.....Ch.115 - 259
Milk, cream, produced in Idaho, imposed.....Ch.20 - 23
Multi-State Compact, approp.....Ch.219 - 528
Premium, hospital liability trusts, payment.....Ch.253 - 604
Premium, offset, examination expense, when.....Ch.100 - 228
Travel and convention, payment, Tax Comm.....Ch.126 - 301
Wine excise, reduced, wine produced in Idaho.....Ch.283 - 656
Wine, inventory destroyed, pymt not required, when.....Ch.105 - 244
Wine, inventory destroyed, pymt not required, when.....Ch.221 - 530
Wine, winery must pay, when.....Ch.221 - 530
Yield, forest lands, exceptions.....Ch.237 - 566
Yield, forest products, imposed, when.....Ch.237 - 566
TAX AND TAXATION, INCOME
Corporate, deductions, computer donated schools.....Ch.103 - 241
Corporate, deductions, interest expense.....Ch.35 - 55
Credit, contribution, public schools, libraries.....Ch.286 - 660
Deduction, computer donated schools.....Ch.103 - 241
Deduction, developmentally disabled dependent.....Ch.176 - 422
Deduction, residential weatherization program.....Ch.122 - 279

Chapter - Page

TAX AND TAXATION, INCOME (Continued)
Deduction, social security/railroad retirement.....Ch.35 - 55
IRS Code adopted.....Ch.35 - 55
TAX AND TAXATION, PROPERTY
Ad Valorem Program, approp, additional.....Ch.25 - 46
Circuit breaker relief, approp.....Ch.219 - 528
Circuit breaker relief, approp, additional.....Ch.189 - 439
Exempt property, market value shown on rolls.....Ch.222 - 539
Payment, applied current tax, delinquent tax due.....Ch.201 - 492
Payment, delinquent, interest rate increased.....Ch.89 - 187
Payment, lawful money defined, receipts.....Ch.89 - 187
Personal, exemptions, motor vehicles, when.....Ch.179 - 425
Records, daily payments, required to keep, time.....Ch.89 - 187
Rules, Tax Comm, rejected.....HCR46 - 701
TAX AND TAXATION, SALES
Account, distribution.....Ch.287 - 670
Additional, exemption, property sold on contract.....Ch.28 - 47
Businesses, cash register conversion, credit.....Ch.287 - 670
Exemptions, governmental records, papers, certain.....Ch.284 - 657
Exemptions, Indian reservation sales, when.....Ch.119 - 271
Exemptions, recodification.....Ch.239 - 570
Exemptions, vending machines, dollar amount.....Ch.287 - 670
Increased to 4%.....Ch.287 - 670
Local option, resort cities.....Ch.225 - 542
Return and payment, uniform requirement.....Ch.285 - 658
Revenue Sharing Account created, distribution.....Ch.287 - 670
Use exemption deleted, nuclear material, certain.....Ch.239 - 570
TEACHERS
Certificate, revoked/suspended, procedure, grounds.....Ch.150 - 353
Certificate, valid, over 70, when.....Ch.70 - 132
Evaluation, contract renewal.....Ch.286 - 660
Salary increases, approp.....Ch.286 - 660
Schools, discipline code.....Ch.286 - 660
Social security payments, employer share.....Ch.180 - 426
Teacher Excellence Program established, approp.....Ch.286 - 660
TELEGRAPH
References deleted, PUC law.....Ch.106 - 246
TORTS
Public agency, liability, dollar amount.....Ch.96 - 221
Public employees, claims against, responsibility.....Ch.140 - 328
TRADEMARKS
Registerability, fees.....Ch.56 - 95
TRAFFIC
Infractions Act, Transportation Dept.....Ch.52 - 92
Pedestrians, right-of-way, requirements.....Ch.41 - 66
TRAINS
See RAILROADS
TRANSPORTATION
Dept, approp.....Ch.215 - 523
Dept, rule, motor vehicle registration, exemptions.....Ch.143 - 334

Chapter - Page
TRANSPORTATION (Continued)
Dept, Traffic Infractions Act.....Ch.52 - 92
Hazardous waste, fees.....Ch.205 - 502
Traffic Safety Commission Account, approp.....Ch.215 - 523
TRAPPING
See FISH AND GAME
TRAVEL
State, official, mileage allowance increased.....Ch.78 - 145
Travel and convention tax, payment, Tax Comm.....Ch.126 - 301
TREASURER
State, approp.....Ch.181 - 431
State, approp, additional.....Ch.27 - 47
TRESPASSING
Agricultural land, motor vehicles use on.....Ch.55 - 94
"No Trespass" signs removed/damaged, misdemeanor.....Ch.37 - 63
Violations, F&G licenses, certain revoked.....Ch.112 - 256
TRUCKS
See MOTOR VEHICLES
TRUSTS
Deeds, judgments, execution, homesteads.....Ch.53 - 93
TUBERCULOSIS
Exam, school employees, requirement deleted.....Ch.71 - 132
TUITION
Student, colleges & universities, political use, study...HCR58 - 714
TUMOR REGISTRY
Account, cigarette tax allocation increased.....Ch.146 - 341
UNIVERSITY OF IDAHO
See COLLEGES AND UNIVERSITIES
UTILITIES
Property not providing service, excluded rate base.....Ch.21 - 24
PUC, approp.....Ch.170 - 410
PUC, approp, additional.....Ch.12 - 15
PUC, copy fees, established by rule.....Ch.109 - 252
PUC, orders, reconsideration.....Ch.110 - 253
PUC, rate setting, construction work in progress.....Ch.21 - 24
PUC, telegraph service, references deleted.....Ch.106 - 246
VENDING MACHINES
Highways, certain, Blind Comm may install.....Ch.251 - 603
Sales tax exemption, dollar amount.....Ch.287 - 670
VETERANS
Home, admission, voting requirement deleted.....Ch.75 - 139
Services Program, approp.....Ch.274 - 648
VETERINARY MEDICINE
Bd, approp.....Ch.167 - 407
WOI Regional Program, approp.....Ch.217 - 524
VICTIMS
Crime, medical exam, payment.....Ch.191 - 440
Crime, restitution priority.....Ch.86 - 168
VOCATIONAL EDUCATION
Approp.....Ch.268 - 643

Chapter - Page
VOCATIONAL EDUCATION (Continued)
Approp, additional.....Ch.49 - 90
Approp, equipment acquisition.....Ch.249 - 596
VOCATIONAL REHABILITATION
Approp.....Ch.220 - 529
VOTERS
Eligibility, watermaster election, water rights.....Ch.175 - 420
Pamphlets, distribution.....Ch.114 - 258
Registration, absentee, federal application.....Ch.131 - 305
Registration, illegal, school elections, penalty.....Ch.46 - 75
Veterans home admission, requirement deleted.....Ch.75 - 139
WAGES
See SALARIES
WALLACE
Contratulated, 100th birthday.....HCR43 - 700
WAMI
Medical Education Program, approp.....Ch.217 - 524
WAREHOUSES
Bonded, commodities removed, when.....Ch.19 - 21
WARRANTIES
Motor vehicle dealer/manufacturer, responsibility.....Ch.151 - 355
WARRANTS
Registered, county, maximum amount deleted.....Ch.111 - 255
WASTES
Hazardous, disposal facilities siting study.....SCR119 - 695
Hazardous, disposal, fees.....Ch.205 - 502
Hazardous, reports, additional required.....Ch.258 - 618
Hazardous, Training, Emergency & Monitoring Acct.....Ch.205 - 502
Hazardous, transporters, fees.....Ch.205 - 502
Hazardous, violation, each day, separate offense.....Ch.54 - 94
Hazardous, violation, property, health damages.....Ch.157 - 383
Injection wells, permits, regulation.....Ch.155 - 370
Uranium Mill Tailings Act, participation.....Ch.257 - 617
WATER
Conservation & Development Account, approp.....Ch.249 - 596
Delivery organization, certain, vote, watermaster.....Ch.175 - 420
Drinking, source, injection wells prohibited.....Ch.155 - 370
Management Account, approp.....Ch.249 - 596
Pollution Control Account, sales tax moneys.....Ch.287 - 670
Quality Program, approp.....Ch.273 - 647
Quality Program, approp.....Ch.249 - 596
Rights, livestock, instream watering.....Ch.124 - 299
Rights, owned, voter eligibility watermaster.....Ch.175 - 420
State, plan, legislature amend/reject.....SJR117 - 689
West Cassia Soil, Conservation Dist, grant, use.....HCR55 - 713
WATER RESOURCES
Bd, grant authorized, West Cassia Soil Dist, use.....HCR55 - 713
Dept, appoint, set salary, watermaster, when.....Ch.175 - 420
Dept, approp.....Ch.184 - 433
Dept, approp, additional.....Ch.44 - 72

Chapter - Page
WATER RESOURCES (Continued)
Dept, approp, Energy Resources Program.....Ch.249 - 596
Dept, approp, Resource Analysis Program.....Ch.249 - 596
Dept, duties, injection well regulation.....Ch.155 - 370
Dept, state water plan, legislature amend/reject.....SJR117 - 689
WATERMASTERS
Election, duties.....Ch.175 - 420
WEAPONS
See also GUNS
Confiscation, felony conviction, procedure.....Ch.177 - 423
WEIGHMASTERS
License fee, increased.....Ch.18 - 20
WELFARE
See PUBLIC ASSISTANCE
WELLS
Injection, permits, regulation.....Ch.155 - 370
WHEAT
Commission, approp.....Ch.69 - 131
WICHE
UofI Bd of Regents, approp.....Ch.217 - 524
WILDLIFE
See also ANIMALS
Big game tags, fees, certain, increased, feeding.....Ch.197 - 484
Open depredation seasons declared, when.....Ch.154 - 368
Program, F&G Dept, approp, additional.....Ch.186 - 436
WILLS
Uniform Transfers to Minors Act.....Ch.152 - 356
WINE
Distributor, authorized to stock shelves.....Ch.232 - 560
Grape Growers and Wine Commission established.....Ch.42 - 67
License fees, increased.....Ch.221 - 530
Licensee, records, kept four years.....Ch.105 - 244
Produced in Idaho, excise tax reduced.....Ch.283 - 656
Tax, inventory destroyed, pymt not required, when.....Ch.105 - 244
Tax, inventory destroyed, pymt not required, when.....Ch.221 - 530
Tax, local option, resort cities.....Ch.225 - 542
Winery license established, fees.....Ch.221 - 530
WOLF
See ANIMALS
WOMEN
Correctional institution, approp.....Ch.208 - 513
Prison, McKelway Hall remodel, approp.....Ch.281 - 655
Prisoners, transportation, court appearances.....Ch.93 - 218
WORKMEN'S COMPENSATION
Insurance premiums, dividends not deducted.....Ch.90 - 189
YOST, MAX
Contributions recognized.....HCR52 - 711
YOUTH REHABILITATION ACT
Juvenile offender, detention facility, segregation.....Ch.190 - 439
Juvenile offender, various offenses, treatment.....Ch.81 - S1331

NOTE: Appropriation is abbreviated in this index as approp.

TABLE OF AMENDMENTS, REPEALS, ADDITIONS AND REFERENCES

TO THE SECTIONS OF THE IDAHO CODE BY THE 1984 SESSION LAWS

Code citation, action and
session law chapter number is shown
of bills which passed

SECOND REGULAR SESSION - FORTY-SEVENTH LEGISLATURE

		Chapter - Page
TITLE 1		
1-2007	Repealed	Ch.91 - 190
1-2222	Amended	Ch.22 - 36
1-2301	Amended	Ch.199 - 489
TITLE 5		
5-310	Amended	Ch.158 - 385
5-311	Repealed	Ch.158 - 385
5-311	New Section Added	Ch.158 - 385
TITLE 6		
6-903	Amended	Ch.140 - 329
6-924	Amended	Ch.96 - 221
6-926	Repealed	Ch.96 - 222
6-926	New Section Added	Ch.96 - 222
TITLE 7		
7-802	Amended	Ch.67 - 118
TITLE 11		
11-202	Amended	Ch.223 - 540
TITLE 12		
12-117	New Section Added	Ch.204 - 501
12-120	Referred to	Ch.204 - 501
TITLE 14		
14-113	Amended	Ch.36 - 62
14-408	Amended	Ch.115 - 259
Ch.5	Referred to	Ch.36 - 62
14-501	Amended	Ch.36 - 60
14-517	Referred to	Ch.36 - 62,63
TITLE 15		
15-1-201	Referred to	Ch.158 - 386
15-2-105	Amended	Ch.36 - 62
15-3-914	Amended	Ch.36 - 63
TITLE 16		
Title 16	Referred to	Ch.22 - 27

		Chapter - Page
TITLE 16 (Continued)		
Ch.16	Referred to	Ch.81 - 155
Ch.18	Referred to	Ch.82 - 157
16-1801	Amended	Ch.81 - 149
16-1802	Amended	Ch.81 - 149
16-1803	Amended	Ch.81 - 150
16-1805	Amended	Ch.81 - 151
16-1806	Referred to	Ch.82 - 157
16-1806	Referred to	Ch.190 - 440
16-1806A	Amended	Ch.81 - 151
16-1806A	Referred to	Ch.82 - 157
16-1806A	Referred to	Ch.190 - 440
16-1807A	New Section Added	Ch.81 - 152
16-1811	Amended	Ch.81 - 152
16-1812A	Amended	Ch.190 - 439
16-1813	Repealed	Ch.81 - 149
16-1813	New Section Added	Ch.81 - 154
16-1814	Repealed	Ch.81 - 149
16-1814	New Section Added	Ch.81 - 154
16-1814	Referred to	Ch.81 - 155,156
16-1814A	New Section Added	Ch.81 - 155
16-1815	Repealed	Ch.81 - 149
16-1815	New Section Added	Ch.81 - 155
16-1826	Amended	Ch.81 - 156
16-1833	Amended	Ch.81 - 156
16-1835	Repealed	Ch.81 - 149
16-1837	Repealed	Ch.81 - 149
16-1838	Repealed	Ch.81 - 149
16-1839	Repealed	Ch.81 - 149
TITLE 18		
18-111	Referred to	Ch.22 - 27,31,32
18-113A	Referred to	Ch.234 - 563
18-113B	New Section Added	Ch.82 - 157
Ch.9	Referred to	Ch.22 - 28
18-1506	Amended	Ch.63 - 112
18-1507	Referred to	Ch.63 - 113
18-1508	Redesignated from 18-6607	Ch.63 - 112
18-2201	New Section Added	Ch.68 - 129
18-2202	New Section Added	Ch.68 - 130
Ch.23	Referred to	Ch.46 - 75
18-2507	Amended	Ch.79 - 146
Ch.29	Referred to	Ch.22 - 28
18-3905	New Section Added	Ch.205 - 511
18-4006	Amended	Ch.22 - 36
18-5811	Amended	Ch.147 - 342
18-5812	Amended	Ch.147 - 343
18-5812A	Amended	Ch.147 - 343
18-6607	Amended and Redesignated 18-1508	Ch.63 - 112
18-7011	Amended	Ch.37 - 63
18-7011	Amended	Ch.55 - 95

Chapter - Page

TITLE 18 (Continued)
18-7027 Repealed ..... Ch.73 - 136
18-7027 New Section Added ..... Ch.73 - 136
18-7028 Repealed ..... Ch.73 - 136
18-7028 New Section Added ..... Ch.73 - 136
18-8001 New Section Added ..... Ch.22 - 26
18-8001 Referred to ..... Ch.22 - 38
18-8002 New Section Added ..... Ch.22 - 27
18-8003 New Section Added ..... Ch.22 - 28
18-8004 New Section Added ..... Ch.22 - 29
18-8004 Referred to ..... Ch.22 - 33,36,37,38
18-8005 New Section Added ..... Ch.22 - 30
18-8006 New Section Added ..... Ch.22 - 32
18-8006 Referred to ..... Ch.22 - 33,36,38
TITLE 19
19-853 Amended ..... Ch.229 - 548
19-2515 Amended ..... Ch.230 - 550
19-2515 Referred to ..... Ch.230 - 552
19-2520C Amended ..... Ch.63 - 113
19-2601 Referred to .....Ch.22 - 27,31,32
19-2705 Repealed ..... Ch.159 - 387
19-2705 New Section Added ..... Ch.159 - 387
19-2706 Repealed ..... Ch.159 - 387
19-2707 Repealed ..... Ch.159 - 387
19-2708 Amended ..... Ch.159 - 387
19-2714 Amended ..... Ch.159 - 388
19-2715 Amended ..... Ch.159 - 388
19-2719 New Section Added ..... Ch.159 - 388
19-2719 Referred to ..... Ch.159 - 387,388
19-2827 Referred to ..... Ch.159 - 388,390
19-3501 Amended ..... Ch.51 - 92
19-3807 Amended ..... Ch.177 - 424
19-4705 Amended ..... Ch.161 - 400
19-4705 Amended ..... Ch.195 - 446
19-4803 Amended ..... Ch.196 - 482
19-5302 New Section Added ..... Ch.86 - 169
19-5302 New Section Added ..... Ch.191 - 440
TITLE 20
20-223 Referred to ..... Ch.230 - 550
20-224 Amended ..... Ch.230 - 551
20-225 Repealed ..... Ch.187 - 437
20-225 New Section Added ..... Ch.187 - 437
20-234 Amended ..... Ch.85 - 168
20-242 Amended ..... Ch.58 - 106
20-244 Amended ..... Ch.178 - 425
20-503 Repealed ..... Ch.93 - 218
TITLE 21
21-114 Amended ..... Ch.227 - 544
TITLE 22
22-104 Referred to ..... Ch.231 - 559

		Chapter - Page
TITLE 22 (Continued)		
22-1922	New Section Added	Ch.153 - 367
22-2301	Repealed	Ch.231 - 552
22-2301	New Section Added	Ch.231 - 552
22-2302	Repealed	Ch.231 - 552
22-2302	New Section Added	Ch.231 - 554
22-2303	Repealed	Ch.231 - 552
22-2303	New Section Added	Ch.231 - 554
22-2304	Repealed	Ch.231 - 552
22-2304	New Section Added	Ch.231 - 555
22-2305	Repealed	Ch.231 - 552
22-2305	New Section Added	Ch.231 - 556
22-2306	Repealed	Ch.231 - 552
22-2306	New Section Added	Ch.231 - 556
22-2307	Repealed	Ch.231 - 552
22-2307	New Section Added	Ch.231 - 556
22-2308	Repealed	Ch.231 - 552
22-2308	New Section Added	Ch.231 - 557
22-2309	Repealed	Ch.231 - 552
22-2309	New Section Added	Ch.231 - 557
22-2310	Repealed	Ch.231 - 552
22-2310	New Section Added	Ch.231 - 557
22-2311	Repealed	Ch.231 - 552
22-2311	New Section Added	Ch.231 - 557
22-2312	Repealed	Ch.231 - 552
22-2312	New Section Added	Ch.231 - 558
22-2313	New Section Added	Ch.231 - 558
22-2314	New Section Added	Ch.231 - 558
22-2315	New Section Added	Ch.231 - 558
22-2316	New Section Added	Ch.231 - 559
22-2317	New Section Added	Ch.231 - 559
22-2318	New Section Added	Ch.231 - 559
22-2319	New Section Added	Ch.231 - 559
22-2320	New Section Added	Ch.231 - 559
22-2726	Amended	Ch.16 - 18
22-2727	Amended	Ch.16 - 19
22-3404	Amended	Ch.148 - 347
22-3405	Amended	Ch.148 - 350
22-3406	Amended	Ch.148 - 350
TITLE 23		
23-404	Amended	Ch.120 - 277
23-404	Referred to	Ch.283 - 657
23-806	Repealed	Ch.120 - 278
Ch.9	Referred to	Ch.239 - 580
23-903	Amended	Ch.244 - 591
23-904	Referred to	Ch.244 - 592
23-1006	Amended	Ch.104 - 242
23-1014	Amended	Ch.133 - 319
23-1033	Amended	Ch.232 - 560
23-1050	Amended	Ch.104 - 243

		Chapter - Page
TITLE 23 (Continued)		
23-1050A	Amended	Ch.104 - 243
23-1054	Amended	Ch.104 - 244
23-1303	Amended	Ch.221 - 531
23-1306	Amended	Ch.221 - 532
23-1308A	New Section Added	Ch.221 - 533
23-1310	Amended	Ch.221 - 533
23-1313	Amended	Ch.221 - 533
23-1314	Amended	Ch.105 - 245
23-1314	Amended	Ch.221 - 533
23-1315	Amended	Ch.221 - 534
23-1317	Amended	Ch.221 - 534
23-1319	Amended	Ch.105 - 244
23-1319	Amended	Ch.221 - 535
23-1319	Amended	Ch.283 - 656
23-1321	Amended	Ch.105 - 246
23-1322A	Amended	Ch.105 - 246
23-1325	Amended	Ch.221 - 536
23-1325	Referred to	Ch.232 - 562
23-1325A	New Section Added	Ch.232 - 562
23-1328	Amended	Ch.221 - 537
23-1328A	Amended	Ch.221 - 537
23-1331	Amended	Ch.221 - 538
TITLE 25		
25-807	Amended	Ch.17 - 19
25-809	Amended	Ch.17 - 20
25-1101	Amended	Ch.48 - 89
25-1402	Amended	Ch.6 - 10
25-2001	Amended	Ch.116 - 261
25-2907	Amended	Ch.5 - 9
25-2907	Amended	Ch.62 - 111
25-3117	Amended	Ch.20 - 23
TITLE 26		
26-1104	Amended	Ch.47 - 77
26-1836	Amended	Ch.47 - 78
26-1837	Amended	Ch.47 - 78
26-2134	Amended	Ch.47 - 78
26-2136	Amended	Ch.47 - 79
26-2143	Amended	Ch.47 - 80
26-2145	Repealed	Ch.95 - 220
26-2145	New Section Added	Ch.95 - 220
26-2153	New Section Added	Ch.59 - 107
26-2225	Amended	Ch.47 - 80
26-2229	Amended	Ch.47 - 81
26-2231	Amended	Ch.47 - 82
26-2237	Amended	Ch.47 - 83
26-2240	Amended	Ch.47 - 83
TITLE 27		
27-420	Amended	Ch.47 - 84
27-501	New Section Added	Ch.73 - 137

		Chapter - Page
TITLE 27 (Continued)		
27-502	New Section Added	Ch.73 - 137
27-503	New Section Added	Ch.73 - 137
27-504	New Section Added	Ch.73 - 138
TITLE 28		
28-1-201	Amended	Ch.88 - 183
28-3-510A	Amended	Ch.50 - 91
28-4-404A	New Section Added	Ch.145 - 340
28-4-404B	New Section Added	Ch.145 - 340
28-4-404B	Referred to	Ch.145 - 341
28-4-404C	New Section Added	Ch.145 - 341
28-46-203	Amended	Ch.47 - 84
28-46-302	Amended	Ch.47 - 85
TITLE 30		
30-1-10	Amended	Ch.67 - 118
30-1-11	Referred to	Ch. 67 - 119
30-1-62	Amended	Ch.67 - 119
30-1-64	Amended	Ch.67 - 119
30-1-65	Amended	Ch.67 - 120
30-1-67	Amended	Ch.67 - 121
30-1-69	Amended	Ch.67 - 122
30-1-74	Amended	Ch.67 - 123
30-1-75	Amended	Ch.67 - 124
30-1-82	Amended	Ch.67 - 125
30-1-93	Amended	Ch.67 - 126
30-1-104	Amended	Ch.36 - 62
30-1-111	Amended	Ch.67 - 126
30-1-116	Repealed	Ch.67 - 127
30-1-117	Repealed	Ch.67 - 127
30-1-118	Amended	Ch.67 - 127
30-1-119	Amended	Ch.67 - 127
30-1-120	Amended	Ch.67 - 128
30-1-128	Amended	Ch.67 - 128
30-1437	Amended	Ch.47 - 86
30-1508	Amended	Ch.47 - 87
TITLE 31		
31-872	New Section Added	Ch.243 - 590
31-1402	Amended	Ch.202 - 493
31-1411	Amended	Ch.202 - 493
31-1412	Amended	Ch.117 - 262
31-1412	Amended	Ch.202 - 494
31-1420	Amended	Ch.202 - 496
31-1421	Amended	Ch.202 - 497
31-1429	Amended	Ch.202 - 497
31-1430	Amended	Ch.202 - 498
31-1437	Amended	Ch.202 - 498
31-2109	Amended	Ch.111 - 255
31-2219	Amended	Ch.79 - 147
31-2305	Amended	Ch.111 - 255
31-3205	Amended	Ch.29 - 50

Chapter - Page

TITLE 31 (Continued)
31-3205 Referred to ..... Ch.29 - 51,52
31-3205 Referred to ..... Ch.116 - 261
31-3205 Referred to ..... Ch.174 - 420
Ch.34 Referred to ..... Ch.22 - 31
Ch.35 Referred to ..... Ch.22 - 31
31-3502 Amended ..... Ch.99 - 227
31-4002 Amended ..... Ch.136 - 323
TITLE 32
32-408 Amended ..... Ch.29 - 51
TITLE 33
33-313 Amended ..... Ch.94 - 218
33-423 New Section Added ..... Ch.46 - 75
33-504 Amended ..... Ch.94 - 219
33-512 Amended ..... Ch.286 - 668
33-513 Amended ..... Ch.286 - 663
33-514 New Section Added ..... Ch.286 - 666
33-515 Redesignated from 33-1212 ..... Ch.286 - 666
33-516 Redesignated from 33-1212A ..... Ch.286 - 668
33-601 Amended ..... Ch.45 - 73
33-903 Amended ..... Ch.180 - 426
Ch.10 Referred to ..... Ch.103 - 242
33-1001 Referred to ..... Ch.286 - 661
33-1003 Amended ..... Ch.97 - 223
33-1009 Amended ..... Ch.180 - 427
33-1204 Amended ..... Ch.70 - 132
33-1208 Amended ..... Ch.150 - 353
33-1209 Amended ..... Ch.150 - 354
33-1212 Amended and Redesignated 33-515 ..... Ch.286 - 666
33-1212 Referred to ..... Ch.70 - 132
33-1212A Redesignated 33-516 ..... Ch.286 - 668
33-1213 Repealed ..... Ch.286 - 668
33-1214 Repealed ..... Ch.286 - 668
33-1215 Repealed ..... Ch.286 - 668
33-1225 Repealed ..... Ch.71 - 133
33-1226 Repealed ..... Ch.71 - 133
33-1227 Repealed ..... Ch.71 - 133
33-1301 New Section Added ..... Ch.286 - 661
33-1302 New Section Added ..... Ch.286 - 661
33-1303 New Section Added ..... Ch.286 - 661
TITLE 34
34-301 Referred to ..... Ch.173 - 418
34-410 Amended ..... Ch.131 - 305
34-440 Amended ..... Ch.107 - 250
34-603 Amended ..... Ch.131 - 306
34-614A Repealed ..... Ch.121 - 279
34-614A New Section Added ..... Ch.121 - 279
34-623 Amended ..... Ch.80 - 147
34-704 Amended ..... Ch.8 - 12
34-704 Amended ..... Ch.173 - 418

		Chapter - Page
TITLE 34 (Continued)		
34-711	Amended	Ch.131 - 306
34-711A	Amended	Ch.131 - 306
34-909	Amended	Ch.131 - 306
34-1003	Amended	Ch.131 - 307
34-1812C	Amended	Ch.114 - 258
TITLE 36		
36-105	Referred to	Ch.154 - 370
36-106	Amended	Ch.154 - 368
36-107	Amended	Ch.197 - 485
36-409	Amended	Ch.197 - 486
36-409	Referred to	Ch.197 - 486
36-1107	Amended	Ch.144 - 338
36-1402	Amended	Ch.112 - 256
36-1603	Referred to	Ch.112 - 257
36-2107	Referred to	Ch.262 - 635
36-2108	Amended	Ch.262 - 632
36-2113	Amended	Ch.262 - 634
36-2116	Amended	Ch.262 - 635
36-2117	Amended	Ch.262 - 636
36-2117A	New Section Added	Ch.262 - 636
TITLE 37		
37-1604	Amended	Ch.127 - 302
37-2705	Amended	Ch.160 - 390
37-2707	Amended	Ch.160 - 393
37-2709	Amended	Ch.160 - 395
37-2711	Amended	Ch.160 - 397
37-2713	Amended	Ch.160 - 399
37-2732	Amended	Ch.200 - 490
TITLE 39		
Ch.1	Referred to	Ch.102 - 234
39-101etseq	Referred to	Ch.155 - 374
39-263	Amended	Ch.29 - 51
Ch.3	Referred to	Ch.22 - 32
39-411	Amended	Ch.38 - 64
39-412	Amended	Ch.40 - 66
39-423	Amended	Ch.39 - 65
39-1301thru 39-1314	Referred to	Ch.113 - 257
39-1392a	Amended	Ch.113 - 257
39-2701	Amended and Redesignated 54-2601	Ch.123 - 282
39-2702	Amended and Redesignated 54-2602	Ch.123 - 282
39-2703	Redesignated 54-2603	Ch.123 - 283
39-2704	Amended and Redesignated 54-2604	Ch.123 - 283
39-2705	Amended and Redesignated 54-2605	Ch.123 - 284
39-2706	Repealed	Ch.123 - 285
39-2707	Repealed	Ch.123 - 285
39-2708	Repealed	Ch.123 - 285
39-2709	Repealed	Ch.123 - 285
39-2710	Repealed	Ch.123 - 285

		Chapter - Page
TITLE 39 (Continued)		
39-2711	Amended and Redesignated 54-2606	Ch.123 - 285
39-2712	Amended and Redesignated 54-2607	Ch.123 - 286
39-2713	Redesignated 54-2608	Ch.123 - 287
39-2714	Redesignated 54-2609	Ch.123 - 287
39-2715	Amended and Redesignated 54-2610	Ch.123 - 288
39-2716	Amended and Redesignated 54-2611	Ch.123 - 288
39-2717	Redesignated 54-2612	Ch.123 - 288
39-2718	Redesignated 54-2613	Ch.123 - 289
39-2719	Redesignated 54-2614	Ch.123 - 289
39-2720	Redesignated 54-2615	Ch.123 - 289
39-2721	Redesignated 54-2616	Ch.123 - 289
39-2722	Redesignated 54-2617	Ch.123 - 290
39-2723	Redesignated 54-2618	Ch.123 - 290
39-2724	Amended and Redesignated 54-2619	Ch.123 - 290
39-2725	Amended and Redesignated 54-2620	Ch.123 - 290
39-2726	Redesignated 54-2621	Ch.123 - 291
39-2727	Amended and Redesignated 54-2622	Ch.123 - 291
39-2728	Amended and Redesignated 54-2623	Ch.123 - 292
39-2729	Redesignated 54-2624	Ch.123 - 292
39-2730	Amended and Redesignated 54-2625	Ch.123 - 292
39-2731	Redesignated 54-2626	Ch.123 - 292
39-2732	Amended and Redesignated 54-2627	Ch.123 - 293
39-2733	Redesignated 54-2628	Ch.123 - 293
39-2734	Redesignated 54-2629	Ch.123 - 293
39-2735	Amended and Redesignated 54-2630	Ch.123 - 294
Ch.30	Referred to	Ch.155 - 373
39-3028	New Section Added	Ch.257 - 617
39-3605	Referred to	Ch.287 - 681
39-4403	Amended	Ch.205 - 503
39-4403	Referred to	Ch.205 - 510,511
39-4409	Referred to	Ch.205 - 506,507,508
39-4410	Amended	Ch.205 - 504
39-4410	Referred to	Ch.205 - 506,507
39-4411	Amended	Ch.258 - 618
39-4411	Referred to	Ch.205 - 509
39-4413	Referred to	Ch.205 - 509
39-4414	Amended	Ch.157 - 383
39-4415	Amended	Ch.54 - 94
39-4417B	New Section Added	Ch.205 - 506
39-4417B	Referred to	Ch.205 - 506,510
39-4426	New Section Added	Ch.205 - 507
39-4427	New Section Added	Ch.205 - 507
39-4427	Referred to	Ch.205 - 508,509
39-4428	New Section Added	Ch.205 - 508
39-4428	Referred to	Ch.205 - 509
39-4429	New Section Added	Ch.205 - 508
39-4430	New Section Added	Ch.205 - 509
39-4431	New Section Added	Ch.205 - 509
39-4432	New Section Added	Ch.205 - 510

		Chapter - Page
TITLE 39 (Continued)		
39-4432	Referred to	Ch.205 - 506
TITLE 40		
40-308	Amended	Ch.251 - 603
40-405	Amended	Ch.87 - 179
40-405	Repealed	Ch.195 - 446
40-405	New Section Added	Ch.195 - 448
40-405	Referred to	Ch.195 - 448,470,472,476,477
40-405A	Repealed	Ch.195 - 446
40-405A	New Section Added	Ch.195 - 448
40-405B	Repealed	Ch.195 - 446
40-405B	New Section Added	Ch.195 - 450
40-405B	Referred to	Ch.195 - 476
40-405C	Repealed	Ch.195 - 446
40-1002	Amended	Ch.136 - 323
40-1618	Amended	Ch.138 - 327
40-2210	Amended	Ch.195 - 450
40-2210	Amended	Ch.236 - 565
40-2210	Referred to	Ch.195 - 448
40-3004	Amended	Ch.198 - 488
TITLE 41		
Ch.1	Referred to	Ch.253 - 604
41-114	Amended	Ch.253 - 604
41-228	Amended	Ch.100 - 228
41-316	Amended	Ch.125 - 300
41-337	Amended	Ch.60 - 109
41-401	Repealed	Ch.23 - 39
41-401	New Section Added	Ch.23 - 39
41-401	Referred to	Ch.256 - 615
41-403	Referred to	Ch.253 - 605
41-404	Referred to	Ch.253 - 605
41-406	Repealed	Ch.23 - 39
41-406	Referred to	Ch.23 - 41,43,44,45
41-406	New Section Added	Ch.23 - 40
41-716	Referred to	Ch.241 - 587
41-1023	Amended	Ch.256 - 612
41-1034	Referred to	Ch.252 - 604
41-1044	Amended	Ch.256 - 613
41-1045	Amended	Ch.256 - 613
41-1046	Amended	Ch.256 - 614
41-1046	Referred to	Ch.256 - 615
41-1047	Amended	Ch.256 - 615
41-1049	Amended	Ch.256 - 616
41-3028	Amended	Ch.23 - 41
41-3114	Amended	Ch.241 - 587
41-3117	Amended	Ch.23 - 40
41-3118	Repealed	Ch.23 - 39
41-3118	New Section Added	Ch.23 - 41
41-3244	Repealed	Ch.23 - 39
41-3244	New Section Added	Ch.23 - 41

		Chapter - Page
TITLE 41 (Continued)		
41-3423	Amended	Ch.98 - 226
41-3433	Repealed	Ch.23 - 39
41-3433	New Section Added	Ch.23 - 41
41-3608	Amended	Ch.66 - 115
Ch.37	Referred to	Ch.253 - 604
41-3708	Amended	Ch.23 - 43
41-3714	Amended	Ch.23 - 43
41-3715	Amended	Ch.253 - 604
41-3922	Repealed	Ch.23 - 39
41-3922	New Section Added	Ch.23 - 41
41-4005	Amended	Ch.23 - 44
41-4011	Amended	Ch.23 - 45
TITLE 42		
42-113	New Section Added	Ch.124 - 299
42-605	Amended	Ch.175 - 421
42-607	Referred to	Ch.175 - 422
42-1701A	Referred to	Ch.155 - 380
42-1706	Referred to	HCR55 - 713
42-3105	Referred to	Ch.240 - 586
42-3106	Referred to	Ch.240 - 586
42-3108	Referred to	Ch.240 - 586
42-3120	Referred to	Ch.240 - 586
42-3127	New Section Added	Ch.240 - 586
42-3128	New Section Added	Ch.240 - 587
42-3901	Amended	Ch.155 - 372
42-3902	Amended	Ch.155 - 372
42-3902A	New Section Added	Ch.155 - 374
42-3902A	Referred to	Ch.155 - 380,381
42-3903A	New Section Added	Ch.155 - 374
42-3904	Amended	Ch.155 - 374
42-3905	Amended	Ch.155 - 375
42-3906	Repealed	Ch.155 - 375
42-3907	Amended	Ch.155 - 375
42-3908	Amended	Ch.155 - 376
42-3909	Amended	Ch.155 - 376
42-3910	Amended	Ch.155 - 377
42-3911	Amended	Ch.155 - 378
42-3912	Amended	Ch.155 - 378
42-3913	Amended	Ch.155 - 378
42-3914	Amended	Ch.155 - 379
42-3915	New Section Added	Ch.155 - 379
42-3916	New Section Added	Ch.155 - 380
42-3917	New Section Added	Ch.155 - 380
42-3918	New Section Added	Ch.155 - 380
42-3919	New Section Added	Ch.155 - 380
TITLE 43		
43-712	Amended	Ch.174 - 419
43-901	Amended	Ch.136 - 324

		Chapter - Page
TITLE 44		
44-101	Amended	Ch.123 - 297
44-103	Amended	Ch.123 - 297
44-603	Amended	Ch.56 - 99
TITLE 45		
45-703	Amended	Ch.30 - 51
45-1808	Amended	Ch.43 - 71
TITLE 46		
46-407	New Section Added	Ch.139 - 328
46-1008	Amended	Ch.4 - 7
46-1103	Amended	Ch.92 - 192
46-1104	Amended	Ch.92 - 193
46-1105	Amended	Ch.92 - 193
46-1107	Amended	Ch.92 - 194
46-1108	Amended	Ch.92 - 194
46-1110	Amended	Ch.92 - 196
46-1111	Amended	Ch.92 - 197
46-1112	Amended	Ch.92 - 197
46-1113	Amended	Ch.92 - 198
46-1114	Repealed	Ch.92 - 198
46-1114	New Section Added	Ch.92 - 198
46-1115	Amended	Ch.92 - 199
46-1116	Amended	Ch.92 - 199
46-1117	Amended	Ch.92 - 200
46-1118	Amended	Ch.92 - 200
46-1119	Amended	Ch.92 - 200
46-1120	Amended	Ch.92 - 201
46-1121	Amended	Ch.92 - 201
46-1122	Amended	Ch.92 - 203
46-1123	Amended	Ch.92 - 203
46-1124	Amended	Ch.92 - 203
46-1125	Repealed	Ch.92 - 203
46-1125	New Section Added	Ch.92 - 203
46-1126	Amended	Ch.92 - 204
46-1127	Amended	Ch.92 - 204
46-1128	Amended	Ch.92 - 205
46-1129	Amended	Ch.92 - 206
46-1130	Amended	Ch.92 - 206
46-1131	Amended	Ch.92 - 206
46-1132	Amended	Ch.92 - 206
46-1133	Amended	Ch.92 - 207
46-1134	Amended	Ch.92 - 207
46-1135	Amended	Ch.92 - 208
46-1136	Amended	Ch.92 - 209
46-1137	Amended	Ch.92 - 210
46-1138	Redesignated from 46-1140	Ch.92 - 211
46-1139	Amended	Ch.92 - 211
46-1140	Amended and Redesignated 46-1138	Ch.92 - 211
46-1140	Repealed	Ch.92 - 212
46-1141	Amended	Ch.92 - 212

Chapter - Page

TITLE 46 (Continued)

46-1142 Amended ..... Ch.92 - 213
46-1144 Amended ..... Ch.92 - 213
46-1145 Amended ..... Ch.92 - 214
46-1146 Repealed ..... Ch.92 - 214
46-1147 Repealed ..... Ch.92 - 214
46-1148 Amended ..... Ch.92 - 214
46-1149 Repealed ..... Ch.92 - 214
46-1150 Repealed ..... Ch.92 - 214
46-1151 Repealed ..... Ch.92 - 214
46-1152 Repealed ..... Ch.92 - 214
46-1153 Repealed ..... Ch.92 - 214
46-1154 Amended ..... Ch.92 - 214
46-1156 Repealed ..... Ch.92 - 215
46-1157 Repealed ..... Ch.92 - 215
46-1158 Amended ..... Ch.92 - 215
46-1159 Amended ..... Ch.92 - 215
46-1160 Amended ..... Ch.92 - 215
46-1161 Repealed ..... Ch.92 - 216
46-1177 Amended ..... Ch.92 - 216
46-1183 Repealed ..... Ch.92 - 216
46-1184 Amended ..... Ch.92 - 216
46-1185 Repealed ..... Ch.92 - 217
46-1186 Repealed ..... Ch.92 - 217
46-1187 Amended ..... Ch.92 - 217
46-1188 Repealed ..... Ch.92 - 217
46-1189 Repealed ..... Ch.92 - 217
46-1190 Repealed ..... Ch.92 - 217
46-1191 Amended ..... Ch.92 - 217
46-1193 Repealed ..... Ch.92 - 217
46-1193 New Section Added ..... Ch.92 - 217

TITLE 47

47-201 Amended ..... Ch.101 - 229
47-202 Amended ..... Ch.101 - 230
47-203 Amended ..... Ch.101 - 230
47-204 Amended ..... Ch.101 - 231
47-1313 Repealed ..... Ch.102 - 232
47-1313 New Section Added ..... Ch.102 - 232
47-1314 Repealed ..... Ch.102 - 232
47-1314 New Section Added ..... Ch.102 - 233
47-1314 Referred to ..... Ch.102 - 236
47-1315 Amended ..... Ch.102 - 234
47-1315 Referred to ..... Ch.102 - 240
47-1317 Amended ..... Ch.102 - 234
47-1318 Referred to ..... Ch.102 - 240
47-1319 Amended ..... Ch.102 - 237
37-1319 Referred to ..... Ch.102 - 240
47-1320 Amended ..... Ch.102 - 238
47-1320 Referred to ..... Ch.102 - 235
47-1321 Repealed ..... Ch.102 - 232

		Chapter - Page
TITLE 47 (Continued)		
47-1324	Amended	Ch.102 - 239
TITLE 48		
48-501	Amended	Ch.56 - 96
48-502	Amended	Ch.56 - 96
48-503	Amended	Ch.56 - 97
48-505	Amended	Ch.56 - 98
48-506	Amended	Ch.56 - 99
TITLE 49		
Title 49	Referred to	Ch.195 - 448
Title 49	Referred to	Ch.205 - 506
Ch.1	Referred to	Ch.205 - 507
Ch.1	Referred to	Ch.233 - 563
49-101	Amended	Ch.84 - 159
49-101	Referred to	Ch.55 - 95
49-101	Referred to	Ch.84 - 163,167
49-104	Amended	Ch.149 - 351
49-104	Amended	Ch.195 - 451
49-107	Amended	Ch.84 - 162
49-107	Amended	Ch.195 - 452
49-107	Referred to	Ch.143 - 335
49-107	Referred to	Ch.235 - 564
49-108	Referred to	Ch.195 - 459
49-113	Amended	Ch.195 - 453
49-117	Amended	Ch.195 - 454
49-120	Amended	Ch.87 - 181
49-120	Amended	Ch.195 - 456
49-125A	Amended	Ch.195 - 457
49-125A	Referred to	Ch.205 - 506
49-126	Repealed	Ch.195 - 446
49-126	New Section Added	Ch.195 - 457
49-126	Referred to	Ch.195 - 453,455,459,461
49-127	Amended	Ch.84 - 167
49-127	Referred to	Ch.84 - 167
49-127	Referred to	Ch.143 - 335
49-127	Repealed	Ch.195 - 446
49-127	New Section Added	Ch.195 - 459
49-127A	Repealed	Ch.195 - 446
49-127B	Amended	Ch.195 - 461
49-127B	Referred to	Ch.143 - 335
49-127B	Referred to	Ch.195 - 462
49-128	Amended	Ch.195 - 464
49-133	Amended	Ch.179 - 425
49-147	Amended	Ch.84 - 167
49-147	Amended	Ch.235 - 564
49-149	Amended	Ch.195 - 466
49-155	Amended	Ch.195 - 466
49-157	Amended	Ch.195 - 467
49-159	Amended	Ch.195 - 467
49-216	Amended	Ch.195 - 467

Chapter - Page

TITLE 49 (Continued)

49-217 Amended ..... Ch.195 - 467
49-231 Amended ..... Ch.586 - 468
49-236 Amended and Redesignated 49-695 ..... Ch.77 - 142
49-237 Amended and Redesignated 49-696 ..... Ch.77 - 143
49-238 Amended and Redesignated 49-698 ..... Ch.77 - 144
49-312 Amended ..... Ch.236 - 565
49-329 Amended ..... Ch.22 - 33
49-330 Amended ..... Ch.22 - 33
49-331A Amended ..... Ch.195 - 469
49-337 Repealed ..... Ch.22 - 26
49-337 Referred to ..... Ch.22 - 27
49-346 Amended ..... Ch.195 - 469
49-349 Amended ..... Ch.195 - 469
49-349 Amended ..... Ch.236 - 566
49-352 Repealed ..... Ch.22 - 26
49-354 Repealed ..... Ch.22 - 26
49-402 Amended ..... Ch.143 - 335
49-405 Amended ..... Ch.143 - 335
49-405 Referred to ..... Ch.143 - 337
49-412 Amended ..... Ch.143 - 337
49-426 Amended ..... Ch.143 - 338
49-434 Amended ..... Ch.195 - 470
49-434 Amended ..... Ch.260 - 628
Ch.5 Referred to ..... Ch.205 - 510
49-695 Redesignated from 49-236 ..... Ch.77 - 142
49-695 Referred to ..... Ch.77 - 144,145
49-696 Redesignated from 49-237 ..... Ch.77 - 143
49-696 Referred to ..... Ch.77 - 144
49-697 New Section Added ..... Ch.77 - 144
49-697 Referred to ..... Ch.77 - 143,144
49-698 Redesignated from 49-238 ..... Ch.77 - 144
49-722 Amended ..... Ch.41 - 67
49-762 Repealed ..... Ch.55 - 95
49-763 New Section Added ..... Ch.193 - 442
Ch.9 Referred to ..... Ch.195 - 459
49-913 Amended ..... Ch.142 - 333
49-916 Referred to ..... Ch.195 - 460
49-1102 Repealed ..... Ch.22 - 26
49-1102 Referred to ..... Ch.22 - 31
49-1102A Repealed ..... Ch.22 - 26
49-1102B Repealed ..... Ch.22 - 26
49-1103 Referred to ..... Ch.22 - 34
49-1121 Amended ..... Ch.22 - 38
49-1301 Amended ..... Ch.195 - 471
49-1301 Referred to ..... Ch.195 - 448
49-1806 Repealed ..... Ch.195 - 446
49-2317 Amended ..... Ch.252 - 603
49-2420 Amended ..... Ch.151 - 355
49-2423 New Section Added ..... Ch.151 - 356

		Chapter - Page
TITLE 49 (Continued)		
49-2706	Amended	Ch.195 - 472
49-2805	Amended	Ch.195 - 472
49-3003	Amended	Ch.195 - 472
49-3209	Amended	Ch.195 - 473
49-3210	Amended	Ch.195 - 473
49-3401	Amended	Ch.52 - 92
TITLE 50		
50-341	Amended	Ch.136 - 321
50-343	New Section Added	Ch.243 - 590
50-501	Referred to	Ch.156 - 381
50-707	New Section Added	Ch.108 - 251
50-707A	New Section Added	Ch.108 - 251
50-707B	New Section Added	Ch.108 - 251
50-801 thru 50-812	Referred to	Ch.108 - 251
50-801	Amended	Ch.156 - 381
50-802	Amended	Ch.156 - 381
50-803	Amended	Ch.156 - 382
50-804	Amended	Ch.156 - 382
50-807	Amended	Ch.156 - 382
50-812	Amended	Ch.156 - 382
50-813	Amended	Ch.156 - 382
50-1046	Amended	Ch.225 - 542
TITLE 51		
51-101	Repealed	Ch.259 - 620
51-101	New Section Added	Ch.259 - 620
51-102	Repealed	Ch.259 - 620
51-102	New Section Added	Ch.259 - 620
51-103	Repealed	Ch.259 - 620
51-103	New Section Added	Ch.259 - 621
51-103A	Repealed	Ch.259 - 620
51-104	Repealed	Ch.259 - 620
51-104	New Section Added	Ch.259 - 621
51-105	Repealed	Ch.259 - 620
51-105	New Section Added	Ch.259 - 621
51-106	New Section Added	Ch.259 - 622
51-107	Repealed	Ch.259 - 620
51-107	New Section Added	Ch.259 - 622
51-108	Repealed	Ch.259 - 620
51-108	New Section Added	Ch.259 - 622
51-109	New Section Added	Ch.259 - 623
51-110	Repealed	Ch.259 - 620
51-110	New Section Added	Ch.259 - 623
51-111	New Section Added	Ch.259 - 624
51-112	Repealed	Ch.259 - 620
51-112	New Section Added	Ch.259 - 624
51-113	New Section Added	Ch.259 - 624
51-114	New Section Added	Ch.259 - 625
51-115	New Section Added	Ch.259 - 626

		Chapter - Page
TITLE 51 (Continued)		
51-116	New Section Added	Ch.259 - 626
51-117	New Section Added	Ch.259 - 626
51-118	New Section Added	Ch.259 - 626
51-119	New Section Added	Ch.259 - 627
51-120	New Section Added	Ch.259 - 627
51-121	New Section Added	Ch.259 - 627
51-122	New Section Added	Ch.259 - 627
51-123	New Section Added	Ch.259 - 627
TITLE 54		
Ch. 3	Referred to	Ch.188 - 438
54-1005	Amended	Ch.123 - 294
54-1006	Amended	Ch.123 - 295
54-1009	Amended	Ch.123 - 296
54-1015	Amended	Ch.123 - 296
54-1017	Amended	Ch.123 - 297
Ch. 12	Referred to	Ch.188 - 438
54-1213	Amended	Ch.254 - 605
54-1214	Amended	Ch.254 - 606
54-1216	Amended	Ch.254 - 607
54-1219	Amended	Ch.254 - 608
54-1223	Amended	Ch.254 - 608
54-1402	Amended	Ch.57 - 101
54-1404	Amended	Ch.57 - 102
54-1405	Amended	Ch.57 - 103
54-1410	Amended	Ch.57 - 104
54-1412	Amended	Ch.57 - 104
54-1416	New Section Added	Ch.57 - 105
54-2303	Amended	Ch.141 - 330
54-2305	Amended	Ch.141 - 331
54-2309	Amended	Ch.141 - 332
54-2310	Amended	Ch.141 - 332
54-2502	Amended	Ch.83 - 158
54-2601	Redesignated from 39-2701	Ch.123 - 282
54-2601	Referred to	Ch.123 - 291
54-2602	Redesignated from 39-2702	Ch.123 - 282
54-2602	Referred to	Ch.123 - 288, 291
54-2603	Redesignated from 39-2703	Ch.123 - 283
54-2604	Redesignated from 39-2704	Ch.123 - 283
54-2605	Redesignated from 39-2705	Ch.123 - 284
54-2606	Redesignated from 39-2711	Ch.123 - 285
54-2607	Redesignated from 39-2712	Ch.123 - 286
54-2608	Redesignated from 39-2713	Ch.123 - 287
54-2609	Redesignated from 39-2714	Ch.123 - 287
54-2610	Redesignated from 39-2715	Ch.123 - 288
54-2611	Redesignated from 39-2716	Ch.123 - 288
54-2612	Redesignated from 39-2717	Ch.123 - 288
54-2613	Redesignated from 39-2718	Ch.123 - 289
54-2614	Redesignated from 39-2719	Ch.123 - 289
54-2615	Redesignated from 39-2720	Ch.123 - 289

Chapter - Page

TITLE 54 (Continued)
54-2616 Redesignated from 39-2721 ..... Ch.123 - 289
54-2617 Redesignated from 39-2722 ..... Ch.123 - 290
54-2618 Redesignated from 39-2723 ..... Ch.123 - 290
54-2619 Redesignated from 39-2724 ..... Ch.123 - 290
54-2620 Redesignated from 39-2725 ..... Ch.123 - 290
54-2621 Redesignated from 39-2726 ..... Ch.123 - 291
54-2622 Redesignated from 39-2727 ..... Ch.123 - 291
54-2623 Redesignated from 39-2728 ..... Ch.123 - 292
54-2624 Redesignated from 39-2729 ..... Ch.123 - 292
54-2625 Redesignated from 39-2730 ..... Ch.123 - 292
54-2626 Redesignated from 39-2731 ..... Ch.123 - 292
54-2627 Redesignated from 39-2732 ..... Ch.123 - 293
54-2628 Redesignated from 39-2733 ..... Ch.123 - 293
54-2629 Redesignated from 39-2734 ..... Ch.123 - 293
54-2630 Redesignated from 39-2735 ..... Ch.123 - 294
Ch. 30 Referred to ..... Ch.188 - 438
54-3601 New Section Added ..... Ch.42 - 68
54-3602 New Section Added ..... Ch.42 - 68
54-3603 New Section Added ..... Ch.42 - 68
54-3604 New Section Added ..... Ch.42 - 69
54-3605 New Section Added ..... Ch.42 - 69
54-3606 New Section Added ..... Ch.42 - 70
54-3607 New Section Added ..... Ch.42 - 70
54-3608 New Section Added ..... Ch.42 - 71
54-3609 New Section Added ..... Ch.42 - 71
54-3610 New Section Added ..... Ch.42 - 71
54-3611 New Section Added ..... Ch.42 - 71
54-3612 New Section Added ..... Ch.42 - 71
TITLE 55
55-1005 Amended ..... Ch.53 - 93
55-1201 Amended ..... Ch.234 - 563
55-1802 Amended ..... Ch.61 - 110
55-1804 Amended ..... Ch.61 - 110
55-1911 New Section Added ..... Ch.263 - 637
TITLE 56
56-101 Amended ..... Ch.118 - 264
56-110 Amended ..... Ch.118 - 266
56-111 Amended ..... Ch.118 - 268
56-112 Amended ..... Ch.118 - 268
56-113 Amended ..... Ch.118 - 268
56-120 Amended ..... Ch.118 - 269
56-121 Amended ..... Ch.118 - 270
56-701 Amended ..... Ch.147 - 343
56-701A New Section Added ..... Ch.147 - 344
56-701A Referred to ..... Ch.147 - 343,347
56-702 Amended ..... Ch.147 - 344
56-703 Amended ..... Ch.147 - 344
56-704 Amended ..... Ch.147 - 344
56-705 Amended ..... Ch.147 - 345

Chapter - Page

TITLE 56 (Continued)
56-706 Amended ..... Ch.147 - 345
56-707 Amended ..... Ch.147 - 345
TITLE 57
57-207 Amended ..... Ch.135 - 321
57-231 New Section Added ..... Ch.261 - 631
57-722 Amended ..... Ch.226 - 543
57-724 Amended ..... Ch.226 - 543
57-814 New Section Added ..... Ch.249 - 599
57-1601 Referred to ..... Ch.2 - 6
57-1601 Referred to ..... Ch.182 - 431
TITLE 59
Ch.4 Referred to ..... Ch.123 - 285
59-509 Referred to ..... Ch.40 - 66
59-509 Referred to ..... Ch.42 - 68
59-509 Referred to ..... Ch.123 - 285
Ch.8 Referred to ..... Ch.42 - 71
59-906 Amended ..... Ch.192 - 441
59-1014 Referred to ..... Ch.23 - 40
59-1107 Referred to ..... Ch.64 - 114
59-1107 Referred to ..... Ch.183 - 433
59-1115 Repealed ..... Ch.180 - 429
59-1115 New Section Added ..... Ch.180 - 429
59-1115 Referred to ..... Ch.282 - 656
59-1115 Referred to ..... Ch.289 - 687
59-1302 Amended ..... Ch.132 - 309
59-1303 Amended ..... Ch.130 - 304
59-1307 Amended ..... Ch.129 - 304
59-1309A Amended ..... Ch.132 - 313
59-1319 Referred to ..... Ch.132 - 315
59-1319A Amended ..... Ch.132 - 314
59-1322 Amended ..... Ch.132 - 315
59-1324 Amended ..... Ch.132 - 316
59-1329 Amended ..... Ch.132 - 316
59-1330 Amended ..... Ch.132 - 318
59-1332A Amended ..... Ch.180 - 429
59-1332A Referred to ..... Ch.289 - 686
59-1332B Amended ..... Ch.180 - 430
59-1351 Amended ..... Ch.132 - 318
59-1357 Referred to ..... Ch.23 - 40
TITLE 60
60-105 Amended ..... Ch.224 - 541
TITLE 61
Title 61 Referred to ..... Ch.205 - 507
61-313 Amended ..... Ch.106 - 247
61-314 Amended ..... Ch.106 - 247
61-317 Amended ..... Ch.106 - 248
61-319 Amended ..... Ch.106 - 248
61-323 Amended ..... Ch.106 - 248
61-502A New Section Added ..... Ch.21 - 24

Chapter - Page

TITLE 61 (Continued)
61-513 Amended ..... Ch.106 - 249
61-519 Amended ..... Ch.106 - 249
61-609 Amended ..... Ch.109 - 252
61-626 Amended ..... Ch.110 - 253
61-627 Amended ..... Ch.110 - 254
61-801 Amended ..... Ch.255 - 610
61-811 Referred to ..... Ch.205 - 507
61-812 Amended ..... Ch.109 - 252
61-812 Referred to ..... Ch.205 - 507

TITLE 63
63-105BB Referred to ..... Ch.222 - 540
63-105CC Referred to ..... Ch.222 - 540
63-105DD Referred to ..... Ch.222 - 540
63-412 Amended ..... Ch.222 - 540
63-1101 Amended ..... Ch.89 - 187
63-1107 Amended ..... Ch.89 - 188
63-1108 Amended ..... Ch.89 - 188
63-1117 Amended ..... Ch.89 - 188
63-1119 Amended ..... Ch.201 - 492
63-1702 Referred to ..... Ch.237 - 568
63-1703 Amended ..... Ch.237 - 567
63-1705 Amended ..... Ch.237 - 568
63-1706 Referred to ..... Ch.237 - 567,568
63-1708 Referred to ..... Ch.237 - 568
63-2220 Referred to ..... Ch.202 - 496,497
63-2401 Amended ..... Ch.87 - 170
63-2405 Amended ..... Ch.87 - 172
63-2405 Referred to ..... Ch.87 - 173,174
63-2405 Amended ..... Ch.195 - 475
63-2409 Amended ..... Ch.87 - 172
63-2409 Referred to ..... Ch.87 - 173
63-2409 Referred to ..... Ch.195 - 475
63-2410 Referred to ..... Ch.195 - 475
63-2412 Amended ..... Ch.87 - 173
63-2412 Referred to ..... Ch.87 - 179
63-2412 Amended ..... Ch.195 - 475
63-2412 Referred ..... Ch.195 - 448
63-2416 Amended ..... Ch.87 - 174
63-2416 Referred to ..... Ch.87 - 176
63-2417 Amended ..... Ch.87 - 174
63-2418 Amended ..... Ch.87 - 175
63-2418 Amended ..... Ch.195 - 477
63-2418 Referred to ..... Ch.195 - 448
63-2420 Amended ..... Ch.87 - 175
63-2434 Referred to ..... Ch.87 - 176
63-2438 Amended ..... Ch.87 - 176
63-2438 Referred to ..... Ch.87 - 171,175,177
63-2438 Referred to ..... Ch.195 - 477
63-2439 Referred to ..... Ch.87 - 177

Chapter - Page

TITLE 63 (Continued)

63-2440 Amended ..... Ch.87 - 177
63-2440 Referred to ..... Ch.87 - 178
63-2441 New Section Added ..... Ch.87 - 178
63-2442 New Section Added ..... Ch.87 - 178
63-2443 New Section Added ..... Ch.87 - 178
63-2502 Amended ..... Ch.228 - 548
63-2520 Amended ..... Ch.146 - 341
63-3004 Amended ..... Ch.35 - 55
63-3022 Amended ..... Ch.35 - 55
63-3022 Referred to ..... Ch.122 - 280
63-3022E Amended ..... Ch.176 - 423
63-3022F New Section Added ..... Ch.122 - 280
63-3025B New Section Added ..... Ch.103 - 241
63-3029A Amended ..... Ch.286 - 669
63-3045 Referred to ..... Ch.104 - 243
63-3045 Referred to ..... Ch.105 - 246
63-3046 Referred to ..... Ch.205 - 509
63-3068 Referred to ..... Ch.104 - 243
63-3070 Referred to ..... Ch.105 - 246
63-3076 Referred to ..... Ch.205 - 509
63-3077 Referred to ..... Ch.205 - 509
63-3201 Referred to ..... Ch.218 - 528
63-3202 Referred to ..... Ch.218 - 528
63-3203 Referred to ..... Ch.218 - 528
63-3204 Referred to ..... Ch.218 - 528
63-3205 Referred to ..... Ch.218 - 528
Ch.36 Referred to ..... Ch.126 - 301
Ch.36 Referred to ..... Ch.225 - 542
Ch.36 Referred to ..... Ch.287 - 684
63-3606 Referred to ..... Ch.239 - 582
63-3612A Referred to ..... Ch.239 - 579
63-3613 Amended ..... Ch.287 - 671
63-3615 Amended ..... Ch.239 - 584
63-3619 Amended ..... Ch.287 - 672
63-3621 Amended ..... Ch.287 - 672
63-3622 Amended ..... Ch.119 - 271
63-3622 Amended ..... Ch.195 - 477
63-3622 Amended ..... Ch.239 - 571
63-3622 Amended ..... Ch.287 - 676
63-3622A New Section Added ..... Ch.239 - 576
63-3622B New Section Added ..... Ch.239 - 576
63-3622C New Section Added ..... Ch.239 - 577
63-3622D New Section Added ..... Ch.239 - 577
63-3622E New Section Added ..... Ch.239 - 578
63-3622F New Section Added ..... Ch.239 - 578
63-3622G New Section Added ..... Ch.239 - 578
63-3622H New Section Added ..... Ch.239 - 578
63-3622I New Section Added ..... Ch.239 - 579
63-3622J New Section Added ..... Ch.239 - 579

Chapter - Page

TITLE 63 (Continued)
63-3622K New Section Added ..... Ch.239 - 579
63-3622L New Section Added ..... Ch.239 - 579
63-3622M New Section Added ..... Ch.239 - 580
63-3622N New Section Added ..... Ch.239 - 580
63-3622O New Section Added ..... Ch.239 - 580
63-3622P New Section Added ..... Ch.239 - 581
63-3622Q New Section Added ..... Ch.239 - 581
63-3622R New Section Added ..... Ch.239 - 581
63-3622S New Section Added ..... Ch.239 - 582
63-3622T New Section Added ..... Ch.239 - 582
63-3622U New Section Added ..... Ch.239 - 583
63-3622V New Section Added ..... Ch.239 - 583
63-3622W New Section Added ..... Ch.239 - 584
63-3622X New Section Added ..... Ch.239 - 584
63-3622Y New Section Added ..... Ch.239 - 584
63-3622AA New Section Added ..... Ch.284 - 657
63-3623 Amended ..... Ch.285 - 658
63-3638 Amended ..... Ch.287 - 681
63-3638 Referred to ..... Ch.194 - 445
63-3640 Repealed ..... Ch.287 - 684
63-3640 Referred to ..... Ch.287 - 684
63-3640A Amended ..... Ch.28 - 48
63-3640A Repealed ..... Ch.287 - 684
TITLE 66
66-402 Referred to ..... Ch.176 - 423
66-901 Amended ..... Ch.75 - 140
TITLE 67
67-202A New Section Added ..... Ch.173 - 416
67-202A Amended ..... Ch.250 - 600
67-513 Amended ..... Ch.24 - 45
67-806 Repealed ..... Ch.203 - 499
67-809 Amended ..... Ch.203 - 499
67-915 New Section Added ..... Ch.15 - 17
67-1104 Amended ..... Ch.134 - 320
67-1210 Referred to ..... Ch.23 - 40
67-1210 Referred to ..... Ch.47 - 88
67-1911 Amended ..... Ch.1 - 3
67-2008 Amended ..... Ch.78 - 145
67-2018 Referred to ..... Ch.204 - 501
67-2320 New Section Added ..... Ch.188 - 438
63-2327 thru
67-2333 Referred to ..... Ch.72 - 133
67-2327 Amended ..... Ch.72 - 134
67-2328 Amended ..... Ch.72 - 134
67-2344 Referred to ..... Ch.286 - 666
67-2345 Referred to ..... Ch.286 - 666
67-2702 New Section Added ..... Ch.47 - 87
67-2702 Referred to ..... Ch.47 - 78,79,80,87
67-2739 Amended ..... Ch.76 - 140

Chapter - Page

TITLE 67 (Continued)

67-2929 New Section Added ..... Ch.205 - 510
67-2929 Referred to ..... Ch.205 - 511
67-2930 New Section Added ..... Ch.205 - 511
Ch.35 Referred to ..... Ch.218 - 527
67-3502 Amended ..... Ch.1 - 3
67-3503 Amended ..... Ch.1 - 4
67-3508 Amended ..... Ch.1 - 4
67-3516 Referred to ..... Ch.163 - 403
67-3516 Referred to ..... Ch.165 - 406
67-3516 Referred to ..... Ch.181 - 431
67-3516 Referred to ..... Ch.183 - 433
67-3516 Referred to ..... Ch.185 - 435
67-3516 Referred to ..... Ch.209 - 515
67-3516 Referred to ..... Ch.218 - 527
67-3516 Referred to ..... Ch.280 - 655
67-3516 Referred to ..... Ch.288 - 685
67-3517 Amended ..... Ch.137 - 326
Ch.36 Referred to ..... Ch.163 - 403
Ch.36 Referred to ..... Ch.165 - 406
Ch.36 Referred to ..... Ch.181 - 431
Ch.36 Referred to ..... Ch.183 - 433
Ch.36 Referred to ..... Ch.185 - 435
Ch.36 Referred to ..... Ch.209 - 515
Ch.36 Referred to ..... Ch.218 - 527
Ch.36 Referred to ..... Ch.280 - 655
67-3608 Referred to ..... Ch.288 - 685
67-3609 Referred to ..... Ch.288 - 685
67-3610 Referred to ..... Ch.288 - 685
67-3611 Referred to ..... Ch.288 - 685
67-4001 New Section Added ..... Ch.72 - 133
67-4002 New Section Added ..... Ch.72 - 133
67-4003 New Section Added ..... Ch.72 - 134
67-4237 New Section Added ..... Ch.233 - 563
67-4711 Referred to ..... Ch.126 - 301
67-4718 Amended ..... Ch.126 - 301
Ch.52 Referred to ..... Ch.104 - 242
Ch.52 Referred to ..... Ch.155 - 379
67-5201 Referred to ..... Ch.204 - 501
67-5215 Referred to ..... Ch.102 - 239
67-5216 Referred to ..... Ch.102 - 239
67-5218 Referred to ..... HCR46 - 701
67-5218 Referred to ..... HCR47 - 701
67-5218 Referred to ..... HCR50aa - 704
67-5218 Referred to ..... HCR61 - 716
67-5314 Amended ..... Ch.238 - 570
67-5407 Amended ..... Ch.147 - 346
67-5407 Referred to ..... Ch.147 - 343,344
67-5411 Referred to ..... Ch.251 - 603
67-5711 Referred to ..... Ch.162 - 402

		Chapter - Page
TITLE 67 (Continued)		
67-5711	Referred to	Ch.164 - 405
67-5711	Referred to	Ch.218 - 527
67-6211	Amended	Ch.194 - 443
67-6404	Referred to	SCR118 - 694
TITLE 68		
68-801	Repealed	Ch.152 - 357
68-801	New Section Added	Ch.152 - 357
68-802	Repealed	Ch.152 - 357
68-802	New Section Added	Ch.152 - 358
68-803	Repealed	Ch.152 - 357
68-803	New Section Added	Ch.152 - 358
68-804	Repealed	Ch.152 - 357
68-804	New Section Added	Ch.152 - 359
68-805	Repealed	Ch.152 - 357
68-805	New Section Added	Ch.152 - 359
68-806	Repealed	Ch.152 - 357
68-806	New Section Added	Ch.152 - 359
68-807	Repealed	Ch.152 - 357
68-807	New Section Added	Ch.152 - 360
68-808	Repealed	Ch.152 - 357
68-808	New Section Added	Ch.152 - 360
68-809	Repealed	Ch.152 - 357
68-809	New Section Added	Ch.152 - 360
68-810	Repealed	Ch.152 - 357
68-810	New Section Added	Ch.152 - 362
68-811	New Section Added	Ch.152 - 362
68-812	New Section Added	Ch.152 - 362
68-813	New Section Added	Ch.152 - 363
68-814	New Section Added	Ch.152 - 363
68-815	New Section Added	Ch.152 - 364
68-816	New Section Added	Ch.152 - 364
68-817	New Section Added	Ch.152 - 364
68-818	New Section Added	Ch.152 - 364
68-819	New Section Added	Ch.152 - 365
68-820	New Section Added	Ch.152 - 366
68-821	New Section Added	Ch.152 - 366
68-822	New Section Added	Ch.152 - 366
68-823	New Section Added	Ch.152 - 367
68-824	New Section Added	Ch.152 - 367
68-825	New Section Added	Ch.152 - 367
TITLE 69		
69-223	Amended	Ch.19 - 21
TITLE 70		
70-1404	Amended	Ch.128 - 303
TITLE 71		
71-402	Amended	Ch.18 - 21
71-403	Repealed	Ch.18 - 21
71-405	Amended	Ch.18 - 21

Chapter - Page

TITLE 72
72-523 Amended ..... Ch.90 - 189
72-1349C Amended ..... Ch.180 - 430
72-1349C Referred to ..... Ch.289 - 686
72-1428 Amended ..... Ch.242 - 588

IDAHO CONSTITUTION
Art. III, Sec. 5 Amendment Proposed ..... HJR5 - 691
Art. III, Sec. 5 Referred to ..... Ch.173 - 414
Art. IV, Secs. 12,13 Referred to ..... Ch.203 - 499
Art. XV, Sec. 7 Amendment Proposed ..... SJR117aa - 689

LAWS OF 1980
Ch.250, Sec.1 Referred to ..... Ch.281 - 655

LAWS OF 1982
Ch.289, Sec.3 Referred to ..... Ch.281 - 655

LAWS OF 1983
Ch.51, Sec.1 Referred to ..... Ch.7 - 11
Ch.52, Sec.1 Referred to ..... Ch.27 - 47
Ch.108, Sec.1 Referred to ..... Ch.74 - 139
Ch.175, Sec.2 Amended ..... Ch.10 - 13
Ch.178, Sec.2 Referred to ..... Ch.25 - 46
Ch.178, Sec.2 Referred to ..... Ch.189 - 439
Ch.193, Secs.1,2 Referred to ..... Ch.213 - 521
Ch.193, Sec.15 Referred to ..... Ch.34 - 54
Ch.196, Sec.1 Referred to ..... Ch.26 - 46
Ch.200, Sec.2 Amended ..... Ch.31 - 52
Ch.219, Sec.2 Referred to ..... Ch.12 - 15
Ch.224, Sec.2 Referred to ..... Ch.13 - 16
Ch.228, Sec.2 Referred to ..... Ch.248 - 595
Ch.232, Sec.1 Referred to ..... Ch.9 - 13
Ch.260, Sec.2 Referred to ..... Ch.11 - 15
Ch.260, Sec.2 Referred to ..... Ch.14 - 17
Ch.260, Sec.2 Referred to ..... Ch.32 - 53
Ch.276, Sec.1 Referred to ..... Ch.33 - 53
Ch.276, Sec.1 Referred to ..... Ch.280 - 655
Ch.277, Sec.1 Referred to ..... Ch.279 - 653
Ch.278, Sec.3 Amended ..... Ch.3 - 6
Ch.280, Sec.3 Referred to ..... Ch.44 - 72
Ch.282, Sec.2 Referred to ..... Ch.64 - 114

LAWS OF 1983 - FIRST EXTRAORDINARY SESSION
Ch.5, Sec.6 Referred to ..... Ch.49 - 90
Ch.5, Sec.6 Referred to ..... Ch.268 - 643
Ch.5, Sec.8 Referred to ..... Ch.288 - 685
Ch.5, Sec.11 Referred to ..... Ch.277 - 651

LAWS OF 1983 - FIRST REGULAR SESSION
FORTY-SEVENTH LEGISLATURE

		Chapter - Page
H512	Referred to	SCR116 - 693
H830	Referred to	SCR116 - 692

LAWS OF 1983 - SECOND REGULAR SESSION
FORTY-SEVENTH LEGISLATURE

H475	Referred to	Ch.289 - 686
H645, Sec.34-704	Amended	Ch.173 - 418
H746, Sec.2, Sec.67-202A	Amended	Ch.250 - 600
S1269	Referred to	Ch.212 - 520

IDAHO ACTS

Income Tax Act	Referred to	Ch.205 - 509
Notary Public Act	Enacted	Ch.259 - 620
Rules of Civil Procedure	Referred to	Ch.155 - 377
School Improvement Act	Enacted	Ch.286 - 661
Uniform Gifts to Minors Act	Referred to	Ch.152 - 356
Uniform Transfers to Minors Act	Enacted	Ch.152 - 356

FEDERAL ACTS AND LAWS

Code of Federal Regulation, Ch.III Part 405, Subpart M	Referred to	Ch.22 - 29
Internal Revenue Code		
Sec.63	Referred to	Ch.35 - 60
Sec.86,87	Referred to	Ch.122 - 280
U.S.C.,Title 15		
Ch.22	Referred to	Ch.56 - 97
10 U.S.C. Secs.916, 918-930,932	Referred to	Ch.92 - 217
12 U.S.C.		
Sec.1781 et seq	Referred to	Ch.59 - 107
42 U.S.C.		
Sec.5178	Referred to	Ch.4 - 9
Sec.7901 et seq	Referred to	Ch.257 - 617
P.L. 734	Referred to	Ch.64 - 114
P.L. 93-29		
Older American Act	Referred to	Ch.239 - 579
P.L. 95-604	Referred to	Ch.257 - 617,618

STATE AGENCY RULES AND REGULATIONS

		Chapter - Page
Board of Education		
Ch.9 State Professional		
Studies Program	Rejected	HCR61 - 716
Health and Welfare		
Title 2, Ch.24		
Rule 02.24400,01	Amended	HCR47 - 702
Title 2, Ch.11		
Rule 02.11050,03	Amended	HCR50 - 705
Rule 02.11050,11	Amended	HCR50 - 705
Rule 02.11050,23	Amended	HCR50 - 705
Tax Commission		
Regulation 708	Rejected	HCR46 - 701
Regulation 710	Rejected	HCR46 - 701

COURT CASES

Reynolds vs. Sims		
377 US 533 (1964)	Referred to	SCR116 - 692
Summers vs. Cenarrusa	Referred to	SCR116 - 692

NUMERICAL LIST OF SENATE BILLS

That became Law with a brief synopsis and the Chapter Number of the Bills

		Chapter - Page
S1211	Veterans Home admission, eligibility	CH. 75 - 139
S1212	Nursing, regulation, licenses	CH. 57 - 101
S1213	Mule racing, pari-mutuel system	CH. 83 - 158
S1214	Utility rates, construction work in progress	CH. 21 - 24
S1216	Plumbing/Electrical Divisions, Dept of Labor and Industrial Services	CH. 123 - 281
S1221	School bus, privately owned, license	CH. 84 - 158
S1223	Legislative Fiscal Office, name change	CH. 1 - 3
S1224	Probation/parole supervision, inmate pay	CH. 187 - 436
S1226	Vending machines, prohibited access highways	CH. 251 - 603
S1227	Homesteads, deeds of trust, judgments	CH. 53 - 93
S1228	Check, dishonored, interest rate	CH. 50 - 91
S1231	State deposits exceeding insurance limits	CH. 76 - 140
S1235	Motor club agents, qualifications	CH. 252 - 603
S1236	Livestock, instream watering	CH. 124 - 299
S1237	Wildlife, open depredation season	CH. 154 - 368
S1238	MV trespass, agricultural land	CH. 55 - 94
S1240	Misdemeanor cases, dismissed, 6 months	CH. 51 - 91
S1241	Traffic infractions, dept correction	CH. 52 - 92
S1243	Appropriation, Governor's Emergency Fund	CH. 2 - 6
S1246	Hospital liability trusts, premium tax pymt	CH. 253 - 604
S1247	Insurance, policyholder, guaranty deposit	CH. 125 - 300
S1248	Approp/supplemental, H&W, assistance pymts	CH. 3 - 6
S1249	Handicapped, parking privileges card	CH. 77 - 141
S1252	Engineers, land surveyors, fees	CH. 254 - 605
S1254	Vehicles, school lease, exempt PUC fee	CH. 255 - 610
S1256	Teaching certificate, age 70, continued	CH. 70 - 132
S1259	Trademarks, fees for filing	CH. 56 - 95
S1260	Parole information supplied counties	CH. 85 - 168
S1261	State travel, mileage allowance	CH. 78 - 145
S1266	Crime, victim, restitution	CH. 86 - 168
S1269	State Geological Survey established	CH. 101 - 229
S1272	TB exams, school personnel, eliminated	CH. 71 - 132
S1273	Motor fuels tax law, corrections	CH. 87 - 169
S1274	Insurance agents, licensing, appointment	CH. 256 - 612
S1275	Insurance Dept - funded from fees	CH. 23 - 38
S1276	Uranium Mill Tailings Radiation Control	CH. 257 - 617
S1282	Penal law repeal, prosecution not barred	CH. 24 - 45
S1290	UCC, bank redefined	CH. 88 - 183

		Chapter - Page
S1291	Service contracts, public entities	CH. 188 - 437
S1292	Approp/suppl, Labor & Industrial Services	CH. 9 - 13
S1293	Approp, Dept of Agric, 1983, revised	CH. 10 - 13
S1294	Approp/suppl, Governor's Office residence	CH. 11 - 15
S1300	Wells, injection, regulation	CH. 155 - 370
S1302	Mining, dredge, placer	CH. 102 - 232
S1303	County expense claims, certain, payment	CH. 79 - 146
S1307	Property tax, collection, payment	CH. 89 - 187
S1309	City government, council-manager	CH. 156 - 381
S1314	Travel & convention tax payment	CH. 126 - 301
S1315	Approp/supplemental, Tax Comm/circuit breaker	CH. 189 - 439
S1316	Approp/supplemental, Tax Comm/Ad Valorem Prgm	CH. 25 - 46
S1317	Hazardous Waste law, damage repaid	CH. 157 - 383
S1318	Income tax credit, computer given school	CH. 103 - 241
S1320	Disasters, emergencies, assistance	CH. 4 - 7
S1321	Appropriation, suppl, Supreme Court	CH. 26 - 46
S1322	Appropriation, suppl, State Treasurer	CH. 27 - 47
S1328	Prosecuting attorneys, 4 year term	CH. 80 - 147
S1331	Youth Rehabilitation Act amended	CH. 81 - 148
S1332	Hazardous waste, reports	CH. 258 - 618
S1335	Juveniles, incarceration	CH. 82 - 157
S1336	Notaries Public, regulation	CH. 259 - 620
S1337	Indians, State-Tribal Relations Act	CH. 72 - 133
S1338	Indian burial ground, pilferage, penalty	CH. 73 - 135
S1341	Wrongful death, personal injury	CH. 158 - 385
S1345	Death sentence, appeal	CH. 159 - 386
S1347	Food, imported, package information	CH. 127 - 302
S1355	Port of Lewiston commissioners, per diem	CH. 128 - 303
S1357	Approp, Regulatory Bds, supplemental	CH. 74 - 139
S1360	Retirement, repayment amounts, interest	CH. 129 - 304
S1361	PERS, erroneous contributions, interest	CH. 130 - 304
S1362	Voting, absentee	CH. 131 - 305
S1363	Retirement benefits, clarification	CH. 132 - 308
S1365	Juveniles, detention, standards	CH. 190 - 439
S1366	Crime victims medical exam expense	CH. 191 - 440
S1367	Controlled substances, federal conformance	CH. 160 - 390
S1368	MV, 25 yrs or older, title	CH. 260 - 628
S1374	Bonds, variable interest rates	CH. 261 - 630
S1376	Outfitters & Guides, licensure	CH. 262 - 632
S1377	DUI violations, fines, disposition	CH. 161 - 399
S1379	Surveys, allowable limits of error	CH. 263 - 637
S1381	Appropriation, Fish & Game Department	CH. 162 - 401
S1382	Appropriation, Lieutenant Governor	CH. 163 - 402
S1383	Appropriation, Parks & Recreation Dept.	CH. 164 - 403
S1384	Appropriation, Secretary of State	CH. 165 - 405
S1385	Appropriation, Personnel Commission	CH. 166 - 406
S1388	Appropriation, Self-governing Agencies	CH. 167 - 407
S1389	Appropriation, Liquor Disp, Endowment Fund Bd	CH. 168 - 409
S1390	Appropriation, Administration Dept.	CH. 172 - 412
S1391	Appropriation, Finance Department	CH. 169 - 409

		Chapter - Page
S1392	Appropriation, Public Utilities Comm.	CH. 170 - 410
S1393	Appropriation, Public Health Districts	CH. 171 - 411
S1401	Appropriation, Agriculture Department	CH. 264 - 637
S1402	Appropriation, Military Division	CH. 265 - 640
S1403	Appropriation, Educ Public Broadcasting Syst	CH. 266 - 640
S1404	Appropriation, Legislative services	CH. 267 - 641
S1405	Appropriation, Vocational Education	CH. 268 - 643
S1406	Appropriation, Office of Governor	CH. 269 - 643
S1408	Appropriation, Financial Management Div	CH. 270 - 644
S1409	Appropriation, H&W, Community Rehab	CH. 271 - 645
S1410	Appropriation, H&W, Welfare Division	CH. 272 - 646
S1411	Appropriation, H&W, Environment	CH. 273 - 647
S1412	Appropriation, H&W, Veterans Services	CH. 274 - 648
S1413	Appropriation, H&W, Health Division	CH. 275 - 649
S1414	Appropriation, H&W, Indirect Support Services	CH. 276 - 650
S1415	Appropriation, U of I Special Programs	CH. 277 - 651
S1416	Appropriation, Historical Society	CH. 278 - 652
S1417	Appropriation, Deaf & Blind School	CH. 279 - 653
S1418	Appropriation, Education Department	CH. 280 - 653
S1419	Appropriation, Dept of Correction, bldgs	CH. 281 - 655
S1420	Appropriation, Colleges & Universities	CH. 288 - 684
S1421	Appropriation, College of S Idaho, North Idaho College	CH. 282 - 655
S1423	Appropriation, Public School Foundation Prgm	CH. 289 - 685

NUMERICAL LIST OF HOUSE BILLS

That became Law with a brief synopsis and the Chapter Number of the Bills

		Chapter - Page
H382	Sales tax exemption, tangible personal prop	CH. 28 - 47
H387	Internal Revenue Code, adopted for State	CH. 35 - 55
H388	Property, unclaimed, law corrections	CH. 36 - 60
H389	Beer dealers, penalties, records	CH. 104 - 242
H390	Wine dealers, penalties, records	CH. 105 - 244
H391	"No trespassing" sign removal, penalty	CH. 37 - 63
H392	Beef Council assessment increased	CH. 5 - 9
H394	Beer licenses, fees	CH. 133 - 319
H396	Wineries, licensure	CH. 221 - 530
H400	Property tax roll, exempted property	CH. 222 - 539
H403	Garnishment, state auditor fee	CH. 223 - 540
H404	State auditor report, annually	CH. 134 - 320
H409	Board of Health, District, membership	CH. 38 - 64
H410	Health Dist, budget request submittal	CH. 39 - 65
H411	Health Board, District, member per diem	CH. 40 - 66
H412	Telegraph service, obsolete references	CH. 106 - 246
H415	Military Justice Code, conform/federal	CH. 92 - 190
H417	Blue Book publication, price	CH. 15 - 17
H419	Prisoner/female, transport to court	CH. 93 - 218
H420	Prisoner furloughs, work projects	CH. 58 - 106
H423	Pedestrians, right-of-way	CH. 41 - 66
H426	Brand inspection certificates	CH. 6 - 10
H430	Property disposal, school districts	CH. 45 - 72
H432	Elections, school, penal provisions	CH. 46 - 75
H434	Bond election, certification	CH. 107 - 249
H435	County office vacancy, filling	CH. 192 - 441
H439	Soil Conservation District moneys	CH. 16 - 18
H440	Grape grower, wine producer commission	CH. 42 - 67
H441	Official notices, newspapers, rate	CH. 224 - 541
H442	Marriage license, fee	CH. 29 - 50
H443	Irrigation district redemption certificate	CH. 174 - 419
H444	Agric commodity dealer lien, code ref	CH. 43 - 71
H445	City council election, districts/seats	CH. 108 - 250
H447	Finance Department - funded from fees	CH. 47 - 76
H450	PUC, copying charges allowed	CH. 109 - 252
H452	Local option tax, resort cities	CH. 225 - 542
H453	Investment Board, investments	CH. 226 - 542
H454	Insurer, insolvent, claims, final date	CH. 66 - 115
H456	Share/deposit ins, credit union role	CH. 59 - 107

		Chapter - Page
H457	PUC, petitions for reconsideration	CH. 110 - 253
H463	School trustee term, election-new zone	CH. 94 - 218
H466	Warrants, county, dollar amount	CH. 111 - 255
H467	Hospital lien, recording, fee, process	CH. 30 - 51
H468	Artificial inseminators, license fee	CH. 17 - 19
H469	Weighmaster, license fee increased	CH. 18 - 20
H470	Warehouse, emergency, goods removal	CH. 19 - 21
H471	Safety restraints, vehicle, children	CH. 193 - 441
H475	Schools, Improvement Act of 1984	CH. 286 - 660
H477	Workmens Comp, net premiums collected	CH. 90 - 189
H479	Housing Agency, obligations, amount	CH. 194 - 442
H482	Bonds, municipal, denominations	CH. 135 - 321
H483	State contracts, local units of govt bid	CH. 136 - 321
H486	Pilots, registration fee	CH. 227 - 544
H488	Appropriation, allotment, 6 mo basis deleted	CH. 137 - 326
H490	Hazardous waste violations, penalty	CH. 54 - 94
H492	Insurance policies, countersignature	CH. 60 - 108
H493	Fish & Game license revoked, trespass	CH. 112 - 256
H495	Corporation name change filing	CH. 67 - 117
H497	Credit unions, state, activities	CH. 95 - 220
H503	Hospital defined, record confidentiality	CH. 113 - 257
H504	Milk/cream tax, 1% or less	CH. 20 - 23
H506	Highway district commissioners, per diem	CH. 138 - 327
H510	Voters' pamphlet, distribution	CH. 114 - 258
H513	Watermaster, electors	CH. 175 - 420
H514	Appropriation, supplemental, Lt. Governor	CH. 7 - 11
H515	Nat'l Guard member reemployment rights	CH. 139 - 327
H517	Appropriation, supplemental, PUC	CH. 12 - 15
H518	Inheritance tax, exemption	CH. 115 - 259
H520	Sales tax, uniform date, return, pymt	CH. 285 - 658
H521	Approp, supplemental, Administration Dept	CH. 13 - 16
H522	Time share property, registration	CH. 61 - 109
H524	Livestock leases, recorded	CH. 116 - 261
H525	Cigarettes, number in package	CH. 228 - 547
H526	Appropriation, suppl, Retirement System	CH. 14 - 17
H527	Tort claims, govt liability, $ amount	CH. 96 - 221
H529	Tort claim, lawsuit, vehicle use	CH. 140 - 328
H531	Psychologist examiners, unlicensed	CH. 141 - 330
H532	Vehicles, size, designated highways	CH. 142 - 333
H533	Motor vehicles, titling requirements	CH. 143 - 334
H534	Cattle brought in state, assessment	CH. 62 - 111
H538	Fire protection dist resubdivided, when	CH. 117 - 262
H539	Furbearers, property damage, trapped	CH. 144 - 338
H540	DUI (drinking under influence) penalties	CH. 22 - 25
H541	Appropriation, Correction Dept,1983, revised	CH. 31 - 52
H544	Appropriation/suppl, Military Division	CH. 32 - 53
H545	Appropriation/suppl, Department of Education	CH. 33 - 53
H546	Appropriation/suppl, State Library Board	CH. 34 - 54
H547	Checks, photocopied, no payment	CH. 145 - 340
H548	Income tax credit, developmentally disabled	

		Chapter - Page
	person in household	CH. 176 - 422
H552	Firearms, etc, confiscation, return	CH. 177 - 423
H553	Crime, accused's right to counsel	CH. 229 - 548
H554	Sentencing information, recording, etc.	CH. 230 - 549
H555	Inmates, rules, discipline	CH. 178 - 425
H557	Cigarette tax, Central Tumor Account	CH. 146 - 341
H558	Nurseries and florists, licensure	CH. 231 - 552
H564	Appropriation, suppl, Water Resources Dept	CH. 44 - 72
H565	School support, preconsolidation, time	CH. 97 - 223
H567	Brand board, membership	CH. 48 - 88
H570	Beer, wine, stocking, rotation on shelves	CH. 232 - 560
H572	Vehicles, illegally parked, state parks	CH. 233 - 562
H577	Justices, judges, retirement age	CH. 91 - 190
H580	Hearing impaired, guide dogs	CH. 147 - 342
H582	Pesticide applicator, testing, license fee	CH. 148 - 347
H586	Highway user revenues, distribution	CH. 195 - 445
H589	Nursing home property costs, recovery	CH. 118 - 264
H592	State police, group life insurance	CH. 196 - 482
H596	Game, winter feeding, tag fee increase	CH. 197 - 484
H597	Computer crime, penalties	CH. 68 - 129
H602	Homestead value, increased	CH. 234 - 563
H604	Income tax credit, weatherize benefit	CH. 122 - 279
H605	Motor carriers, temporary operation fee	CH. 149 - 351
H607	Vehicle registration, misdemeanors	CH. 235 - 564
H608	Driver's license, fee increased	CH. 236 - 564
H609	County wide hwy dist commissioners pay	CH. 198 - 488
H612	Wine produced ID, excise tax reduced	CH. 283 - 656
H613	Teachers certificate, suspension, etc	CH. 150 - 353
H621	Motor vehicle warranties	CH. 151 - 355
H624	Lewd conduct with minor, prohibition	CH. 63 - 112
H628	Small claims actions	CH. 199 - 488
H629	Uniform Transfers to Minors Act	CH. 152 - 356
H630	Professional Serv Corp branch office	CH. 98 - 226
H635	Beans, bacterial diseases	CH. 153 - 367
H639	Property tax exempt, motor vehicles	CH. 179 - 425
H641	Medically indigent, reimbursement rate	CH. 99 - 227
H645	Primary election filing date	CH. 8 - 12
H648	Appropriation, suppl, Vocational Education	CH. 49 - 90
H649	Insurance Department, examination expense	CH. 100 - 228
H650	Drugs, simulated, possession	CH. 200 - 489
H653	Forest land yield tax, exceptions	CH. 237 - 566
H661	Property tax, payment, apply to debt	CH. 201 - 492
H662	Appropriation, supplemental, State Auditor	CH. 64 - 114
H663	Appropriation, Correctional Industries	CH. 65 - 114
H664	Sales tax exempt, Indian reservation sale	CH. 119 - 271
H669	Liquor Acct moneys not transferred certain accounts	CH. 120 - 276
H671	Personnel Commission Account, pymts to	CH. 238 - 569
H673	Appropriation, Agricultural Commodity Comms	CH. 69 - 131
H674	Legislative seats, designation	CH. 121 - 278

		Chapter - Page
H679	Fire protection district, land annexation	CH. 202 - 493
H680	Sales tax exemptions, recodification	CH. 239 - 570
H682	Lt. Governor, expense allowance	CH. 203 - 499
H683	Teachers soc sec/retirement, pymt account	CH. 180 - 426
H684	Flood Control District, exclusion	CH. 240 - 585
H686	County mutual insurers, investments	CH. 241 - 587
H688	Firemen, health standards, authority	CH. 242 - 588
H690	Firearms, city/county not regulate	CH. 243 - 590
H696	Civil actions, state agency/court costs	CH. 204 - 501
H699	Sales and Use Tax 4%, INEL not exempt	CH. 287 - 670
H703	Sales tax exemption certain documents	CH. 284 - 657
H704	Liquor license, equestrian facilities	CH. 244 - 590
H706	Hazardous waste, transportation fee	CH. 205 - 502
H710	Approp, supplemental, Fish & Game	CH. 186 - 436
H712	Appropriation, Economic & Community Affairs	CH. 206 - 512
H713	Appropriation, State Treasurer	CH. 181 - 431
H714	Appropriation, Governor's Emergency Fund	CH. 182 - 431
H715	Appropriation, State Auditor	CH. 183 - 432
H716	Appropriation, Water Resources Dept.	CH. 184 - 433
H717	Appropriation, Attorney General	CH. 185 - 435
H718	Appropriation, Industrial Commission	CH. 207 - 512
H719	Appropriation, Correction Department	CH. 208 - 513
H720	Appropriation, Supreme Court	CH. 209 - 514
H721	Appropriation, Insurance Department	CH. 210 - 515
H725	Appropriation, Labor & Industrial Servs	CH. 211 - 516
H726	Appropriation, Department of Lands	CH. 212 - 518
H729	Appropriation, Education Board Office	CH. 213 - 520
H730	Appropriation, Law Enforcement Dept.	CH. 214 - 521
H731	Appropriation, Transportation Dept.	CH. 215 - 523
H735	Appropriation, State Library Board	CH. 216 - 524
H736	Appropriation, U of I, Health Programs	CH. 217 - 524
H737	Appropriation, Permanent Bldg Council	CH. 218 - 526
H738	Appropriation, Tax Comm, Tax Appeals	CH. 219 - 528
H739	Appropriation, Education Bd/Voc Rehab	CH. 220 - 529
H742	Appropriation, Commission for the Blind	CH. 245 - 593
H743	Appropriation, Human Rights, Women's Comm	CH. 246 - 594
H744	Appropriation, Office on Aging	CH. 247 - 595
H745	Appropriation, Tax Comm, Special Fuels	CH. 248 - 595
H746	Reapportionment, candidate filing time	CH. 173 - 414
H747	Approp, General Account Surplus	CH. 249 - 596
H750	Reapportionment, H746 amended	CH. 250 - 600

NUMERICAL LIST OF SENATE AND HOUSE CONCURRENT AND JOINT RESOLUTIONS AND JOINT MEMORIALS

		Page
	SENATE AND HOUSE CONCURRENT RESOLUTIONS	
SCR116	Reapportionment, counsel retained	692
SCR117	Highway system study authorized	693
SCR118	Deaf and Blind School, facilities	694
SCR119	Hazardous waste, sites, licenses, studies	695
HCR35	State of State address	697
HCR36	Revenue projections, 1984	697
HCR37	Revenue projections, 1985	698
HCR39	Harmon Killebrew commended	699
HCR43	City of Wallace, 100th Birthday!	700
HCR46	Tax Commission rules, certain rejected	701
HCR47	Health & Welfare rule amended, alcohol abuse	701
HCR48	NAIA World Series, site selection	702
HCR49	School district fiscal year study	703
HCR50	Health & Welfare rule amended, 1122 Review	704
HCR52	Max Yost, contribution recognized	711
HCR54	Employees, state, pay policies, FY85	712
HCR55	Water studies, grant	713
HCR56	Dr. Ted Comstock congratulated	714
HCR58	Student fees, prohibited use, study	714
HCR61	Professional Studies Program rule rejected	716
HCR63	Sunshine Mine discovery commemorated	716
HCR64	Hispanic affairs issues study	717
HCR65	City of Rigby, 100th birthday!	718
	SENATE AND HOUSE JOINT MEMORIALS	
SJM107	Sheep industry, protection asked	720
HJM11	Wolf population programs terminated	722
	SENATE AND HOUSE JOINT RESOLUTIONS	
SJR117	State Water Plan, amended or rejected, procedure	689
HJR5	Reapportionment, redistricting, counties divided	691

IDAHO STATE OFFICIAL DIRECTORY

ELECTED OFFICIALS

CONGRESSIONAL

UNITED STATES SENATORS
Senator James A. McClure (R)
Senator Steven D. Symms (R)

REPRESENTATIVES IN CONGRESS
Larry E. Craig (R), First District
George Hansen (R), Second District

Mailing Address: 304 N. 8th
Boise, ID 83702

STATE

GOVERNOR John V. Evans (D)

LT. GOVERNOR David H. Leroy (R)

SECRETARY OF STATE Pete T. Cenarrusa (R)

STATE AUDITOR Joe R. Williams (D)

STATE TREASURER Marjorie Ruth Moon (D)

ATTORNEY GENERAL Jim Jones (R)

SUPERINTENDENT OF PUBLIC INSTRUCTION Jerry L. Evans (R)

Mailing Address: State Capitol Mall
Boise, ID 83720

LEGISLATORS BY DISTRICT

1 — BOUNDARY & BONNER COUNTIES

Kermit V. Kiebert, Senate (D) ..... Serving 5th Term
Box 187, Hope 83836 264-5430
Contractor Wife — Diane
MINORITY LEADER
Resources/Environment, State Affairs

Tim Tucker, House (D) ..... Serving 1st Term
K.V. Ranch, Porthill 83853
Home 267-2977 Bus. 267-5198
Farming & Agricultural Consultant Wife — Ellen
Appropriations (JFAC), Printing/Legislative Expense, Resources/Conservation

James F. Stoicheff, House (D) ..... Serving 6th Term
615 Lakeview, Sandpoint 83864
Home 263-2375 Bus. 263-3020
Teacher Wife — Jerry
Local Government, Printing/Legislative Expense, Resources/Conservation, State Affairs

2 — BONNER & KOOTENAI COUNTIES

William E. (Bill) Moore, Senate (R) .. Serving 2nd Term
217 Hilgren Ave., Hayden Lake 83835 772-4532
Insurance General Agent Wife — Marilyn
Chairman — Commerce/Labor, Finance (JFAC), Local Government/Taxation

Hilde Kellogg, House (D) ..... Serving 1st Term
P.O. Box 1479, Post Falls 83854 773-5412
Merchant - Realtor
Business, Education, Local Government

Frank Findlay, House (R) ..... Serving 1st Term
HCR-68, Box 151, Cocolalla 83813 263-3669
Forest Industries Wife — Marjorie
Local Government, Printing/Legislative Expense, Resources/Conservation

3 — KOOTENAI COUNTY

Terry Sverdsten, Senate (R) ..... Serving 2nd Term
Route 1, Box 51, Cataldo 83810
Home 682-2308 Bus. 682-3722
Logging Contractor Wife — Dee
ASSISTANT MAJORITY LEADER
Health, Education/Welfare, Resources/Environment, State Affairs

Robert M. (Bob) Scates, House (R) .. Serving 2nd Term
E. 2830 Marine Dr., Post Falls 83854 773-4132
Retired Dentist/Tree Farmer Wife — Catherine (Kit)
Vice Chairman-Health/Welfare, Education, Judiciary, Rules/Administration

D. Dean Haagenson, House (R) ..... Serving 1st Term
P.O. Box 340, Coeur d'Alene 83814
Home 664-6873 Bus. 667-2456
General Contractor
Resources/Conservation, State Affairs, Transportation/Defense

4 — KOOTENAI & SHOSHONE COUNTIES

Vernon T. Lannen, Senate (D) ..... Serving 3rd Term
Box 1052, Pinehurst 83850
Home 682-2611 Bus. 784-1261
Logger Wife — Judie
Commerce/Labor, Local Government/Taxation

Louis J. Horvath, Jr., House (D) ..... Serving 4th Term
Box 888, Pinehurst 83850
Home 682-2587 Bus. 784-1371
Guidance Counselor, Kellogg HS Wife — Joyce
ASSISTANT MINORITY LEADER
Health/Welfare, Ways/Means, Revenue/Taxation

Dorothy McCann, House (D) ..... Serving 4th Term
(Served 3 terms House/Senate, 1973-78)
HC 1, Box 260, Wallaca 83873 682-3080
Retired
Judiciary, Rules/Administration, State Affairs, Transportation/Defense

5 — BENEWAH, KOOTENAI, LATAH & NEZ PERCE COUNTIES

Norma Dobler, Senate (D) ..... Serving 6th Term
1401 Alpowa St., Moscow 83843 882-3318
Homemaker Husband — Clifford
Finance (JFAC), State Affairs

Tom Boyd, House (R) ..... Serving 4th Term
Route 1, Box 69, Genesee 83832 285-1578
Farmer Wife — Beverly
Agricultural Affairs, Appropriations (JFAC)

James R. "Doc" Lucas DVM, House (R) Serving 2nd Term
4209 Clyde Road, Moscow 83843 882-7374
Veterinarian Wife — Vi
Local Government, Revenue/Taxation

6 — NEZ PERCE COUNTY

Bruce L. Sweeney, Senate (D) ..... Serving 1st Term
(Served 2 terms House, 1970-74)
1021 7th Ave., Box 604, Lewiston 83501
Home 743-9148 Bus. 746-0551
Land Development — Construction Wife — Marilyn
Health, Education/Welfare, Judiciary/Rules, Transportation

George F. Johnson, House (D) ..... Serving 2nd Term
3419 6th St., Lewiston 83501 743-6636
Government-Retired Wife — Leona
Education, Health/Welfare, Resources/Conservation

Paul C. Keeton, House (D) ..... Serving 2nd Term
902 Cedar, Lewiston 83501
Home 743-7120 Bus. 743-2569
Lawyer
Judiciary, Rules/Administration, Transportation/Defense

7 — BENEWAH, CLEARWATER, LATAH & NEZ PERCE COUNTIES

Marguerite McLaughlin, Senate (D) .. Serving 1st Term
(Served 2 terms House, 1979-82)
Route 3, Box 83, Orofino 83544 476-4136
Husband — G. Bruce
Finance (JFAC), State Affairs, Transportation

Carl P. Braun, House (D) ..... Serving 5th Term
400 Braun Road, Orofino 83544 476-5655
Rural Carrier (Retired) — Farmer Wife — Gladys
Agricultural Affairs, State Affairs

Claud Judd, House (D) ..... Serving 2nd Term
(Served 2 terms Senate, 1975-78)
Route 3, Orofino 83544 435-4380
Retired Wife — Elvita
Local Government, Revenue/Taxation

8 — ADAMS, IDAHO, LEWIS, NEZ PERCE & VALLEY COUNTIES

Ronald J. Beitelspacher, Senate (D) . Serving 3rd Term
Box 405, Grangeville 83530 983-2535
Lineman — Outfitter
ASSISTANT MINORITY LEADER
Resources/Environment, State Affairs, Transportation

Richard L. Adams, House (D) ..... Serving 2nd Term
Star Route, Box 28, Grangeville 83530
Home 983-0165 Bus. 926-4511
Teacher Wife — Karen
Appropriations (JFAC), Transportation/Defense

Harold W. Reid, House (D) ..... Serving 12th Term
Route 2, Box 34, Craigmont 83523 937-2514
Agriculture Wife — Louise
Agricultural Affairs, Revenue/Taxation

9 — ADA, BOISE, GEM, & VALLEY COUNTIES

David Little, Senate (R) ..... Serving 6th Term
P.O. Box 68, Emmett 83617 365-4821
Rancher Wife — Geraldine
Chairman-Finance, (Co-chairman, JFAC),
Resources/Environment

Lydia Justice Edwards, House (R) ... Serving 1st Term
(Served 6 mos. of Morgan Munger's term, 1981)
P.O. Box 35, Donnelly 83615 325-8757
Accountant
Printing/Legislative Expense,
Resources/Conservation, Transportation/Defense

Robert Fry, House (R) ..... Serving 1st Term
P.O. Box 56, Horseshoe Bend 83629 793-2585
Rancher Wife — Gayle
Judiciary, Local Government,
Printing/Legislative Expense

10 — CANYON, PAYETTE & WASHINGTON COUNTIES

Roger Fairchild, Senate (R) ..... Serving 2nd Term
Box 528, Fruitland 83619
Home 452-4749 Bus. 452-4701
President, Golden Valley Foods, Inc. Wife — Marlyss
Chairman-Judiciary, Rules/Administration
Commerce/Labor

Wayne Sutton, House (R) ..... Serving 1st Term
Route 1, Box 42, Midvale 83645 355-2442
Rancher Wife — Gertrude
Agricultural Affairs, Printing/Legislative Expense,
Resources/Conservation

Walter E. Little, House (R) ..... Serving 10th Term
Route 1, New Plymouth 83655 278-5504
Rancher Wife — Evelyn
Chairman-State Affairs, Resources/Conservation

11 — CANYON COUNTY

C. A. "Skip" Smyser, Senate (R) .... Serving 1st Term
(Served 1 Term in House, 1981-82)
Route 1, Parma 83660
Home 722-6658 Bus. 722-6721, 342-0777
Lawyer Wife — Melinda
Agricultural Affairs, Judiciary/Rules, Transportation

Carroll W. Dean, House (R) ..... Serving 7th Term
Box 145, Notus 83656 459-9161
Retired Wife — Erma
Education, Health/Welfare

Dorothy L. Reynolds, House (R) ..... Serving 4th Term
(Served 3 Terms in House, 1974-80)
1920 Howard, Caldwell 83605 459-2553
Manager - Family Trust
Education, Health/Welfare, Resources/Conservation

12 — CANYON COUNTY

Terry Reilly, Senate (D) ..... Serving 1st Term
Route 2, Box 2171B, Nampa 83651 466-5847
Admin, Community Health Clinics, Inc. Wife — Rosie
Health, Education/Welfare, Local Government
Resources/Environment

Robert M. Forrey, House (R) ..... Serving 1st Term
802 Astor Ave., Nampa 83651 466-5500
Retired (Idaho Power Co.) Wife — Barbara
Revenue/Taxation, Judiciary, Rules/Administration,
Transportation/Defense

Mike Strasser, House (R) ..... Serving 2nd Term
6727 Hemlock, Nampa 83651 467-9475
Self-employed Wife — Sharlene
Business, Local Government, State Affairs

13 — ADA, CANYON & OWYHEE COUNTIES

Atwell J. Parry, Senate (R) ..... Serving 2nd Term
Route 1, Box 2, Melba 83641 495-2226
Grocer/Meat Cutter — Self-employed Wife — Elaine
Finance (JFAC), Local Government/Taxation

Dolores Crow, House (R) ..... Serving 1st Term
203 11th Ave. S. Extension, Nampa 83651 467-1302
Homemaker Husband — Wayne
Agricultural Affairs, Education, Printing/Legislative Expense

Ron Crane, House (R) ..... Serving 1st Term
2109 E. Massachusetts, Nampa 83651 467-3858
Businessman Wife — Cheryl
State Affairs, Business, Agricultural Affairs

14 — ADA COUNTY

Herb Carlson, Senate (R) ..... Serving 1st Term
1812 Hill Road, Eagle 83616 939-6979
Farmer — Rancher Wife — Lorrain
Agricultural Affairs, Commerce/Labor,
Health, Education/Welfare

Don C. Loveland, House (R) ..... Serving 1st Term
(Served 3 terms Senate, 1963-67)
4624 Berkshire Drive, Boise 83704 375-8893
Retired Wife — Dorothy
Judiciary, Rules/Administration, Local Government,
Revenue/Taxation

Jerry Deckard, House (R) ..... Serving 1st Term
P.O. Box 441, Eagle 83616 939-0708
Cable Television Wife — Carol
Judiciary, Rules/Administration, Local Government,
State Affairs

15 — ADA COUNTY

Gary Chapman, Senate (R) ..... Serving 1st Term
3258 Catalina Lane, Boise 83705
Home 344-9928 Bus. 375-5171
Aerial Surveyor & Realtor Wife — Bobette
Commerce/Labor, Health, Education/Welfare
Resources/Environment

Peggy Bunting, House (R) ..... Serving 6th Term
944 Lewis, Boise 83702
Home 342-3147 Bus. 343-6471
President, Bunting Building Corp. Husband — Rich
Chairman-Local Government, State Affairs

Rachel S. Gilbert, House (R) ..... Serving 2nd Term
1111 Marshall, Boise 83706
Home 343-3123 Bus. 376-6441
Real Estate Broker
Business, Revenue/Taxation

16 — ADA COUNTY

William (Bill) Ringert, Senate (R) .... Serving 1st Term
4170 Lenora Drive, Boise 83704
Home 375-6009 Bus. 342-4591
Lawyer Wife — Bing
Commerce/Labor, Local Government/Taxation,
Resources/Environment

James D. Golder, House (R) ..... Serving 4th Term
Box 1859, Boise 83701 376-4051
Chairman-Business, Health/Welfare

Christopher R. Hooper, House (R) ... Serving 3rd Term
3616 Cabarton Lane, Boise 83704
Home 375-6693 Bus. 345-3600
Branch Mgr. — North Pacific Insurance Co.
Chairman-Health/Welfare, Business, Revenue/Taxation

17 — ADA COUNTY

Gail Etheridge Bray, Senate (D) ..... Serving 1st Term
P.O. Box 1825, Boise 83701
Home 344-1390 Bus. 343-0273
Husband — Chris
Commerce/Labor, Judiciary/Rules,
Local Government/Taxation

Kathleen (Kitty) Gurnsey, House (R) .. Serving 5th Term
1111 W. Highland View Dr., Boise 83702 343-1780
Husband — Vern L.
Chairman-Appropriations (Co-chairman JFAC)

Larry W. Harris, House (R) ..... Serving 4th Term
1925 Montclair Drive, Boise 83702 344-6242
Retired Wife — Jane B.
Chairman-Judiciary, Rules/Administration,
State Affairs

18 — ADA COUNTY

James E. Risch, Senate (R) ..... Serving 5th Term
5400 S. Cole Road, Boise 83709
Home 362-2626 Bus. 345-9974
Attorney Wife — Vicki
PRESIDENT PRO TEMPORE
Judiciary/Rules, State Affairs

Pamela I. Bengson, House (R) ..... Serving 2nd Term
2704 Raindrop Drive, Boise 83706
Home 345-6168 Bus. 344-6581
Self-employed, Equipment Rental Husband — Bradley
Health/Welfare, Judiciary, Rules/Administration,
State Affairs

Jack C. Kennevick, House (R) ..... Serving 7th Term
1 Mesa Drive, Boise 83705 343-2136
Insurance Wife — Mary Anne
MAJORITY LEADER
Business, State Affairs, Ways/Means

19 — ADA & OWYHEE COUNTIES

Walter H. Yarbrough, Senate (R) .... Serving 10th Term
Box 216, Route B, Grand View 83624 834-2727
Rancher — Contractor Wife — Lucy
Chairman-State Affairs, Agricultural Affairs, Transportation

Gary L. Montgomery, House (R) .... Serving 2nd Term
737 N. 7th St., Boise 83702 Bus. 342-3563
Attorney Wife — Marilyn
Judiciary, Rules/Administration, State Affairs

Lyman G. Winchester, House (R) .... Serving 6th Term
Route 1, Kuna 83634 922-5750
Rancher — Pilot Wife — Lena
Vice Chairman-Resources/Conservation, State Affairs

20 — CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

Vearl C. Crystal, Senate (R) ..... Serving 4th Term
Route 6, Box 232, Idaho Falls 83401 754-4705 (Rigby)
Rancher — Rodeo Producer Wife — Brenda
Chairman-Agricultural Affairs, Finance (JFAC),
Local Government/Taxation

Ray E. Infanger, House (R) ..... Serving 6th Term
Route 1, Box 174, Salmon 83467 756-3549
Heating/Sheet Metal Shop Wife — Vera
Agricultural Affairs, Appropriations (JFAC)

JoAn E. Wood, House (R) ..... Serving 1st Term
Route 1, Box 21, Rigby 83442 745-7846
Partner-Ranch/farm incorporation
Husband — Thomas D.
Education, Health/Welfare, Resources/Conservation

21 — BLAINE, LINCOLN & MINIDOKA COUNTIES

John T. Peavey, Senate (D) ..... Serving 5th Term
P.O. Box 88, Carey 83320
Home 788-2850/summer 726-7568/winter
Rancher
MINORITY CAUCUS CHAIRMAN
Agricultural Affairs, Resources/Environment,
State Affairs

Steve Antone, House (R) ..... Serving 8th Term
1141 Link St., Rupert 83350 436-3927
Farmer Wife — Diane
Chairman-Revenue/Taxation, Vice Chairman-Business

Mack Wm. Neibaur, House (R) ..... Serving 4th Term
Route 1, Box 1478, Paul 83347
Home 532-4175 Bus. 532-4240
Wife — Edna
Vice Chairman-Appropriations (JFAC), Transportation

22 — ADA & ELMORE COUNTIES

Claire Wetherell, Senate (D) ..... Serving 1st Term
360 E. 15th North, Mountain Home 83647
Home 587-3240 Bus. 587-9091
Title Insurance
Agricultural Affairs, Health, Education/Welfare,
Judiciary/Rules

Mark A. Larson, House (D) ..... Serving 1st Term
525 Samarra Drive, Mountain Home 83647
Home 587-5653 Bus. 587-4486
Educator Wife — Judy
Business, Education, Health/Welfare

Dan Kelly, House (R) ..... Serving 4th Term
930 N. 10th E., Mountain Home 83647
Home 587-5426 Bus. 587-4435
Teacher Wife — Roberta (Bobbi)
Agricultural Affairs, Education

23 — CAMAS, GOODING, JEROME & LINCOLN COUNTIES

Wes Trounson, Senate (R) ..... Serving 1st Term
Route 2, Box 108, Wendell 83355 536-2043
Retired Wife — Lucille
Agricultural Affairs, Local Government/Taxation,
Transportation

John H. Brooks, House (R) ..... Serving 5th Term
Route 2, Box 233, Gooding 83330
Home 934-5183 Bus. 934-5954
Farmer Wife — Sharon
Chairman-Agricultural Affairs, Revenue/Taxation

Gordon R. Hollifield, House (R) ..... Serving 5th Term
Route 6, Box 6535, Jerome 83338 324-4220
Realtor — Farmer Wife — Jean
Vice Chairman-Agricultural Affairs,
Vice Chairman-Revenue/Taxation

24 — TWIN FALLS COUNTY

John M. Barker, Senate (R) ..... Serving 9th Term
Route 4, Box 422, Buhl 83316
Home 543-5617 Bus. 543-4372
Realtor Wife — Rose
Chairman-Health, Education/Welfare, Judiciary/Rules

Noy E. Brackett, House (R) ..... Serving 5th Term
Box 403, Twin Falls 83301 733-4823
Rancher
Chairman-Ways/Means, Resources/Conservation,
Revenue/Taxation, Transportation/Defense

Lawrence Knigge, House (R) ..... Serving 4th Term
c/o College of Southern Idaho
Twin Falls 83301 733-9554
Farmer
Agricultural Affairs, Appropriations (JFAC)

25 — TWIN FALLS COUNTY

Laird Noh, Senate (R) ..... Serving 2nd Term
Route 1, Box 65, Kimberly 83341 733-3617
Sheep Producer Wife — Kathleen
Chairman-Resources/Environment,
Health, Education/Welfare, Transportation

Donna Scott, House (R) ..... Serving 1st Term
486 Madrona St., Twin Falls 83301 733-2535
Housewife Husband — Jack
Business, Education, Health/Welfare

T. W. Stivers, House (R) ..... Serving 5th Term
144 N. Juniper, Twin Falls 83301
Home 733-7127 Bus. 733-3821
Title Insurance Wife — Winifred
SPEAKER OF THE HOUSE

26 — CASSIA, JEROME & MINIDOKA COUNTIES

Denton Darrington, Senate (R) ..... Serving 1st Term
Route 1, Declo 83323
Home 654-2712 Bus. 678-9408
Farmer — Teacher Wife — Virgene
Health, Education/Welfare, Judiciary/Rules
Transportation

J. Vard Chatburn, House (R) ..... Serving 14th Term
Box 97, Albion 83311 673-6661
Rancher Wife — Eva
Chairman-Resources/Conservation,
Vice Chairman-State Affairs

Ernest A. Hale, House (R) ..... Serving 7th Term
725 E. 16th Burley 83318 678-7394
Quarry Operator Wife — Elizabeth
Chairman-Printing/Legislative Expense,
Education, Vice Chairman-Transportation/Defense

27 — BINGHAM COUNTY

Jerry Wellard, Senate (D) ..... Serving 1st Term
195 Lansing, Blackfoot 83221
Home 785-0829 Bus. 238-0661
Businessman Wife — Judy
Agricultural Affairs, Commerce/Labor,
Health, Education/Welfare

Raymond G. Parks, House (R) ..... Serving 3rd Term
Route 4, Box 238, Blackfoot 83221 684-4816
Farmer Wife — Paula
Appropriations (JFAC), Transportation/Defense

D. Cornell Thomas, House (R) ..... Serving 2nd Term
Route 1, Box 133, Pingree 83262 684-3269
Businessman Wife — Beverly
Health/Welfare, Judiciary, Rules/Administration,
State Affairs

28 — FREMONT & MADISON COUNTIES

Mark G. Ricks, Senate (R) ..... Serving 3rd Term
Route 4, Box 173, Rexburg 83440 356-6676
Farmer Wife — Evelyn T.
MAJORITY LEADER
Finance, State Affairs

F. Melvin Hammond, House (D) ..... Serving 8th Term
149 Elm Ave., Rexburg 83440 356-3725
College Professor Wife — Bonnie
MINORITY LEADER
Business, State Affairs, Ways/Means

Rich E. Orme, House (R) ..... Serving 2nd Term
Box 32, St. Anthony 83445 624-7650
Cattle Rancher Wife — Peggy
Resources/Conservation, Revenue/Taxation

29 — BINGHAM, BONNEVILLE & BUTTE COUNTIES

J. Marsden Williams, Senate (R) ..... Serving 9th Term
1950 Carmel Dr., Idaho Falls 83401 524-1922
Farmer — Realtor Wife — Phyllis
MAJORITY CAUCUS CHAIRMAN
Resources/Environment, State Affairs

Kurt L. Johnson, House (R) ..... Serving 9th Term
Route 6, Box 407, Idaho Falls 83401 522-7959
Farmer Wife — Lucille
Chairman-Education, Resources/Conservation

Martin B. Trillhaase, House (R) ..... Serving 2nd Term
Route 4, Box 226, Idaho Falls 83402
Home 523-7281 Bus. 522-0754
Mechanical Engineer Wife — Eleanor
Resources/Conservation, Revenue/Taxation,
Transportation/Defense

30 — BINGHAM & BONNEVILLE COUNTIES

Dane Watkins, Senate (R) ..... Serving 7th Term
2242 So. Boulevard, Idaho Falls 83401
Home 522-4855 Bus. 523-0800
Farming/Investments Wife — Sherry
Chairman-Local Government/Taxation,
Vice Chairman — Finance (JFAC)

J. F. "Chad" Chadband, House (R) .. Serving 1st Term
460 E. Anderson, Idaho Falls 83401
Home 523-9342 Bus. 524-0550
Home Furnishings — Rental Wife — Karen
Business, Printing/Legislative Expense, Revenue/Taxation

Preston B. Brimhall, House (R) ..... Serving 1st Term
465 9th St., Idaho Falls 83401 522-4347
Retired Wife — Betty
Judiciary, Rules/Administation,
Local Government, Education

31 — BONNEVILLE, JEFFERSON, MADISON & TETON COUNTIES

Ann Rydalch, Senate (R) ..... Serving 1st Term
3824 E. 17th St., Idaho Falls 83401
Home 522-6741 Bus. 526-1342
Procurement Analyst Husband — Vernal
Commerce/Labor, Agricultural Affairs, Judiciary/Rules

Linden B. Bateman, House (R) ..... Serving 4th Term
Route 1, Box 442, Idaho Falls 83401
Home 524-0927 Bus. 523-1823
High School Teacher Wife — Deann
Local Government, Resources/Conservation,
State Affairs, Ways/Means

John O. Sessions, House (R) ..... Serving 9th Term
Box 10, 414 N. Main, Driggs 83422
Home 354-2508 Bus. 354-2373
Retailer Wife — Alice
Chairman-Transportation/Defense, Vice Chairman-Education

32 — BANNOCK, BEAR LAKE, CARIBOU & FRANKLIN COUNTIES

Reed W. Budge, Senate (R) ..... Serving 9th Term
231 S. 1st E., Soda Springs 83276 547-3096
Rancher Wife — Gwen
Chairman-Transportation, State Affairs

Robert C. Geddes, House (R) ..... Serving 4th Term
Route 3, Box 107, Preston 83263 852-1376
Farmer Wife — Carma
ASSISTANT MAJORITY LEADER
Appropriations (JFAC), Ways/Means

Eugene B. Stucki, House (R) ..... Serving 3rd Term
31 West 2nd South, Paris 83261 945-2245
Retired Dairy Farmer Wife — Leonora
Agricultural Affairs, Resources/Conservation,
Revenue/Taxation

33 — BANNOCK & ONEIDA COUNTIES

Bert W. Marley, Senate (D) ..... Serving 3rd Term
Box 32, McCammon 83250
Home 254-3291 Bus. 236-2575
Teacher — Farmer Wife — Betty Jane
Agricultural Affairs, Finance (JFAC), Judiciary/Rules

Larry EchoHawk, House (D) ..... Serving 1st Term
1777 Lancaster, Pocatello 83201
Home 237-4887 Bus. 238-3818
Attorney Wife — Terry
Appropriations (JFAC), Judiciary, Rules/Administration

Pete Black, House (D) ..... Serving 1st Term
530 Cochise, Pocatello 83204
Home 232-5553 Bus. 232-2976
Educator Wife — Ronda
Business, Education, Printing/Legislative Expense

34 — BANNOCK COUNTY

Ralph E. Lacy, Senate (D) ..... Serving 2nd Term
(Served 3 years in the House, 1981-83)
126 S. 15th, Pocatello 83201 232-4951
Retired Wife — Mary
Commerce/Labor, Local Government/Taxation,

Linda Dewey, House (D) ..... Serving 1st Term
1413 E. Alameda, Pocatello 83201 233-7359
Teacher Husband — David
Education, Resources/Conservation

Patricia L. McDermott, House (D) .... Serving 8th Term
P.O. Box 3, Pocatello 83204
Home 232-6978 Bus. 232-3162
Attorney
Judiciary, Rules/Administration, State Affairs

35 — BANNOCK, BINGHAM & POWER COUNTIES

C. E. "Chick" Bilyeu, Senate (D) .... Serving 7th Term
Route 1 N., Box 48, Pocatello 83202 237-3158
Educator — Retired Wife — Diane
Finance (JFAC), Transportation

Albert M. Johnson, House (D) ..... Serving 1st Term
RFD 4, Box 212, Pocatello 83202 237-2826
Farmer — Rancher Wife — Betty
Agricultural Affairs, State Affairs, Resources/Conservation

Dwight W. Horsch, House (D) ..... Serving 3rd Term
Route 1, Aberdeen 83210
Home 397-4925 Bus. 397-4913
Farmer Wife — Kathy M.
Agricultural Affairs, Revenue/Taxation, Ways/Means