GENERAL LAWS

OF THE

STATE OF IDAHO

PASSED BY
THE FIRST REGULAR SESSION OF THE
FORTY-EIGHTH IDAHO LEGISLATURE

Convened January 7, 1985
Adjourned March 13, 1985

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

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SECRETARY OF STATE

PETE T. CENARRUSA
Secretary of State
Boise, Idaho

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CHAPTER 1
(H.B. No. 1)

AN ACT

RELATING TO THE LEGISLATIVE ACCOUNT; AMENDING SECTION 67-451, IDAHO CODE, TO INCREASE THE APPROPRIATIONS FROM THE GENERAL ACCOUNT TO THE LEGISLATIVE ACCOUNT, TO PROVIDE FOR TRANSFERS FROM THE GENERAL ACCOUNT TO THE LEGISLATIVE ACCOUNT, AND TO STRIKE REFERENCE TO INTERAGENCY BILLING CREDITS IN THE LEGISLATIVE ACCOUNT; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 67-451, Idaho Code, be, and the same is hereby amended to read as follows:

67-451. LEGISLATIVE ACCOUNT CREATED -- DUTIES OF AUDITOR -- DISBURSEMENTS FROM ACCOUNT -- REPORT OF DISBURSEMENTS. (1) There is hereby created in the state operating fund in the state treasury the legislative account. The legislative account shall consist of such moneys as are placed into it by other appropriations, by receipts paid into the legislative account, and the moneys appropriated and transferred into it according to the provisions of this act.

(2) There is hereby appropriated out of the general account in the state operating fund and transferred into the legislative account, and the state auditor is authorized and directed to make such transfers in the amounts shown on each of the following dates in each year:

January 1	~~$300,100~~	900,000
~~February 1~~	~~$300,000~~	
March 1	~~$300,000~~	900,000
~~April 1~~	~~$200,000~~	
~~June~~ July 1	~~$200,000~~	500,000
~~September 1~~	~~$200,000~~	
~~December 1~~	~~$300,000~~	

(3) ~~During each fiscal year, the sum of fifty thousand dollars ($50,000) of interagency billing credits may be accumulated in the legislative account. At the end of each fiscal year, any unexpended and unencumbered balance in this interagency billing credit subaccount shall be transferred to and become a part of the legislative account.~~

~~(4)~~ The presiding officers of each house of the legislature are hereby authorized to make expenditures out of the legislative account for any necessary expenses of the legislature and the legislative account is hereby perpetually appropriated for any necessary expenses of the legislature. Necessary expenses of the legislature shall include, but are not necessarily limited to salaries and wages of officers, members, and employees of the legislature, consultants and other expert or professional personnel, travel expenses of officers, members, and employees of the legislature, other current expenses incurred in any operation or function of the legislature, premiums for life, accidental death and dismemberment, hospital, medical, surgical and major medical insurance for members of the legislature during

their terms of office, and for employees of the legislature during the period of their employment, and capital outlay items necessary for any operation or function of the legislature. The signature of a presiding officer on any voucher or claim for payment shall be sufficient authority for the state auditor to pay the same. Expenses for any interim activity of the legislature, legislators, or legislative committees shall be paid in the same manner, if previously authorized by concurrent resolution.

(54) The state auditor is hereby directed to devise and implement a financial reporting and control system for the purposes of this act that exempts legislative expenditures from any other provision of law, and the legislative account shall be specifically exempt from the provisions of chapter 35, title 67, Idaho Code, and shall be specifically exempt from the provisions of chapter 36, title 67, Idaho Code. Such system must produce a report as of the end of each calendar month that clearly shows additions to the account, the unexpended balance in the account, the expenditures to date, and the expenditures for the month reported, suitably detailed in such manner as the presiding officers may instruct the state auditor. A copy of such report must be delivered to the presiding officer of each house of the legislature and to the governor by no later than the fifth working day of the following month.

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, 1985.

Approved January 24, 1985.

CHAPTER 2
(H.B. No. 2)

AN ACT

RELATING TO RIGHT TO WORK; AMENDING TITLE 44, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 20, TITLE 44, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY, TO DEFINE THE TERM LABOR ORGANIZATION, TO PROVIDE FOR FREEDOM OF CHOICE IN EMPLOYMENT AND TO PROHIBIT DISCRIMINATION, TO PROVIDE FOR VOLUNTARY DEDUCTION, TO PROVIDE THAT AGREEMENTS THAT VIOLATE THE TERMS OF THIS CHAPTER ARE ILLEGAL AND VOID, TO PROHIBIT COERCION AND INTIMIDATION, TO PROVIDE PENALTIES FOR VIOLATIONS, TO PROVIDE FOR CIVIL REMEDIES, TO PROVIDE FOR INVESTIGATION OF COMPLAINTS, TO PROVIDE FOR PROSPECTIVE APPLICATION, TO PROVIDE SEVERABILITY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Title 44, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and

designated as Chapter 20, Title 44, Idaho Code, and to read as follows:

CHAPTER 20
RIGHT TO WORK

44-2001. DECLARATION OF PUBLIC POLICY. It is hereby declared to be the public policy of the state of Idaho, in order to maximize individual freedom of choice in the pursuit of employment and to encourage an employment climate conducive to economic growth, that the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization or on refusal to join, affiliate with, or financially or otherwise support a labor organization.

44-2002. LABOR ORGANIZATION. The term "labor organization" means any organization of any kind, or agency or employee representation committee or union, which exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work, other conditions of employment, or other forms of compensation.

44-2003. FREEDOM OF CHOICE GUARANTEED, DISCRIMINATION PROHIBITED. No person shall be required, as a condition of employment or continuation of employment, (1) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization, or, (2) to become or remain a member of a labor organization, or, (3) to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization, or, (4) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization, or, (5) to be recommended, approved, referred, or cleared by or through a labor organization.

44-2004. VOLUNTARY DEDUCTIONS PROTECTED. It shall be unlawful to deduct from the wages, earnings or compensation of an employee any union dues, fees assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer.

44-2005. AGREEMENTS IN VIOLATION, AND ACTIONS TO INDUCE SUCH AGREEMENTS, DECLARED ILLEGAL. Any agreement, understanding or practice, written or oral, implied or expressed, between any labor organization and employer which violates the rights of employees as guaranteed by provisions of this chapter is hereby declared to be unlawful, null and void, and of no legal effect. Any strike, picketing, boycott, or other action by a labor organization for the sole purpose of inducing or attempting to induce an employer to enter into

any agreement prohibited under this chapter is hereby declared to be for an illegal purpose and is a violation of the provisions of this chapter.

44-2006. COERCION AND INTIMIDATION PROHIBITED. It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer or agent thereof, by any threatened or actual intimidation of an employee or prospective employee, or his parents, spouse, children, grandchildren, or any other persons residing in the employee's or prospective employee's home, or by any damage or threatened damage to his property, to compel or attempt to compel such employee to join, affiliate with, or financially support a labor organization or to refrain from doing so, or to otherwise forfeit his rights as guaranteed by provisions of this chapter. It shall also be unlawful to cause or attempt to cause such employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employee.

44-2007. PENALTIES. Any person who directly or indirectly violates any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding one thousand dollars ($1,000) or imprisonment for a period of not more than ninety (90) days, or both such fine and imprisonment.

44-2008. CIVIL REMEDIES. Any employee injured as a result of any violation or threatened violation of the provisions of this chapter shall be entitled to injunctive relief against any and all violators or persons threatening violations and may in addition thereto recover any and all damages, including costs and reasonable attorney fees, of any character resulting from such violation or threatened violation. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this chapter.

44-2009. DUTY TO INVESTIGATE. It shall be the duty of the prosecuting attorneys of each county and of the attorney general of this state, to investigate complaints of violation or threatened violations of this chapter and to prosecute all persons violating any of its provisions, and to take all means at their command to ensure its effective enforcement.

44-2010. PROSPECTIVE APPLICATION. The provisions of this chapter shall apply to all contracts entered into after the effective date of this chapter and shall apply to any renewal or extension of any existing contract.

44-2011. SEVERABILITY. The provisions of this chapter are hereby declared to be severable, and if any provision is declared void, invalid, or unenforceable in whole or in part, such declaration shall not affect the remaining provisions of this chapter.

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.

Vetoed and Veto Overridden January 31, 1985.

CHAPTER 3
(H.B. No. 7)

AN ACT

RELATING TO THE PREVAILING WAGES PAID ON PUBLIC WORKS CONTRACTS; AMENDING SECTION 44-1001, IDAHO CODE, TO STRIKE REFERENCE TO PREVAILING WAGES PAID IN THE COUNTY; AMENDING SECTION 44-1002, IDAHO CODE, TO STRIKE REFERENCE TO PREVAILING WAGES PAID IN THE COUNTY; REPEALING SECTIONS 44-1006, 44-1101, 44-1102 AND 44-1103, IDAHO CODE, RELATING TO DETERMINATION OF PREVAILING WAGES AND EIGHT HOUR DAYS ON PUBLIC WORK PROJECTS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 44-1001, Idaho Code, be, and the same is hereby amended to read as follows:

44-1001. EMPLOYMENT OF RESIDENTS OF IDAHO -- WAGE SCALE -- FEDERAL FUNDS. In all state, county, municipal, and school construction, repair, and maintenance work under any of the laws of this state the contractor, or person in charge thereof must employ ninety-five percent(95%) bona fide Idaho residents as employees on any such contracts except where under such contracts fifty (50) or less persons are employed the contractor may employ ten percent (10%) nonresidents, provided however, in all cases such employers must give preference to the employment of bona fide Idaho residents in the performance of such work ~~and that the said contractor, or other person in charge thereof, must further pay the standard prevailing wages in effect as paid in the county seat of the county in which the work is being performed~~; provided, that in work involving the expenditure of federal aid funds this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged soldiers, sailors, and marines, prohibiting as unlawful any other preference or discrimination among the citizens of the United States.

SECTION 2. That Section 44-1002, Idaho Code, be, and the same is hereby amended to read as follows:

44-1002. TERMS OF EMPLOYMENT AND WAGE CONTRACTS. In all contracts hereafter let for state, county, municipal, and school construction, repair, and maintenance work under any of the laws of this state there shall be inserted in each of said contracts a provision by which the contractor must employ ninety-five percent (95%) bona fide Idaho resi-

dents as employees on any job under any such contract except where under such contracts fifty (50) or less persons are employed the contractor may employ ten percent (10%) nonresidents, provided, however, in all cases employers must give preference to the employment of bona fide residents in the performance of said work,~~and that the said contractor must further pay the standard prevailing rate of wages in effect as paid in the county seat of the county in which the work is being performed~~ and no contract shall be let to any person, firm, association, or corporation refusing to execute an agreement with the above mentioned provisions in it; provided, that, in contracts involving the expenditure of federal aid funds this act shall not be enforced in such a manner as to conflict with or be contrary to the federal statutes prescribing a labor preference to honorably discharged soldiers, sailors, and marines, prohibiting as unlawful any other preference or discrimination among citizens of the United States.

SECTION 3. That Sections 44-1006, 44-1101, 44-1102 and 44-1103, Idaho Code, be, and the same are hereby repealed.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Law Without Signature.

CHAPTER 4
(S.B. No. 1020)

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM BOARD; AMENDING SECTION 59-1327, IDAHO CODE, TO PROVIDE FOR ADJUSTMENTS IN BENEFITS TO CORRECT PRIOR OVERPAYMENTS OR UNDERPAYMENTS OF BENEFITS.

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

SECTION 1. That Section 59-1327, Idaho Code, be, and the same is hereby amended to read as follows:

59-1327. POWERS AND DUTIES OF BOARD. (1) The board shall have the power and duty, subject to the limitations of this act, of managing the system. It shall have the powers and privileges of a corporation, including the right to sue and be sued in its own name as such board. The venue of all actions in which the board is a party shall be Ada County, Idaho.

(2) The board shall appoint an executive director to serve at its discretion. The executive director shall be bonded as is required by the board and shall perform such duties as assigned by the board.

(3) The board shall authorize the creation of whatever staff it

deems necessary for sound and economical administration of the system. The executive director shall hire the persons for the staff who shall hold their respective positions subject to the rules of a merit system for state employees. The salaries and compensation of all persons employed for purposes of administering the system shall be fixed by the board and as otherwise provided by law.

(4) The board shall arrange for actuarial, legal and medical advisors for the system. It shall cause a competent actuary who is a member of the academy of actuaries and who is familiar with public systems of pensions to be retained on a consulting basis. The actuary shall be the technical advisor of the board on matters regarding the operation of the system. During the first year of operation of the system and at least once every three (3) years thereafter, the actuary shall make a general investigation of the suitability of the actuarial tables used by the system. The board shall adopt the actuarial tables in use by the system and may change the same in its sole discretion at any time. The actuary shall make an annual valuation of the liabilities and reserves of the system, and an annual determination of the amount of contributions required from the employers under this act, and certify the results thereof to the board. The actuary shall also perform such other duties as may be assigned by the board.

(5) The board shall establish the system's office or offices to be used for the meetings of the board and for the general purposes of the administrative personnel. The board shall provide for the installation of a complete and adequate system of accounts and records for administering this act. All books and records shall be kept in the system's offices.

(6) If the board determines that it has previously overpaid or underpaid benefits provided under this chapter or chapter 14, title 72, Idaho Code, it shall correct the prior error. In the event of prior underpayment, the board shall forthwith pay the amount of the underpayment together with regular interest thereon. In the event of prior overpayment, the board may offset future benefit payments by the amount of the prior overpayment together with regular interest thereon. Any such decision to offset future benefit payments shall be administratively and judicially reviewable as provided in section 59-1329, Idaho Code. Nothing herein contained shall be construed to limit the rights of a member or the board to pursue any other remedy provided by law.

Approved February 19, 1985.

CHAPTER 5
(H.B. No. 28)

AN ACT

RELATING TO THE PAYETTE RIVER, SOUTH FORK PRESERVE, THE SOLDIER MOUNTAIN WILDLIFE PRESERVE AND TO THE POCATELLO FOREST PRESERVE; REPEALING SECTIONS 36-1909, 36-1910 AND 36-1913, IDAHO CODE, TO ELIMINATE THE PAYETTE RIVER, SOUTH FORK PRESERVE, THE SOLDIER

MOUNTAIN WILDLIFE PRESERVE AND THE POCATELLO FOREST PRESERVE.

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

SECTION 1. That Sections 36-1909, 36-1910 and 36-1913, Idaho Code, be, and the same are hereby repealed.

Approved February 19, 1985.

CHAPTER 6
(H.B. No. 19)

AN ACT

RELATING TO ACCEPTANCE OF FEDERAL ACTS; AMENDING SECTION 33-2301, IDAHO CODE, TO INCLUDE REHABILITATION ACT AMENDMENTS OF 1984 IN THOSE ACTS ACCEPTED BY THE STATE OF IDAHO.

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

SECTION 1. That Section 33-2301, Idaho Code, be, and the same is hereby amended to read as follows:

33-2301. ACCEPTANCE OF FEDERAL ACTS. The state of Idaho hereby renews its acceptance of the provisions and benefits of the act of Congress, entitled "An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment," approved June 2, 1920, as amended by P.L. 113, 78th Congress, by P.L. 565, 83rd Congress, by P.L. 89-333, 89th Congress, by P.L. 90-99, 90th Congress, and by P.L. 90-391, 90th Congress, and further accepts the acts of Congress, entitled "The Rehabilitation Act of 1973," P.L. 93-112, 93rd Congress, and "The Rehabilitation Act Amendments of 1974," P.L. 93-516, 93rd Congress, and "The Rehabilitation Act Amendments of 1978," P.L. 95-602, 95th Congress, and "The Rehabilitation Act Amendments of 1984," P.L. 98-221, 98th Congress, and will observe and comply with all requirements of such acts.

Approved February 25, 1985.

CHAPTER 7
(H.B. No. 63)

AN ACT

RELATING TO CERTAIN FISCAL AFFAIRS OF FAIR BOARDS AND FAIR DISTRICTS; AMENDING SECTION 22-207, IDAHO CODE, TO PROVIDE THAT ABANDONED CHECKS AND WARRANTS FOR PREMIUMS PAID BY A COUNTY FAIR BOARD SHALL

REVERT TO THE FAIR BOARD; AND AMENDING CHAPTER 3, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-310, IDAHO CODE, TO PROVIDE THAT ABANDONED CHECKS AND WARRANTS FOR PREMIUMS PAID BY A FAIR DISTRICT SHALL REVERT TO THE FAIR DISTRICT; DECLARING AN EMERGENCY, PROVIDING FOR RETROACTIVE APPLICATION, AND PROVIDING FOR THE APPLICATION OF THE RETROACTIVE PROVISIONS.

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

SECTION 1. That Section 22-207, Idaho Code, be, and the same is hereby amended to read as follows:

22-207. DISPOSITION OF MONEYS REMAINING AFTER FAIR CONDUCTED OR AWARDS PAID. (1) Any moneys remaining on hand after a county fair has been conducted within the county pursuant to the provisions of this act shall not be paid into the ~~general~~ current expense fund of such county, but shall be retained in the custody of the treasurer of the county fair board, and may be used in the conduct of a county fair in the succeeding year or years; provided, however, that such moneys shall be paid into the ~~general~~ current expense fund of the county upon order of the board of county commissioners in case the board of county commissioners shall at any time discontinue the holding of annual county fairs.

(2) In any case in which a county fair board, or any person, association or corporation with which the fair board has contracted to conduct activities permitted by law, has paid out moneys by check or warrant in the form of premiums, awards, winnings, prizes, or return of entry fees, and such check or warrant remains uncashed or unclaimed after one (1) year from date of issue, such check or warrant shall be presumed abandoned, and legal title shall revert to the issuer, and such check or warrant may be voided or canceled. The proceeds of such abandoned check or warrant shall not be subject to the provisions of chapter 5, title 14, Idaho Code.

SECTION 2. That Chapter 3, 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 22-310, Idaho Code, and to read as follows:

22-310. DISPOSITION OF MONEYS REMAINING AFTER AWARDS PAID. In any case in a fair district, or any person, association or corporation with which the fair district has contracted to conduct activities permitted by law, has paid out moneys by check or warrant in the form of premiums, awards, winnings, prizes, or return of entry fees, and such check or warrant remains uncashed or unclaimed after one (1) year from date of issue, such check or warrant shall be presumed abandoned, and legal title shall revert to the issuer, and such check or warrant may be voided or canceled. The proceeds of such abandoned check or warrant shall not be subject to the provisions of chapter 5, title 14, Idaho Code.

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, 1978, but only for those abandoned checks and warrants which have not been delivered into the custody of the state tax commission under the provisions of chapter 5, title 14, Idaho Code, and those abandoned checks and warrants which have not been reported to the state tax commission as abandoned pursuant to chapter 5, title 14, Idaho Code.

Approved February 25, 1985.

CHAPTER 8
(S.B. No. 1089)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE STATE INSURANCE FUND IN ADDITION TO THE APPROPRIATION MADE BY SECTION 1, CHAPTER 168, LAWS OF 1984; 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 168, Laws of 1984, there is hereby appropriated to the Office of the Governor for the State Insurance Fund the following amount to be expended according to the designated expense class from the listed account for the period July 1, 1984, through June 30, 1985:

FOR:	
Operating Expenditures	$25,000
FROM:	
State Insurance Fund Account	$25,000

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 25, 1985.

CHAPTER 9
(H.B. No. 67)

AN ACT

RELATING TO COUNTY LICENSE TAGS FOR DOGS; AMENDING SECTION 25-2801, IDAHO CODE, TO PROVIDE THAT A COUNTY DOG LICENSE TAX BE PERMISSIVE RATHER THAN MANDATORY; AND AMENDING SECTION 25-2802, IDAHO CODE, TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS SHALL DESIGNATE THE OFFICE OR OFFICER RESPONSIBLE FOR ADMINISTERING THE COUNTY'S DOG LICENSE ORDER.

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

SECTION 1. That Section 25-2801, Idaho Code, be, and the same is hereby amended to read as follows:

25-2801. COUNTY DOG LICENSE TAX. The board of county commissioners of any county, at any meeting in any year, ~~shall~~ may make an order requiring all owners of dogs over an age which is to be set at the discretion of the board, within certain areas to be designated by the board as requiring dog control and lying outside the corporate limits of municipalities which have enacted and are enforcing a dog license law, to pay an annual license tax set by the board of county commissioners in each county, the said tax to be paid not later than sixty (60) days from date of said meeting at which the order is enacted; provided, that where an owner keeps dogs for breeding or commercial purposes, he shall be entitled to a kennel license covering fifteen (15) dogs which fee will also be set by the board of county commissioners in each county. Said order shall be in force and effect for one (1) year from its date and thereafter until rescinded by order of the board; and notice of such order shall be published in some newspaper of general circulation within the county in the two (2) successive issues of said paper immediately following the meeting at which such action is taken by the board of county commissioners.

SECTION 2. That Section 25-2802, Idaho Code, be, and the same is hereby amended to read as follows:

25-2802. LICENSE TAGS -- PROCEEDS OF TAX. Said license shall be paid in accordance with provisions of section 25-2801, Idaho Code, to the ~~assessor~~ office or officer of the county as designated by the board of county commissioners of said county, who shall thereupon give to the person paying it a receipt reciting the owner's name and the number of the license, and also a metal tag or disc bearing the year of issue, the name of the county, and a license number corresponding with that mentioned in the receipt. The proceeds thereof shall be paid into the general fund of the county. In the event of loss of license tag, a duplicate, so stamped, shall be provided the owner by the ~~assessor~~ county, at a reasonable cost for each duplicate tag.

Approved February 26, 1985.

CHAPTER 10
(S.B. No. 1018)

AN ACT

RELATING TO AQUIFER RECHARGE DISTRICTS; AMENDING SECTION 42-4204, IDAHO CODE, TO STRIKE THE REQUIREMENT THAT MEMBERS OF THE BOARD OF DIRECTORS OF AN AQUIFER RECHARGE DISTRICT MUST RESIDE WITHIN THE

DISTRICT; AMENDING SECTION 42-4207, IDAHO CODE, TO STRIKE LANGUAGE IN THE ELECTOR'S OATH FOR AQUIFER RECHARGE DISTRICTS; AMENDING SECTION 42-4211, IDAHO CODE, TO STRIKE THE REQUIREMENT THAT THE SECRETARY AND TREASURER OF THE BOARD OF DIRECTORS OF AN AQUIFER RECHARGE DISTRICT MUST RESIDE WITHIN THE DISTRICT AND TO INSERT THE WORD "DOLLARS"; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 42-4204, Idaho Code, be, and the same is hereby amended to read as follows:

42-4204. BOARD OF DIRECTORS -- COMPOSITION -- APPOINTMENT OF FIRST BOARD -- ELECTION OF SUBSEQUENT BOARDS. (1) The board of directors of the aquifer recharge district shall consist of five (5) members. Each member ~~shall reside within the district and~~ shall be a water user, or representative of a water user within the district. The members of the board shall be as follows:

(a) one (1) member shall be a member of a lateral ditch water user's association, canal company, irrigation district or similar organization;

(b) one (1) member shall be an owner or operator of a commercial fish hatchery licensed in accordance with the provisions of section 36-702, Idaho Code;

(c) one (1) member shall be a farmer or rancher who is an appropriator of groundwater and whose diversion thereof is accomplished primarily through the operation of a well or wells;

(d) one (1) member shall be a member of the city council of a municipality within the district;

(e) one (1) member shall be generally representative of the interests of water users within the district.

~~Provided a member with the qualifications described in subsections (1)(a) through (1)(d) does not reside within the district, a member with the qualifications described in subsection (1)(e) may be considered for appointment in lieu thereof.~~

(2) The first board of directors shall be appointed by the director of the department of water resources. Water users within the district, or groups thereof, may submit to the director, or the director may solicit therefrom, the names of qualified individuals to be considered for appointment to the board.

(3) The term of office of the directors shall be determined by lot so that three (3) members shall serve for a term of two (2) years and two (2) members shall serve for a term of one (1) year. Thereafter, members shall serve two (2) year terms and shall be elected as hereinafter provided.

(4) On the last Monday in March following the expiration of the term of those members serving for one (1) year, and on the last Monday in March of each year thereafter, an election shall be held at which directors to succeed those whose terms have expired will be elected. Each director so elected shall possess the qualifications required of all members of the board and in addition shall possess the qualifications of the director whom he is to succeed in office.

SECTION 2. That Section 42-4207, Idaho Code, be, and the same is hereby amended to read as follows:

42-4207. REGISTRATION NOT REQUIRED. No registration shall be required of qualified electors, as defined in section 42-4206, Idaho Code, in any election held in the aquifer recharge district, but in lieu thereof the judges of election shall require every such elector to subscribe to an elector's oath as prerequisite to casting his vote, which oath shall contain the following words: "I am a resident of ..... county, ~~which county or a portion thereof is situated within the aquifer recharge district,~~ and a water user, as defined in section 42-4202(1), Idaho Code, or a representative of such a water user, within the district."

SECTION 3. That Section 42-4211, Idaho Code, be, and the same is hereby amended to read as follows:

42-4211. BOARD OF DIRECTORS -- OFFICERS -- MEETINGS -- COMPENSATION -- VACANCIES. (1) The board of directors annually shall elect a chairman from their number and shall appoint a secretary and a treasurer~~, each of whom shall reside within the district,~~ to hold office during the pleasure of the board. The treasurer shall on his appointment execute and file with the secretary an official bond in such amount as may be fixed by the board of directors, and shall thereafter from time to time execute and file such further bonds as may be required by the board in amounts fixed by it, which amounts shall be at least fifty percent (50%) of the maximum probable amount of money in the treasurer's hands at any one time. All such official bonds shall be executed by a lawfully qualified surety company.

(2) The board of directors shall hold a regular annual meeting and may hold such special meetings as may be necessary for the proper transaction of business. Special meetings may be held on seventy-two (72) hours' notice of the chairman or a majority of the members. A majority shall constitute a quorum for the transaction of business and the concurrence of a majority of the members shall be necessary to constitute the action of the board. All meetings of the board shall be public and all records of the board shall be open to the inspection of any member water user, or representative thereof during business hours.

(3) The members of the board shall each receive not more than twenty-five dollars ($25.00) nor less than five dollars ($5.00) per day for each day spent attending the meetings or while engaged in official business of the board, and actual and necessary travel expenses. The term "actual and necessary expenses" shall include all traveling and lodging expenses necessarily incurred by any director when absent from his residence in the performance of the duties of his office. The board shall fix the compensation to be paid to the other officers of the district.

(4) In case of a vacancy in the office of director occurring otherwise than by the expiration of a term, the remaining members of the board of directors shall fill such vacancy by appointing thereto a

qualified water user, member of the district, or representative thereof, possessing the qualifications of the director whose office has become vacant to serve the remainder of the term.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved February 26, 1985.

CHAPTER 11
(S.B. No. 1154)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 172, LAWS OF 1984; 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 172, Laws of 1984, there is hereby appropriated to the Department of Administration the following amount to be expended for the named programs according to the 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. PUBLIC WORKS:				
FROM:				
Interagency Billing and Receipts Account	$22,000	$ 2,000		$24,000
B. PURCHASING:				
FROM:				
Interagency Billing and Receipts Account	28,200	32,200	$4,100	64,500
GRAND TOTAL	$50,200	$34,200	$4,100	$88,500

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 26, 1985.

CHAPTER 12
(S.B. No. 1155)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$ 47,356,600
Operating Expenditures	32,875,100
Capital Outlay	107,628,800
Trustee & Benefit Payments	2,136,400
TOTAL	$189,996,900
FROM:	
State Highway Account	$185,340,100
Idaho Traffic Safety Commission Account	1,010,000
State Aeronautics Account	1,925,100
Interagency Billing and Receipts Account	1,721,700
TOTAL	$189,996,900

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. GENERAL SUPPORT:					
FROM:					
State Highway Account	$10,748,100	$ 5,638,700	$ 741,600	$338,100	$ 17,466,500
B. HIGHWAYS:					
FROM:					
State Highway Account	$35,858,400	$25,147,100	$106,851,900		$167,857,400
Idaho Traffic Safety Commission Account	150,600	59,400		$800,000	1,010,000
TOTAL	$36,009,000	$25,206,500	$106,851,900	$800,000	$168,867,400

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
C. AERONAUTICS:					
FROM:					
State Aeronautics Account	$ 381,700	$ 381,900	$ 35,100	$ 98,000	$ 896,70(
D. PUBLIC TRANSPORTATION:					
FROM:					
State Highway Account	$ 11,100	$ 5,100			$ 16,200
State Aeronautics Account	79,600	48,300	$ 200	$ 900,300	1,028,400
TOTAL	$ 90,700	$ 53,400	$ 200	$ 900,300	$ 1,044,600
E. INTER AND INTRA-DEPARTMENTAL SERVICES:					
FROM:					
Interagency Billing and Receipts Account	$ 127,100	$ 1,594,600			$ 1,721,700
GRAND TOTAL	$47,356,600	$32,875,100	$107,628,800	$2,136,400	$189,996,900

Approved February 26, 1985.

CHAPTER 13
(S.B. No. 1044)

AN ACT

RELATING TO LEGISLATIVE REVIEW OF ADMINISTRATIVE RULES AND REGULATIONS; PROVIDING A STATEMENT OF LEGISLATIVE FINDINGS; AMENDING SECTION 67-5218, IDAHO CODE, TO CLARIFY THE AUTHORITY OF THE LEGISLATURE TO REVIEW RULES PREVIOUSLY REVIEWED BY THE LEGISLATURE.

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

SECTION 1. It is the finding of the legislature of the state of Idaho that since enactment of sections 67-5217 and 67-5218, Idaho Code, the legislature has had the authority to reject, amend or modify, by concurrent resolution, all rules authorized or promulgated by any state agency subject to the provisions of chapter 52, title 67, Idaho Code, which the legislature may, at any time, deem violative of legislative intent of the statute under which such rules were promulgated, whether or not such rules have previously been reviewed by the

legislature. Such legislative authority is deemed necessary to review not only the rules as promulgated, but the agency interpretation, enforcement and application thereof. Adoption of this act is intended merely to clarify the authority of the legislature to exercise the powers of review described herein.

SECTION 2. That Section 67-5218, Idaho Code, be, and the same is hereby amended to read as follows:

67-5218. COMMITTEE ACTION. By the forty-fifth day following transmission by the law librarian, the standing committee to which rules have been referred shall report to the membership of the body its findings and recommendations concerning its review of the rules. The report of the committee shall be printed in the journal. If the committee does not report by the forty-fifth day following transmission or prior to adjournment sine die if adjournment is more than twenty-one (21) but less than forty-five (45) days following transmission, such failure to report shall constitute legislative approval of the rules as submitted, except that no legislative approval shall be presumed if the legislature adjourns within twenty (20) days of the transmission, and the rules shall be transmitted by the law librarian to the next succeeding regular session, before the first day. If the committee to which any rule shall have been referred, or any member of the legislature, shall be of the opinion that such rule is violative of the legislative intent of the statute under which such rule was made, or, if any rule previously promulgated and reviewed by the legislature shall be deemed violative of the legislative intent of the statute under which such rule was made, a concurrent resolution may be adopted rejecting, amending or modifying the same. Where an agency submits a rule or part of a rule which has been adopted or which has repealed or amended an already existing rule, the rejection or modification of the new rule by the legislature via concurrent resolution shall prevent the agency's intended action from remaining in effect beyond the date of the legislative action. It shall be the responsibility of the secretary of state to immediately notify the affected agency of the filing and effective date of any concurrent resolution enacted to amend, modify, or reject an agency rule and to transmit a copy of such concurrent resolution to the director of the agency for promulgation. The agency shall be responsible for implementing legislative intent as expressed in the concurrent resolution, including, as appropriate, the reinstatement of the prior rule, if any, in the case of legislative rejection of the new rule, or the incorporation of any legislative amendments to the new rule. The agency shall republish the rule in accordance with section 67-5205, Idaho Code, reflecting the action taken by the legislature and the effective date thereof. Every rule promulgated within the authority conferred by law, and in accordance with the provisions of chapter 52, title 67, Idaho Code, shall be in full force and effect until the same is rejected, amended or modified by the legislature.

Approved February 26, 1985.

CHAPTER 14
(S.B. No. 1005)

AN ACT
RELATING TO THE PUBLIC UTILITIES COMMISSION AND ITS JURISDICTION TO REVIEW REVENUE REQUIREMENTS AND OTHER REGULATORY IMPLICATIONS OF THE SWAN FALLS COMPROMISE.

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

SECTION 1. FINDINGS AND STATEMENT OF PURPOSE. After hearing testimony from the office of the governor, the office of the attorney general, the Idaho public utilities commission, the Idaho department of water resources, the Idaho water resources board, the Idaho department of fish and game, other governmental entities and other interested groups and individuals of the state of Idaho, the legislature hereby finds that while portions of the testimony differ, the contract entered into by the governor and the Idaho Power Company on October 25, 1984, is in the public interest for all purposes including, but not limited to, all purposes under the public utilities law, as amended. Implementation of the settlement will resolve continuing controversy over electric utility water rights in the Snake River Basin above Murphy U.S.G.S. gaging station. That controversy has rendered the amount of the water available for hydropower uncertain, thus placing at risk both the availability of low-cost hydropower to the ratepayers and the state's ability to manage an increasingly scarce resource. This settlement balances all of the parties' concerns and insures that existing hydropower-generating facilities will remain useful, that ratepayers will not be burdened with excessive costs, and that availability of water for additional domestic, manufacturing, and agricultural uses will judiciously expand.

SECTION 2. PUBLIC UTILITIES COMMISSION -- JURISDICTION. The Idaho public utilities commission shall have no jurisdiction to consider in any proceeding, whether instituted before or after the effective date of this act, any issue as to whether any electric utility, including Idaho Power Company, should have or could have preserved, maintained or protected its water rights and hydroelectric generation in a manner inconsistent with the contract entered into by the governor and the Idaho Power Company on October 25, 1984.

SECTION 3. IPUC -- EFFECT OF AGREEMENT. In any proceeding before the Idaho public utilities commission including, but not limited to, a proceeding in which the commission is setting or reviewing the revenue requirement of any electric utility, including Idaho Power Company, the commission shall accept as reasonable and in the public interest for all purposes, the contract entered into by the governor and the Idaho Power Company on October 25, 1984, including without limitation, the effects of implementation of such contract on the utility's revenue requirements and hydroelectric generation.

SECTION 4. EXEMPTION. Implementation of such contract shall not constitute a sale, assignment, conveyance or transfer within the meaning of sections 61-327, 61-328, 61-329, 61-330 and 61-331, Idaho Code, to the extent any of those sections may apply.

Approved February 28, 1985.

CHAPTER 15
(S.B. No. 1006)

AN ACT

RELATING TO THE DEPARTMENT OF WATER RESOURCES; AMENDING SECTION 42-1805, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES SHALL HAVE THE POWER TO PROMULGATE RULES AND REGULATIONS.

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

SECTION 1. That Section 42-1805, Idaho Code, be, and the same is hereby amended to read as follows:

42-1805. ADDITIONAL DUTIES. In addition to other duties prescribed by law, the director of the department of water resources shall have the following powers and duties:

(1) To represent the state in all matters pertaining to interstate and international water rights affecting Idaho water resources; and to cooperate with all agencies, now existing or hereafter to be formed, within the state or within other jurisdictions, in matters affecting the development of the water resources of this state.

(2) To prepare a present and continuing inventory of the water resources of this state, ascertain means and methods of conserving and augmenting these and determine as accurately as possible the most effective means by which these water resources may be applied for the benefit of the people of this state.

(3) To conduct surveys, tests, investigations, research, examinations, studies, and estimates of cost relating to availability of unappropriated water, effective use of existing supply, conservation, storage, distribution and use of water.

(4) To prepare and compile information and data obtained and to make the same available to interested individuals or agencies.

(5) To cooperate with and coordinate activities with the administrator of the division of environmental protection of the department of health and welfare as such activities relate to the functions of either or both departments concerning water quality. Such cooperation and coordination shall specifically require that:

(a) The director meet at least quarterly with the administrator and his staff to discuss water quality programs. A copy of the minutes of such meeting shall be transmitted to the governor.

(b) The director transmit to the administrator, reports and

information prepared by him pertaining to water quality programs, and proposed rules and regulations pertaining to water quality programs.

(c) The director shall make available to the administrator and the administrator shall make available to the director all notices of hearings relating to the promulgation of rules and regulations relating to water quality, waste discharge permits, and stream channel alteration, as such directly affect water quality, and notices of any other hearings and meetings which relate to water quality.

(6) To perform administrative duties and such other functions as the board may from time to time assign to the director to enable the board to carry out its powers and duties.

(7) After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of minimum flow provisions of the state water plan.

(8) To promulgate, adopt, modify, repeal and enforce rules and regulations implementing or effectuating the powers and duties of the department.

Approved February 28, 1985.

CHAPTER 16
(S.B. No. 1007)

AN ACT

RELATING TO WATER RIGHTS; AMENDING CHAPTER 5, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-502B, IDAHO CODE, TO PROVIDE THAT GAIN UPON SALE OF A PUBLIC UTILITY'S WATER RIGHT SHALL ACCRUE TO THE BENEFIT OF THE RATEPAYERS.

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 61-502B, Idaho Code, and to read as follows:

61-502B. ALLOCATION OF GAIN UPON SALE OF WATER RIGHT. The gain upon sale of a public utility's water right used for the generation of electricity shall accrue to the benefit of the ratepayers.

Approved February 28, 1985.

CHAPTER 17
(S.B. No. 1008)

AN ACT

RELATING TO WATER RIGHTS FOR HYDROPOWER PURPOSES; AMENDING SECTION 42-203, IDAHO CODE, TO REDESIGNATE THE SECTION, TO MAKE CERTAIN ORGANIZATIONAL CHANGES AND TO PROVIDE FOR THE MAILING OF NOTICES TO PAID SUBSCRIBERS; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-203B, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES SHALL HAVE THE AUTHORITY TO SUBORDINATE RIGHTS GRANTED FOR POWER PURPOSES TO SUBSEQUENT UPSTREAM RIGHTS, AND TO LIMIT PERMITS OR LICENSES GRANTED FOR POWER PURPOSES TO A SPECIFIC TERM; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-203C, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL CONSIDER CRITERIA WHEN AN APPLICANT'S APPROPRIATION WOULD SIGNIFICANTLY REDUCE THE AMOUNT OF WATER AVAILABLE FOR A SUBORDINATED POWER USE; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-203D, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE OF THIS ACT; PROVIDING THAT THE PROVISIONS OF THIS ACT SHALL NOT AFFECT ANY INTERSTATE COMPACT; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 42-203, Idaho Code, be, and the same is hereby amended to read as follows:

42-203A. NOTICE UPON RECEIPT OF APPLICATION -- PROTEST -- HEARING AND FINDINGS -- APPEALS. ~~On and after the passage, approval and effective date of this section, upon~~ (1) Upon receipt of an application to appropriate the waters of this state, the department of water resources, shall prepare a notice in such form as the department may prescribe, specifying: (a) the number of the application ~~and~~ ; (b) the date of filing thereof~~,~~; (c) the name and post-office address of the applicant~~,~~; (d) the source of the water supply~~,~~; (e) the amount of water to be appropriated~~,~~; (f) in general the nature of the proposed use~~,~~; (g) the approximate location of the point of diversion~~,~~; (h) and the point of use~~,~~. The department shall also state~~ing~~ in said notice that any protest against the approval of such application, in form prescribed by the department, shall be filed with the department within ten (10) days from the last date of publication of such notice.

(2) The director of the department of water resources shall cause the notice to be published in a newspaper printed within the county wherein the point of diversion lies, or in the event no newspaper is printed in said county, then in a newspaper of general circulation therein. ~~This~~ When the application proposes a diversion in excess of ten (10) c.f.s. or one thousand (1,000) acre feet, the director shall cause the notice to be published in a newspaper or newspapers sufficient to achieve statewide circulation. Any notice shall be published at least once each week for two (2) successive weeks.

(3) The director of the department shall cause a copy of the notice of application to be sent by ordinary mail to any person who requests in writing to receive any class of notices of application and who pays an annual mailing fee as established by departmental regulation.

(4) Any person, firm, association or corporation concerned in any such application may, within the time allowed in the notice of application, file with said director of the department of water resources a written protest against the approval of such application, which protest shall state the name and address of protestant and shall be signed by him or by his agent or attorney and shall clearly set forth his objections to the approval of such application. Hearing upon the protest so filed shall be held within sixty (60) days from the date such protest is received. Notice of this hearing shall be given by mailing notice not less than ten (10) days before the date of hearing and shall be forwarded to both the applicant and the protestant, or protestants, by certified mail. Such notice shall state the names of the applicant and protestant, or protestants, the time and place fixed for the hearing and such other information as the director of the department of water resources may deem advisable. In the event that no protest is filed, then the director of the department of water resources may forthwith approve the application, providing the same in all respects conforms with the requirements of this chapter, and with the regulations of the department of water resources.

(5) Such hearing shall be conducted in accordance with the provisions of section 42-1701A(1) and (2), Idaho Code. The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (~~1~~a) that it will reduce the quantity of water under existing water rights, or (~~2~~b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (~~3~~c) where it appears to the satisfaction of the department that such application is not made in good faith, is made for delay or speculative purposes, or (~~4~~d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (~~5~~e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use~~. The~~; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a ~~less~~ smaller quantity of water than applied for, or may grant a permit upon conditions. The provisions of this section shall apply to any boundary stream between this and any other state in all cases where the water sought to be appropriated has its source largely within the state, irrespective of the location of any proposed power generating plant.

(6) Any person or corporation who has formally appeared at the hearing, ~~feeling~~ aggrieved by the judgment of the director of the department of water resources, may seek judicial review thereof in accordance with section 42-1701A(4), Idaho Code.

SECTION 2. That Chapter 2, 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 42-203B, Idaho Code, and to read as follows:

42-203B. AUTHORITY TO SUBORDINATE RIGHTS -- NATURE OF SUBORDINATED WATER RIGHT AND AUTHORITY TO ESTABLISH A SUBORDINATION CONDITION -- AUTHORITY TO LIMIT TERM OF PERMIT OR LICENSE. (1) The legislature finds and declares that it is in the public interest to specifically implement the state's power to regulate and limit the use of water for power purposes and to define the relationship between the state and the holder of a water right for power purposes to the extent such right exceeds an established minimum flow. The purposes of the trust established by subsections (2) and (3) of this section are to assure an adequate supply of water for all future beneficial uses and to clarify and protect the right of a user of water for power purposes to continue using the water pending approval of depletionary future beneficial uses.

(2) A water right for power purposes which is defined by agreement with the state as unsubordinated to the extent of a minimum flow established by state action shall remain unsubordinated as defined by the agreement. Any portion of the water rights for power purposes in excess of the level so established shall be held in trust by the state of Idaho, by and through the governor, for the use and benefit of the user of the water for power purposes, and of the people of the state of Idaho. The rights held in trust shall be subject to subordination to and depletion by future upstream beneficial users whose rights are acquired pursuant to state law.

(3) Water rights for power purposes not defined by agreement with the state shall not be subject to depletion below any applicable minimum stream flow established by state action. Water rights for power purposes in excess of such minimum stream flow shall be held in trust by the state of Idaho, by and through the governor, for the use and benefit of the users of water for power purposes and of the people of the state of Idaho. The rights held in trust shall be subject to subordination to and depletion by future upstream beneficial users whose rights are acquired pursuant to state law.

(4) The user of water for power purposes as beneficiary of the trust established in subsections (2) and (3) of this section shall be entitled to use water available at its facilities to the extent of the water right, and to protect its rights to the use of the water as provided by state law against depletions or claims not in accordance with state law.

(5) The governor or his designee is hereby authorized and empowered to enter into agreements with holders of water rights for power purposes to define that portion of their water rights at or below the level of the applicable minimum stream flow as being unsubordinated to upstream beneficial uses and depletions, and to define such rights in excess thereof as being held in trust by the state under subsection (2) of this section. Such agreements shall be subject to ratification by law. The contract entered into by the governor and the Idaho Power

Company on October 25, 1984, is hereby found and declared to be such an agreement, and the legislature hereby ratifies the governor's authority and power to enter into this agreement.

(6) The director shall have the authority to subordinate the rights granted in a permit or license for power purposes to subsequent upstream beneficial depletionary uses. A subordinated water right for power use does not give rise to any claim against, or right to interfere with, the holder of subsequent upstream rights established pursuant to state law. The director shall also have the authority to limit a permit or license for power purposes to a specific term.

Subsection (6) of this section shall not apply to licenses which have already been issued as of the effective date of this act.

SECTION 3. That Chapter 2, 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 42-203C, Idaho Code, and to read as follows:

42-203C. HYDROPOWER WATER RIGHT -- CRITERIA FOR REALLOCATION -- WEIGHT -- BURDEN OF PROOF. (1) If an applicant intends to appropriate water which is or may be available for appropriation by reason of a subordination condition applicable to a water right for power purposes, then the director shall consider, prior to approving the application, the criteria established in section 42-203A, Idaho Code, and whether the proposed use would significantly reduce, individually or cumulatively with other uses, the amount of water available to the holder of a water right used for power production and, if so, whether the proposed reduction is in the public interest.

(2) (a) The director in making such public interest determinations for purposes of this section shall consider:

(i) The potential benefits, both direct and indirect, that the proposed use would provide to the state and local economy;

(ii) The economic impact the proposed use would have upon electric utility rates in the state of Idaho, and the availability, foreseeability and cost of alternative energy sources to ameliorate such impact;

(iii) The promotion of the family farming tradition;

(iv) The promotion of full economic and multiple use development of the water resources of the state of Idaho;

(v) In the Snake River Basin above the Murphy gauge whether the proposed development conforms to a staged development policy of up to twenty thousand (20,000) acres per year or eighty thousand (80,000) acres in any four (4) year period.

No single factor enumerated above shall be entitled to greater weight by the director in arriving at this determination.

(b) The burden of proof under the provisions of this section shall be on the protestant.

SECTION 4. That Chapter 2, 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 42-203D, Idaho Code, and to read as

follows:

42-203D. REVIEW OF PERMITS -- OPPORTUNITY FOR HEARING. (1) The department shall review all permits issued prior to the effective date of this section, except to the extent a permit has been put to beneficial use prior to July 1, 1985, to determine whether they comply with the provisions of chapter 2, title 42, Idaho Code. If the department finds that the proposed use does not satisfy the criteria of chapter 2, title 42, Idaho Code, then the department shall either cancel the permit or impose the conditions required to bring the permit into compliance with chapter 2, title 42, Idaho Code. If the department finds that the permit satisfies the criteria established in chapter 2, title 42, Idaho Code, then the department shall enter an order continuing the permit.

(2) The department shall provide an opportunity for hearing in accordance with section 42-1701A, Idaho Code, and sections 67-5209 through 67-5215, Idaho Code, for each holder of a permit that is proposed either to be cancelled or made subject to new conditions.

SECTION 5. This act shall not be construed as modifying, amending, or repealing any interstate compact.

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 February 28, 1985.

CHAPTER 18
(H.B. No. 70)

AN ACT

RELATING TO THE ADJUDICATION OF WATER RIGHTS; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1406A, IDAHO CODE, TO PROVIDE FOR THE COMMENCEMENT OF AN ADJUDICATION OF THE WATER RIGHTS OF THE SNAKE RIVER BASIN; AMENDING SECTION 42-1409, IDAHO CODE, TO PROVIDE THAT IN AN ORDER REQUESTING JOINDER OF CLAIMANTS TO WATER IN A SYSTEM, THE ORDER SHALL INDICATE THAT A NOTICE OF CLAIM NEED NOT BE FILED FOR A WATER RIGHT EVIDENCED BY A VALID APPLICATION OR PERMIT ON FILE WITH THE DEPARTMENT OF WATER RESOURCES FOR WHICH PROOF OF BENEFICIAL USE HAS NOT BEEN FILED AND TO PROVIDE THAT A COURT IN A SUBSEQUENT ORDER OF JOINDER SHALL AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO ORDER A NOTICE OF CLAIM TO BE FILED ON EACH PERMIT FOR WHICH PROOF OF BENEFICIAL USE HAS BEEN FILED PRIOR TO FILING WITH THE COURT OF THE REPORT OF PROPOSED FINDING OF WATER RIGHTS REQUIRED BY LAW; AMENDING SECTION 42-1414, IDAHO CODE, TO MODIFY

THE SCHEDULE OF FEES FOR FILING A NOTICE OF CLAIM IN A WATER RIGHTS ADJUDICATION PROCEEDING AND TO PROVIDE A PROCEDURE FOR COLLECTION OF THE FEES; AND AMENDING CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1777, IDAHO CODE, TO PROVIDE FOR THE CREATION OF THE WATER RESOURCES ADJUDICATION ACCOUNT.

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

SECTION 1. That Chapter 14, 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 42-1406A, Idaho Code, and to read as follows:

42-1406A. SNAKE RIVER BASIN ADJUDICATION -- COMMENCEMENT. (1) Effective management in the public interest of the waters of the Snake River basin requires that a comprehensive determination of the nature, extent and priority of the rights of all users of surface and ground water from that system be determined. Therefore, the director of the department of water resources shall petition the district court to commence an adjudication within the terms of the McCarran amendment, 43 U.S.C. section 666, of the water rights of the Snake River basin either through initiation of a new proceeding or the enlargement of an ongoing adjudication proceeding. The petition shall describe:

(a) The boundaries of the system within the state to be adjudicated;

(b) Any class of water users within the system and the boundaries of any hydrologic sub-basins within the system for which the director intends to proceed separately with respect to the actions required or authorized to be taken pursuant to sections 42-1408 through 42-1414, Idaho Code; and

(c) The uses of water, if any, within the system that are recommended to be excluded from the adjudication proceeding.

(2) Upon issuance of an order by the district court which:

(a) Authorizes the director to commence an investigation and determination of the various water rights to be adjudicated within the system;

(b) Defines the boundaries of the system within the state to be adjudicated;

(c) Defines the classes of water users within the system and the boundaries of any hydrologic sub-basins within the system for which proceedings may advance separately pursuant to sections 42-1408 through 42-1414, Idaho Code; and

(d) Defines any uses of water excluded from the adjudication proceedings;

the adjudication shall proceed in the manner provided under the provisions of chapter 14, title 42, Idaho Code, with the exception of sections 42-1406 and 42-1407, Idaho Code.

SECTION 2. That Section 42-1409, Idaho Code, be, and the same is hereby amended to read as follows:

42-1409. ORDER -- NOTICE -- CLAIM. Upon completion of the director of the department of water resources' investigation under section 42-1408, Idaho Code, he shall be authorized to request the district judge to join all claimants to water from the system. Upon entering of the order authorizing the joinder of any claimant by the director of the department of water resources, a copy of the court's order authorizing the determination of water rights from the water system, together with a summons and the order requiring joinder, shall be served upon each claimant by publication in a newspaper of general circulation published in the county in which the use is located for three (3) consecutive weeks and a copy of the summons, petition, and order shall be sent by certified mail to each claimant at his last known post-office address as shown by the records of the county in which land is located. Where there is no newspaper published in a county in which a use is located, then notice shall be published in a newspaper having general circulation in the county and one which will most likely give notice to the person served. The order of joinder shall direct each claimant to file a notice of claim with the director of the department of water resources. The notice of claim shall be upon forms furnished by the department of water resources and shall be signed by the claimant and verified on oath and shall include the following:

(a) the name and post-office address of the claimant;

(b) the quantity of water claimed to be used in cubic feet per second or the quantity of water stored in acre-feet per year;

(c) the date of priority claimed and the date when the water was first applied to beneficial use, and if the right is founded upon a license or permit, the number thereof;

(d) the legal description of the location of the diversion works;

(e) the nature of the use and the period of the year when water is used for such purposes;

(f) a legal description of the place of use;

(g) the dates of any changes or enlargements in use, including the dimensions of the diversion works as originally constructed and as enlarged;

(h) such other facts as the director of the department of water resources may require to show the extent and nature of the right and show compliance with the law in acquiring the right claimed.

The order shall also direct the claimant to file his notice of claim with the director of the department of water resources within sixty (60) days of the date of such service, and shall indicate that a notice of claim need not be filed for a water right evidenced by a valid application or permit on file with the department for which proof of beneficial use has not been filed.

The court in a subsequent order of joinder shall authorize the director of the department of water resources to order a notice of claim to be filed on each permit for which proof of beneficial use has been filed prior to filing with the court the report of proposed finding of water rights required in section 42-1410, Idaho Code. The maps prepared by the director of the department of water resources under section 42-1408, Idaho Code, shall be available at the office of the director of the department of water resources and at such places as he

shall designate, for the purpose of aiding any claimant to the water in preparing and filing his claim.

SECTION 3. That Section 42-1414, Idaho Code, be, and the same is hereby amended to read as follows:

42-1414. FEES FOR FILING NOTICE OF CLAIM. In order to provide an adequate and equitable cost-sharing formula for financing the costs of adjudicating water rights t~~T~~he department of water resources shall accept no notice of claim required under the provisions of section 42-1409, Idaho Code, unless such notice of claim is submitted with a filing fee based upon the ~~quantity-of-water--claimed--which--shall--be determined--on-the-same-basis-as-the-fee-for-filing-an-application-for a-permit-to-appropriate-the-public-waters-of-this-state-as-provided-in section-42-221,-Idaho-Code,-except-that-where-such-claim-is-in-connection-with-a-water-right-established-pursuant-to-a-valid-permit-or--license-previously-issued-by-the-department-of-water-administration-or-a water--right--which-has-previously-been-adjudicated-by-a-state-or-federal-court,-the-claimant-shall-pay-a-filing-fee-of--only--ten--dollars ($10.00).-Provided,-however,-that-no-filing-fee-shall-be-required-with any--notice--of-claim-when-proceedings-for-adjudication-involving-such claim-were-under-way-when-this-act,-Chapter-153,--Laws--of--1971,--was enacted~~ fee schedule set forth below. Failure to pay the variable water use fee in accordance with the timetable provided shall be cause for the department to reject and return the notice of claim to the claimant. The fee schedule set forth below applies to adjudication proceedings commenced or enlarged on or after January 1, 1985, and to adjudication proceedings for which a proposed finding of water rights has not been filed with the appropriate district court by the department of water resources prior to January 1, 1985.

(1) Flat fee per claim filed:

(a) Claims for domestic and/or stockwatering rights . $ 25.00

(b) Claims for all other rights ..... $ 50.00

(2) Additional variable water use fee for claims filed based upon acreage, power generating capacity, c.f.s., or equivalent volume of water:

(a) Irrigation use (one fee irrespective of number of claims): ..... $ 1.00 per acre

(b) Power: ..... $ 3.50 per kilowatt of capacity (manufacturer's nameplate rating)

(c) Aquaculture: ..... $ 10.00 per c.f.s.

(d) Municipal, industrial, commercial, mining, heating, cooling: ..... $100.00 per c.f.s.

(e) Public instream flow, public lake level maintenance, wildlife: ..... $100.00 per c.f.s.

(3) Payment of a variable water use fee of more than one thousand dollars ($1,000) may be spread out over as many as five (5) annual equal payments with ten percent (10%) interest accruing on the unpaid balance. All fees collected by the department pursuant to this section shall be placed in the water resources adjudication account established in section 42-1777, Idaho Code.

SECTION 4. That Chapter 17, 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 42-1777, Idaho Code, and to read as follows:

42-1777. WATER RESOURCES ADJUDICATION ACCOUNT. A water resource adjudication account is hereby created and established in the agency asset fund. Fee moneys in the account are to be utilized by the department of water resources, upon appropriation by the legislature, to pay the costs of the department attributable to general water rights adjudications conducted pursuant to chapter 14, title 42, Idaho Code.

The state treasurer is directed to invest all moneys in the account. All interest or other income accruing from such investment shall accrue to the account.

Approved March 1, 1985.

CHAPTER 19
(H.B. No. 71)

AN ACT

RELATING TO PRESUMPTIONS IN BASIN-WIDE ADJUDICATIONS OF WATER RIGHTS; AMENDING CHAPTER 14, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1416, IDAHO CODE, TO PROVIDE THAT HOLDERS OF PREVIOUSLY ADJUDICATED WATER RIGHTS SHALL BE PRESUMED TO HAVE VALIDLY APPLIED ALL WATER TO BENEFICIAL USE ON THE LANDS BEING IRRIGATED AT THE TIME OF THE BASIN-WIDE ADJUDICATION WITH NO CHANGE IN THE PRIORITY DATES OF THE ORIGINAL RIGHTS, TO PROVIDE THAT THE EXPANSION OF USE AFTER ACQUISITION OF A VALID UNADJUDICATED WATER RIGHT IN VIOLATION OF PERMIT REQUIREMENTS SHALL BE PRESUMED TO BE VALID AND TO HAVE CREATED A WATER RIGHT WITH A PRIORITY DATE AS OF THE COMPLETION OF THE EXPANSION IN THE ABSENCE OF INJURY TO OTHER APPROPRIATORS, TO PROVIDE CONDITIONS WHEN A PRIOR DECREE ADJUDICATING A TRIBUTARY STREAM OR SUBBASIN WITH THE BASIN SHALL BE PRESUMED CORRECT; AND TO PROVIDE THAT ALL PRESUMPTIONS ESTABLISHED BY THIS ACT ARE REBUTTABLE.

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

SECTION 1. That Chapter 14, 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 42-1416, Idaho Code, and to read as follows:

42-1416. PRESUMPTIONS IN BASIN-WIDE ADJUDICATION. In any basin-wide adjudication, the following shall apply:

(1) The holders of previously adjudicated water rights shall be presumed to have validly applied all water to beneficial use on the

lands being irrigated at the time of basin-wide adjudication with no change in the priority dates of the original rights.

(2) Expansion of use after acquisition of a valid unadjudicated water right in violation of the mandatory permit requirements shall be presumed to be valid and to have created a water right with a priority date as of the completion of the expansion, in the absence of injury to other appropriators.

(3) A prior decree adjudicating a tributary stream or subbasin within the basin shall be presumed correct, if:

(a) It is or can be made substantially correct as to current water rights; and

(b) Contains all the elements necessary to adequately describe the water rights included in the decree.

(4) The presumptions established in this section are rebuttable.

(5) The presumptions established in this section shall not apply in any area designated by the department as a critical groundwater area for expansion of use that occurred after the date of designation.

Approved March 1, 1985.

CHAPTER 20
(S.B. No. 1156)

AN ACT

APPROPRIATING MONEYS TO THE AGRICULTURAL COMMODITY COMMISSIONS IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. IDAHO APPLE COMMISSION:				
FROM:				
Apple Commission Account	$ 4,900	$ 295,000	$ 100	$ 300,000
B. IDAHO BEAN COMMISSION:				
FROM:				
Idaho Bean Marketing & Production Promotion Account	$ 37,000	$ 192,400		$ 229,400

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
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	$198,200	$2,395,800		$2,594,000
E. IDAHO POTATO COMMISSION:				
FROM:				
Potato Commission Account	$393,200	$5,104,800	$2,000	$5,500,000
F. IDAHO WHEAT COMMISSION:				
FROM:				
Idaho Wheat Commission Account	$112,800	$ 966,900	$5,000	$1,084,700
GRAND TOTAL	$747,900	$8,983,000	$7,200	$9,738,100

Approved March 4, 1985.

CHAPTER 21
(S.B. No. 1033, As Amended)

AN ACT

RELATING TO THE SALE AND DELIVERY OF PRESCRIPTION DRUGS FOR VETERINARY USE; AMENDING SECTION 54-1729, IDAHO CODE, TO PROVIDE THAT A BUSINESS SELLING PRESCRIPTION DRUGS FOR VETERINARY USE MUST REGISTER WITH THE BOARD OF PHARMACY; AND AMENDING SECTION 54-1734, IDAHO CODE, TO PROVIDE CONDITIONS FOR THE SALE OF PRESCRIPTION DRUGS BY A BUSINESS NOT LICENSED AS A PHARMACY.

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

SECTION 1. That Section 54-1729, Idaho Code, be, and the same is hereby amended to read as follows:

54-1729. REGISTRATION OF FACILITIES. (1) All drug outlets shall annually register with the board of pharmacy.

(2) (a) Each drug outlet shall apply for a certificate of registration in one of the following classifications:

1. Retail drug outlet;
2. Institutional drug outlet;
3. Manufacturing drug outlet;
4. Wholesale drug outlet;
5. Business outlet selling prescription drugs for veterinary

use.

(b) No individual who is employed by a corporation which is registered under any classification listed above need register under the provisions of this act.

(3) The board shall establish by rule or regulation under the powers granted to it under sections 54-1718 and 54-1719, Idaho Code, the criteria which each drug outlet, that has employees or personnel engaged in the practice of pharmacy, must meet to qualify for registration in each classification designated above. The board may issue various types of certificates with varying restrictions to such outlets referred to in this subsection (3) where the board deems it necessary by reason of the type drug outlet requesting a certificate.

(4) It shall be lawful for a drug outlet registered under this section to sell and distribute nonprescription drugs. Drug outlets engaging in the sale and distribution of such items shall not be deemed to be improperly engaged in the practice of pharmacy. No rule or regulation will be adopted by the board under this act which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise apply to or interfere with the sale and distribution of such medicines.

SECTION 2. That Section 54-1734, Idaho Code, be, and the same is hereby amended to read as follows:

54-1734. EXCEPTIONS. The provisions of this chapter pertaining to the sale of prescription drugs are not applicable~~.~~:

(1) To the sale of legend drugs to persons included in any of the classes named in clauses (a) through (f) in subsection (2) of this section, or to the agents or employees of such persons, for use in the usual and lawful course of their business or practice or in the performance of their lawful official duties, as the case may be; or

(2) To the possession of legend drugs by such persons or their agents or employees for such use:

(a) Pharmacists;

(b) Practitioners;

(c) Persons who procure legend drugs for handling by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale;

(d) Hospitals and other institutions which procure legend drugs for lawful administration by practitioners;

(e) Manufacturers and wholesalers;

(f) Carriers and warehousemen.

(3) To the sale by a business not licensed as a pharmacy of legend drugs (excluding controlled substances) designated for veterinary use which require a prescription, provided that:

(a) The business is registered and licensed with the board of pharmacy.

(b) The sale is authorized by a written or oral order from a veterinarian licensed in this or another state.

1. Prior to dispensing an order from an out-of-state veterinarian, the seller must confirm and document that the veteri-

narian is properly licensed in his state.

2. Oral orders must be confirmed by the veterinarian in writing no later than seventy-two (72) hours after the seller receives the order.

(c) The written order or confirmation of an oral order must be retained on the premises of the business for at least two (2) years after the original date of the order.

Approved March 4, 1985.

CHAPTER 22
(H.B. No. 78)

AN ACT

RELATING TO SEED AND SEED LABELING; AMENDING SECTION 22-414, IDAHO CODE, TO ADD DEFINITIONS OF TERMS; AMENDING SECTION 22-415, IDAHO CODE, TO REQUIRE FLOWER SEED, SHRUB SEED AND TREE SEED LABELING; AND AMENDING SECTION 22-416, IDAHO CODE, TO CHANGE GERMINATION TESTING AND LABELING REQUIREMENTS FROM NINE TO FIFTEEN MONTHS.

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

SECTION 1. That Section 22-414, Idaho Code, be, and the same is hereby amended to read as follows:

22-414. DEFINITIONS. When used in this act--

(a) The term "person" shall include any individual, partnership, corporation, company, society, or association.

(b) The term "director" means the director of the department of agriculture of the state of Idaho.

(c) The term "agricultural seeds" shall include the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural, turf, or field seeds, and mixtures of such seeds.

(d) The term "vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this state.

(e) The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within this state, and shall include noxious weed seeds.

(f) Noxious weed seeds shall be divided into two (2) classes, "primary noxious weed seeds" and "secondary noxious weed seeds" as defined in (1) and (2) of this subsection: provided, that the director may, through promulgation of regulations, add to or subtract from the list of seeds included under either definition whenever he finds after public hearing that such additions or subtractions are within the respective definitions: provided, further that such additions or subtractions may not become effective in less than thirty (30) days after the date of such promulgation.

(1) "Primary noxious weed seeds" are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

"Primary noxious weed seeds" in this state are the seeds of: Bindweed Convolvulus arvensis; Quackgrass Agropyron repens; Canada thistle Circium arvense; Perennial sowthistle Sonchus arvensis; Whitetop Lepidium draba L. and Hymenophysa pubescens; St. Johnswort Hypericum perforatum; Russian knapweed Centaurea picris Pall.; Leafy spurge Euphorbia esula; Silver-leaf nightshade Solanum elaeagnifolium; Austrian field cress Rorippa austriaca, Perennial groundcherry Physalis subglabrata and Camelthorn Alhagi camelorum.

(2) "Secondary noxious weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns, or gardens of this state, but can be controlled by good cultural practice.

"Secondary noxious weed seeds" in this state are the seeds of Dodder, Cuscuta spp.; Perennial ragweed Ambrosia psilostachya; Povertyweed Iva axillaris; Buckthorn plantain Plantago lanceolata; Blue flowering lettuce Lactuca puchella; Puncture vine Tribulus terrestris; Yellow star thistle Centaurea solstitialis; wild oats Avena fatua; and Halogeton Halogeton glomeratus.

(g) The term "labeling" includes all labels, and other written, printed, or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(h) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this act.

(i) The term "kind" means one ~~(1)~~ or more related species or subspecies which singly or collectively is known by one (1) common name, for example, wheat, oat, vetch, sweet clover, cabbage, cauliflower, and so forth.

(j) The term "variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed or other characteristics by which it can be differentiated from other sorts of the same kind, for example, Marquis wheat, Flat Dutch cabbage, Manchu soybeans, Oxheart carrot, and so forth.

(k) The term "lot of seed" means a definite quantity of seed identified by a lot number or other lot identification every portion or bag of which is uniform; within permitted tolerances, for the factors which appear in the labeling.

(l) The term "flower seeds" includes seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower seeds in this state.

(m) The term "tree seed and shrub seed" includes seeds of woody plants commonly known and sold as tree seed and shrub seeds in this state.

SECTION 2. That Section 22-415, Idaho Code, be, and the same is

hereby amended to read as follows:

22-415. LABEL REQUIREMENTS. Each container of agricultural or vegetable seed which is sold, offered for sale, exposed for sale, or delivered under a contract within this state for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(a) For agricultural seeds--

(1) Commonly accepted name of (a) kind, or (b) kind and variety, of each agricultural seed component in excess of five per cent (5%) of the whole, and the percentage by weight of each in the order of its predominance. Where more than one (1) component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(2) Lot number or other lot identification.

(3) Origin, if known. If the origin is unknown, that fact shall be stated.

(4) Percentage by weight of all weed seeds.

(5) The name and approximate number of each kind of secondary noxious weed seed per pound.

All determinations of noxious weed seeds shall be subject to tolerances and methods of determination prescribed in the rules and regulations under this act.

(6) Percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on this label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed:

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine such percentages. Following (A) and (B) the "total germination and hard seed" may be stated as such if desired.

(9) Name and address of the person who labeled said seed, or who sells, offers for sale, or exposes for sale, or delivers seed under a contract for seeding purposes within this state.

(b) For vegetable seeds--

(1) Name of kind and variety of seed;

(2) For seeds which germinate less than the standard last established by the director under this act, except seed delivered under a contract for seeding purposes.

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine such percentages;

(D) The words "Below Standard" in not less than 8-point type~~;~~.

(3) Name and address of the person who labeled said seed, or who sells, offers for sale, or exposes for sale, or delivers

seed under a contract within this state.

(c) For flower seeds --

(1) The name of the kind and variety or a statement of type and performance;

(2) The calendar month and year for which the seed was packaged;

(3) The name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this state;

(4) Lot number or other lot identification.

(d) For shrub seed and tree seed --

(1) Commonly accepted name of (a) kind or (b) kind and variety;

(2) Lot number or other lot identification;

(3) Origin, if known. If the origin is unknown that fact shall be stated.

(4) Percentage by weight of:

(A) Pure seed;

(B) Inert matter;

(C) Other crop seed

(D) Weed seed.

(5) The name and approximate number of each kind of secondary noxious weed seed per pound;

(6) Percenta e ermination and percentage of hard seed or dormant seed (if present);

(7) The calendar year and month the germination test was completed.

SECTION 3. That Section 22-416, Idaho Code, be, and the same is hereby amended to read as follows:

22-416. PROHIBITIONS. (a) It shall be unlawful for any person to sell, offer for sale, expose for sale, or deliver under a contract any agricultural or vegetable seed within the state--

(1) Unless the test to determine the percentage of germination required by section 22-415, Idaho Code, shall have been completed within a ~~nine~~ fifteen (~~9~~15) month period, exclusive of the calendar month in which the test was completed immediately prior to sale, exposure for sale, offering for sale or transportation or delivered under a contract for seeding purposes. Provided, that if any agricultural or vegetable seed is treated or packaged under conditions which the director finds will prolong the viability of such seed, such as hermetically sealed containers, the director may by regulation prescribe a longer period than otherwise stated herein, and the conditions and methods of treatment and/or packaging and labeling which he deems to be necessary to maintain the identification and viability of such seed.

(2) Not labeled in accordance with the provisions of this act, or having false or misleading labeling.

(3) Pertaining to which there has been a false or misleading advertisement.

(4) Containing primary noxious weed seeds.

(5) Containing secondary noxious weed seeds singly or collectively in excess of--

(A) Five (5) seeds in 50 grams of Agrotis species, Poa species, Rhodes grass, Bermuda grass, timothy, celery, and other agricultural or vegetable seed of similar size and weight, or mixtures within this group;

(B) Five (5) seeds in each 50 grams of Dallis grass, ryegrass, fescue species, foxtail millets, alfalfa, red clover, sweet clover, lespedeza, bromegrass, crested wheatgrass, Brassica species, carrot, onion, and other agricultural or vegetable seeds of similar size and weight or mixtures within this group, or mixtures of this group with those in group A;

(C) Five (5) seeds in 50 grams of alsike clover, white clover and other agricultural or vegetable seeds of similar size and weight, or mixtures of this group with those in group A or group B;

(D) Five (5) seeds in each 150 grams of Proso millet, Sudan grass, and seeds of similar size and weight, or mixtures of seeds within this group;

(E) Five (5) seeds in each 500 grams of wheat, oats, rye, barley, buckwheat, sorghums, vetches, field peas, and other seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group.

(6) Containing more than one percent (1%) by weight of weed seeds inclusive of secondary noxious weed seeds referred to in section 22-414(f)(2), Idaho Code, provided, that five percent (5%) of cheat, chess or downy brome shall be allowed in grass seed in which these weeds are found.

(7) By a variety name not certified by an official seed certifying agency when it is a variety for which a certificate or application for certificate of plant variety protection under the federal "Plant Variety Protection Act" specifies sale only as a class of certified seed.

(b) It shall be unlawful for any person within this state--

(1) To detach, alter, deface, or destroy any label provided for in this act or the rules and regulations made and promulgated thereunder, or to alter or substitute seed, in a manner that may defeat the purposes of this act.

(2) To disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means.

(3) To hinder or obstruct in any way any authorized person in the performance of his duties under this act.

(4) To fail to comply with a "stop-sale" order.

(5) To ship, deliver, transport, or sell agricultural or vegetable seeds treated with any substance likely to be poisonous to human beings or animals unless there is conspicuously shown in red letters on the analysis tag or label, or on a separate tag or container, the words "poison treated" or other appropriate warning adequate to protect the public. It is unlawful to sell or divert seed so treated for use or for processing either for human or animal consumption.

(6) To transport away from the place where cleaning occurred any screenings removed during the process of cleaning field, flower, or garden seeds which contain any seeds of noxious weeds as described in this act unless such screenings have been treated by grinding or other means so as to prevent the germination of the noxious weed seeds: provided, that the director may give written permission for removal of screenings to another point for grinding or processing by other means to prevent germination of noxious weed seed contained therein.

Approved March 5, 1985.

CHAPTER 23
(H.B. No. 11)

AN ACT

RELATING TO THE ADMINISTRATION OF TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3077A, IDAHO CODE, TO AUTHORIZE THE STATE TAX COMMISSION AND THE IDAHO DEPARTMENT OF EMPLOYMENT TO ENTER INTO AN AGREEMENT FOR EXCHANGES OF INFORMATION AND OFFSET OF LIABILITIES FOR TAXES OR OVERPAYMENTS AGAINST REFUNDS DUE.

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 63-3077A, Idaho Code, and to read as follows:

63-3077A. AGREEMENTS FOR EXCHANGE OF INFORMATION AND JOINT ADMINISTRATION WITH DEPARTMENT OF EMPLOYMENT. (a) The state tax commission and the Idaho department of employment may enter into a written agreement for exchange of information relating to persons who have or may have undischarged duties or liabilities under tax laws administered by the state tax commission or the department of employment. Any information so exchanged shall be confidential information in the hands of the recipient thereof and may be used only for the purpose of determining whether the person to whom the information relates may have an undischarged duty or liability under any tax law of this state, the amount of such liability, the person's whereabouts, social security number, and information helpful in collecting taxes due. No such information shall be public information unless it is used in the course of a judicial proceeding arising under a tax statute of this state.

(b) An agreement made pursuant to this section may provide for the offset of any refunds owed to any person by either party to the agreement against any tax liability or overpayment of benefits owed to the other party. No offset may be made unless the liability against

which it is applied is final, without any further right on the part of the person owing the liability to either administrative or judicial review.

Approved March 7, 1985.

CHAPTER 24
(H.B. No. 22)

AN ACT

RELATING TO SHELTER HOME FACILITIES; REPEALING SECTION 39-3304, IDAHO CODE, TO ELIMINATE AN ANNUAL LICENSURE FEE OF TWENTY-FIVE DOLLARS FOR SHELTER HOME FACILITIES.

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

SECTION 1. That Section 39-3304, Idaho Code, be, and the same is hereby repealed.

Approved March 7, 1985.

CHAPTER 25
(H.B. No. 112)

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2705, IDAHO CODE, TO INCLUDE ALFENTANIL IN SCHEDULE I CONTROLLED SUBSTANCES AND TO DELETE SUFENTANIL FROM SCHEDULE I SUBSTANCES; AND AMENDING SECTION 37-2707, IDAHO CODE, TO INCLUDE SUFENTANIL IN SCHEDULE II CONTROLLED SUBSTANCES.

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) Alfentanil;

(~~2~~3) ~~Allylprodine~~;

(~~3~~4) Alphacetylmethadol;
(~~4~~5) Alphameprodine;
(~~5~~6) Alphamethadol;
(~~6~~7) Alphamethylfentanyl;
(~~7~~8) Benzethidine;
(~~8~~9) Betacetylmethadol;
(~~9~~10) Betameprodine;
(~~10~~11) Betamethadol;
(~~11~~12) Betaprodine;
(~~12~~13) Clonitazene;
(~~13~~14) Dextromoramide;
(~~14~~15) Diampromide;
(~~15~~16) Diethylthiambutene;
(~~16~~17) Difenoxin;
(~~17~~18) Dimenoxadol;
(~~18~~19) Dimepheptanol;
(~~19~~20) Dimethylthiambutene;
(~~20~~21) Dioxaphetyl butyrate;
(~~21~~22) Dipipanone;
(~~22~~23) Ethylmethylthiambutene;
(~~23~~24) Etonitazene;
(~~24~~25) Etoxeridine;
(~~25~~26) Furethidine;
(~~26~~27) Hydroxypethidine;
(~~27~~28) Ketobemidone;
(~~28~~29) Levomoramide;
(~~29~~30) Levophenacylmorphan;
(~~30~~31) Morpheridine;
(~~31~~32) Noracymethadol;
(~~32~~33) Norlevorphanol;
(~~33~~34) Normethadone;
(~~34~~35) Norpipanone;
(~~35~~36) Phenadoxone;
(~~36~~37) Phenampromide;
(~~37~~38) Phenomorphan;
(~~38~~39) Phenoperidine;
(~~39~~40) Piritramide;
(~~40~~41) Proheptazine;
(~~41~~42) Properidine;
(~~42~~43) Propiram;
(~~43~~44) Racemoramide;
~~(44) Sufentanil;~~
(45) Tilidine;
(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;
(17) N-ethyl-3-piperidyl benzilate;
(18) N-methyl -3- piperidyl benzilate;
(19) Psilocybin;
(20) Psilocyn;
(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);
(22) Thiophene analog of phencyclidine (1-(1-(2-thienyl) cyclohexyl) piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;

(23) Ethylamine analog of phencyclidine (N-ethyl -1-phenylcyclohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(24) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohexyl) -pyrrolidine, PCPy, 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;

(23) Sufentanil.

~~(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) Pentobarbital;
(3) Phencyclidine;
(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).

Approved March 7, 1985.

CHAPTER 26
(H.B. No. 23)

AN ACT

RELATING TO ANATOMICAL GIFTS; AMENDING SECTION 39-3408, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS.

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

SECTION 1. That Section 39-3408, Idaho Code, be, and the same is hereby amended to read as follows:

39-3408. SECTION~~S~~ 39-2608 ~~AND--39-260A~~ INAPPLICABLE. The provisions of section~~s~~ 39-2608 ~~and 39-260A~~, Idaho Code, shall not apply to any gift made under this act.

Approved March 7, 1985.

CHAPTER 27
(H.B. No. 14)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3027A, IDAHO CODE, TO PROVIDE THAT TAXES IMPOSED ON THE INCOME OF PART-YEAR AND NONRESIDENT TAXPAYERS SHALL BE PROPORTIONED; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3027A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027A. COMPUTING TAX~~ABLE--INCOME~~ OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES. ~~(a)~~ In computing the tax~~able--income~~ of a part-year or nonresident individual, trust or estate, ~~the zero bracket amounts or nonbusiness deductions as allowed by the Internal Revenue Code, if applicable, and the exemptions as defined in section 151 of the Internal Revenue Code shall all be allowed in~~ the tax imposed by section 63-3024, Idaho Code, shall be reduced to the proportion that the adjusted gross income of the taxpayer from Idaho sources ~~after the additions thereto and deletions therefrom specified in sections 63-3022(a), (c), (d), (g) and (j) and 63-3022B, 63-3022C and 63-3022D, Idaho Code,~~ bears to the total adjusted gross income from all sources ~~before any deductions therefrom. The adjusted gross income, as used in this section, shall mean adjusted gross income as defined in section 62 of the Internal Revenue Code.~~

~~(b) Idaho adjustments to income necessary in computing Idaho adjusted gross income or total Idaho adjusted income shall be based on:~~

~~(1) Whether or not the adjustment related to the production of income reported to Idaho; or~~

~~(2) Whether or not the income was received, the expense was paid or the event of tax consequence occurred while a part year resident of Idaho; or~~

~~(3) Any other appropriate basis for making the adjustment. The specific adjustments necessary under this section shall be detailed and explained in regulations adopted by the state tax commission.~~

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 1985.

Approved March 7, 1985.

CHAPTER 28
(H.B. No. 87)

AN ACT
RELATING TO COURT FEES; AMENDING SECTION 31-3201A, IDAHO CODE, TO INCREASE CERTAIN COURT FEES; AND AMENDING SECTION 1-402, IDAHO CODE, TO INCREASE FEES IN THE SUPREME COURT.

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

SECTION 1. That Section 31-3201A, Idaho Code, be, and the same is hereby amended to read as follows:

31-3201A. COURT FEES. The clerk of the district court in addition to the fees and charges imposed by chapter 20, title 1, Idaho Code, and in addition to the fee levied by chapter 2, title 73, Idaho Code, shall charge, demand and receive the following fees for services rendered by him in discharging the duties imposed upon him by law;

(a) A fee of $289.00 for filing a civil case of any type in the district court or in the magistrate's division of the district court including cases involving the administration of decedents' estates, whether testate or intestate, and conservatorships of the person or of the estate or both with the following exceptions:

The filing fee shall be $67.00 in each case where the amount of money or damages or the value of personal property claimed does not exceed $300. The filing fee shall be $89.00 in the following types of cases:

(1) Where the amount of money or damages or the value of personal property claimed exceeds $300 but does not exceed $1,000;

(2) Where a case is brought for forcible or unlawful entry or detainer whether brought for rent or possession or both and regardless of the amount;

(3) Where a case is brought under chapter 20, title 16, Idaho Code, for the termination of parent-child relationship;

(4) Where a case is brought under chapter 2, title 32, Idaho Code, for permission to marry;

(5) Where a case involving the administration of a decedent's estate is brought under the Summary Administration of Small Estates Act;

(6) In cases where a court order is issued only for a certain specific reason other than the administering of an estate, including but not limited to proceedings brought under sections 14-114, 15-514, 15-1401, 15-1518 and/or 15-1709, Idaho Code, or for some specific reason;

(7) In cases brought to determine heirship without administration;

(8) In cases brought to determine inheritance or transfer tax;

(9) In proceedings brought for adoption;

(10) In proceedings brought for letters of guardianship of the person or of the estate or both.

No filing fee shall be charged in the following types of cases:

(1) In cases brought under chapter 3, title 66, Idaho Code, for commitment of mentally ill persons;

(2) In cases brought under the Youth Rehabilitation Act;

(3) In cases brought under the Child Protective Act.

In all cases in which a filing fee of $289.00 is paid, $17.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $112.00 of such filing fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account. In all cases in which a filing fee of $89.00 is paid, $4.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $45.00 of such filing fee shall be paid to the county treasurer who shall within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account. In all cases in which a filing fee of $67.00 is paid, $3.00 of such filing fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $34.00 of such filing fee shall be paid to the county treasurer who shall within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account.

(b) A fee of $12.50 shall be paid, but not in advance, by each person found guilty of any felony or misdemeanor, or found to have committed an infraction or any minor traffic, conservation or ordinance violation except when the court orders such fee waived because the person is indigent and unable to pay such fee; provided, however, that the judge or magistrate may in his discretion consolidate separate nonmoving traffic offenses into one (1) offense for purposes of assessing such fee. If the magistrate court facilities are provided by the county, $5.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $67.50 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account. If the magistrate court facilities are provided by a city, $5.00 of such fee shall be paid to the city treasurer for deposit in the city general fund, $2.50 of such fee shall be paid to the city treasurer for deposit in the city capital facilities fund for the construction, remodeling and support of magistrates court facilities, and $45.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account.

(c) A fee of $89.00 shall be paid by any party, except the plaintiff, making an appearance in any civil action in the district court or in the magistrate's division of the district court. Of such fee, $4.00 shall be paid to the county treasurer for deposit in the district court fund of the county; and $45.00 of such fee shall be paid to the county treasurer who shall within five (5) days after the end of the month pay such fees to the state treasurer for deposit in the state general account.

(d) A fee of $7.00 shall be paid by the person or persons required to make an account pursuant to either chapter 11 or chapter

18, title 15, Idaho Code, at the time such account is filed. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(e) A fee of $134.00 shall be paid upon the filing of a petition of the executor or administrator or of any person interested in an estate for the distribution of such estate, $6.00 of such fee shall be paid to the county treasurer for deposit in the district court fund of the county; and $78.00 of such fee shall be paid to the county treasurer who shall, within five (5) days after the end of the month, pay such fees to the state treasurer for deposit in the state general account.

(f) A fee of $5.00 shall be paid by an intervenor upon making an appearance in any civil action in the district court or in the magistrate's division of the district court. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(g) A fee of $6.00 shall be paid by a party filing a third party claim as defined in the Idaho Rules of Civil Procedure. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(h) A fee of $6.00 shall be paid by any party filing a cross-claim. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(i) A fee of $7.00 shall be paid by a party initiating a change of venue. Such fee shall be paid to the clerk of the court of the county to which venue is changed. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(j) A fee of $7.00 shall be paid by any party appearing after judgment or applying to reopen a case. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(k) A fee of $7.00 shall be paid by a party taking an appeal from the magistrate's division of the district court to the district court. No additional fee shall be required if a new trial is granted. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(l) A fee of $7.00 shall be paid by the party taking an appeal from the district court to the Supreme Court for comparing and certifying the transcript on appeal, if such certificate is required. All of such fee shall be paid to the county treasurer for deposit in the district court fund of the county.

(m) Fees not covered by this section shall be set by rule or administrative order of the Supreme Court.

(n) All fees required to be paid by this section or by rule or administrative order of the Supreme Court shall be collected by the clerk of the district court or by a person appointed by the clerk of the district court for this purpose. If it appears that there is a necessity for such fees to be collected by persons other than the clerk of the district court or a person designated by the clerk for such purpose, the Supreme Court by rule or administrative order may provide for the designation of persons authorized to receive such fees. Persons so designated shall account for such fees in the same

manner required of the clerk of the district court and shall pay such fees to the clerk of the district court of the county in which such fees are collected.

(o) That portion of the filing fees required to be remitted to the state treasurer for deposit in the state general account shall be remitted within five (5) days after the end of the month in which such fees were remitted to the county treasurer. That portion of the filing fees required to be remitted to a city treasurer for deposit in the city's general fund shall be remitted within five (5) days after the end of the month in which such fees were remitted to the county treasurer.

(p) In consideration of the aforesaid fees the clerk of the district court shall be required to perform all lawful service that may be required of him by any party thereto; provided, that he shall not prepare and furnish any certified copy of any file or record in an action except printed transcript on appeal, without additional compensation as provided by law.

SECTION 2. That Section 1-402, Idaho Code, be, and the same is hereby amended to read as follows:

1-402. FEES. The clerk of the Supreme Court shall charge, demand and receive the following fees for services rendered in discharging the duties imposed upon him by law:

For filing an appeal in each civil case appealed to the Supreme Court, sixty-~~two~~three dollars ($6~~2~~3.00), to be paid by appellant or cross-appellant, such fee to be in full for all services rendered or to be rendered in filing papers, entering orders or judgments, recording opinion, issuing process and sending down remittitur, unless after the decision of the court has been rendered a petition for rehearing be presented, when a fee of fifty-~~five~~six dollars ($55~~6~~.00) shall be paid by the petitioner for filing such petition; for filing an application for any writ commencing an original action in said court, other than writs in habeas corpus or criminal proceedings, sixty-one dollars ($6~~0~~1.00), to be paid by the party presenting the application, in full for all services rendered or to be rendered, as hereinbefore designated, unless after the decision of the court a petition for rehearing be presented, when a fee of fifty-~~five~~six dollars ($55~~6~~.00) shall be paid by the petitioner for filing such petition, for each certificate given at request, and under seal, fifty cents (50¢); for copy of record, opinion of the court or other paper, an amount to be set by order of the Supreme Court, but an amount not less than the actual cost of preparing the copy; providing, that one (1) copy of every opinion or decision of the court shall be forthwith mailed to each litigant or his counsel in the suit or proceeding free of charge; for certificate of admission as an attorney including seal, oath and order, two dollars ($2.00); for administering oaths or affirmations, including jurat, twenty-five cents (25¢); for taking an acknowledgment or proof of a deed or other instrument, including seal and writing of the certificate, fifty cents (50¢).

Approved March 7, 1985.

CHAPTER 29
(H.B. No. 118)

AN ACT

RELATING TO THE QUALIFICATIONS AND SALARIES OF JUDGES AND MAGISTRATES; AMENDING SECTION 1-201, IDAHO CODE, TO ELIMINATE LANGUAGE CONFLICTING WITH THE STATE CONSTITUTION AND TO PROVIDE THAT THE CHIEF JUSTICE SHALL RECEIVE AN ANNUAL SALARY IN AN AMOUNT OF ONE THOUSAND FIVE HUNDRED DOLLARS GREATER THAN THE ANNUAL SALARY OF THE OTHER JUSTICES OF THE SUPREME COURT; AMENDING SECTION 1-703, IDAHO CODE, TO PROVIDE THAT THE ADMINISTRATIVE JUDGE SHALL RECEIVE AN ANNUAL SALARY IN AN AMOUNT OF ONE THOUSAND FIVE HUNDRED DOLLARS GREATER THAN THE ANNUAL SALARY OF A DISTRICT JUDGE; AMENDING SECTION 1-2102, IDAHO CODE, TO PROVIDE THAT THE JUDICIAL COUNCIL SHALL SUBMIT ONLY THE NAMES OF THOSE QUALIFIED PERSONS WHO ARE ELIGIBLE TO STAND FOR ELECTION FOR VACANCIES IN THE OFFICE OF JUSTICE, COURT OF APPEALS JUDGE, OR DISTRICT JUDGE; AMENDING SECTION 1-2222, IDAHO CODE, TO PROVIDE A SCHEDULE FOR ATTORNEY MAGISTRATE SALARIES DEPENDING ON THE NUMBER OF YEARS OF ADMISSION TO PRACTICE AS AN ATTORNEY AND YEARS OF SERVICE AS A MAGISTRATE, AND TO INCREASE THE BASE ANNUAL SALARY FOR NONATTORNEY MAGISTRATES AND TO INCREASE THE MAXIMUM ANNUAL SALARY FOR NONATTORNEY MAGISTRATES; AMENDING SECTION 1-2404, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL BE APPOINTED OR ELECTED TO THE OFFICE OF JUDGE OF THE COURT OF APPEALS UNLESS HE SHALL HAVE BEEN ADMITTED TO THE PRACTICE OF LAW FOR AT LEAST TEN YEARS PRIOR TO TAKING OFFICE AND IS ADMITTED TO PRACTICE LAW IN THE STATE OF IDAHO; AMENDING SECTION 34-615, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL BE ELECTED TO THE OFFICE OF JUSTICE OF THE SUPREME COURT UNLESS HE SHALL HAVE BEEN ADMITTED TO THE PRACTICE OF LAW FOR AT LEAST TEN YEARS PRIOR TO TAKING OFFICE AND IS ADMITTED TO PRACTICE LAW IN THE STATE OF IDAHO; AMENDING SECTION 34-616, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL BE ELECTED TO THE OFFICE OF JUDGE OF THE DISTRICT COURT UNLESS HE SHALL HAVE BEEN ADMITTED TO THE PRACTICE OF LAW FOR AT LEAST TEN YEARS PRIOR TO TAKING OFFICE AND IS ADMITTED TO PRACTICE LAW IN THE STATE OF IDAHO; AMENDING SECTION 59-502, IDAHO CODE, TO ADJUST THE SALARIES OF JUDGES; AND PROVIDING AN EFFECTIVE DATE AND EXPRESSING THE INTENT OF THE LEGISLATURE TO PROVIDE AN EXCEPTION FOR JUDGES CURRENTLY HOLDING OFFICE.

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

SECTION 1. That Section 1-201, Idaho Code, be, and the same is hereby amended to read as follows:

1-201. CONSTITUTION OF COURT. The Supreme Court consists of five (5) justices, a majority of whom shall be necessary to make a quorum or pronounce a decision. The justices of the Supreme Court shall be

elected by the electors of the state at large. The terms of office of said justices shall be six (6) years. The ~~justice having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be chief justice, and shall preside at all terms of the Supreme Court, and, in the case of his absence, the justice having in like manner the next shortest term to serve shall preside in his stead~~ chief justice shall receive an annual salary in an amount of one thousand five hundred dollars ($1,500) greater than the annual salary of the justices of the Supreme Court to compensate for the additional constitutional and statutory duties of the office.

SECTION 2. That Section 1-703, Idaho Code, be, and the same is hereby amended to read as follows:

1-703. JURISDICTION OF JUDGES WHERE MORE THAN ONE -- ADMINISTRATIVE JUDGE. Where there is more than one (1) judge in any district, the jurisdiction of the respective judges of said district shall be equal and coextensive with the boundaries of the district. In each judicial district there shall be an administrative judge elected by a majority of the other district judges within the district to serve for such term as the other district judges delegate. In the event a majority of the district judges cannot agree as to who shall be the administrative judge, then the appointment of the administrative judge shall be by a majority of the Idaho Supreme Court justices for a term not to exceed two (2) years. The administrative judge is hereby granted all powers and duties heretofore or hereafter granted to the senior district judge, and the administrative judge shall apportion the business of such district among such judges as equally as may be, but any judge shall have full power to hold terms of court, transact judicial business, make orders, grant or refuse writs and generally exercise all the powers of a district judge without the concurrence of the other judge or judges. The administrative judge shall receive an annual salary in an amount of one thousand five hundred dollars ($1,500) greater than the annual salary of a district judge to compensate for the additional duties of the office.

SECTION 3. That Section 1-2102, Idaho Code, be, and the same is hereby amended to read as follows:

1-2102. DUTIES OF COUNCIL. The judicial council shall:

(1) Conduct studies for the improvement of the administration of justice;

(2) Make reports to the Supreme Court and legislature at intervals of not more than two (2) years;

(3) Submit to the governor the names of not less than two (2) nor more than four (4) qualified persons for each vacancy in the office of justice of the Supreme Court, judge of the court of appeals, or district judge, one (1) of whom shall be appointed by the governor; provided, that the council shall submit only the names of those qualified persons who are eligible to stand for election pursuant to section 1-2404, 34-615, or 34-616, Idaho Code;

(4) Recommend the removal, discipline and retirement of judicial

officers; and,

(5) Such other duties as may be assigned by law.

SECTION 4. 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:~~ for an attorney magistrate whose combined years of admission to practice as an attorney and years of service as a magistrate are less than ten (10) years, the annual salary shall be eighty percent (80%) of the annual salary of a district judge; for an attorney magistrate whose combined years of admission to practice as an attorney and years of service as a magistrate are more than ten (10) years but less than fifteen (15) years, the annual salary shall be eighty-five percent (85%) of the annual salary of a district judge; for an attorney magistrate whose combined years of admission to practice as an attorney and years of service as a magistrate are more than fifteen (15) years, the annual salary 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~~ 28,000
Nonattorney Magistrate Judge II	3,000 to 4,500 cases	~~21,500~~ 25,000
Nonattorney Magistrate Judge III	1,750 to 3,000 cases	~~18,500~~ 22,000
Nonattorney Magistrate Judge IV	under 1,750 cases	~~15,000~~ 18,000

(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 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, commencing on July 1, 1985, and until June 30, 1986, no nonattorney magistrate shall receive an annual salary of more than ~~twenty-nine--thousand--six hundred-eighty-dollars~~ thirty-two thousand five hundred ninety dollars (~~$29,680~~32,590), and commencing on July 1, 1986, no nonattorney magistrate shall receive an annual salary of more than thirty-five thousand five hundred dollars ($35,500).

(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 5. That Section 1-2404, Idaho Code, be, and the same is hereby amended to read as follows:

1-2404. NUMBER OF JUDGES -- QUALIFICATIONS -- CONDUCT AND DISCIPLINE -- TERM -- SELECTION -- ELECTION -- COMPENSATION. (1) The court of appeals shall consist of three (3) judges, and shall sit in panels of not less than three (3) judges each.

(2) No person shall be appointed or elected to the office of judge of the court of appeals unless he has attained the age of thirty (30) years at the time of his appointment or election, is a citizen of the United States, ~~is~~ shall have been admitted to the practice of law ~~within--this-state~~ for at least ten (10) years prior to taking office,

and is admitted to practice law in the state of Idaho, and has resided within this state two (2) years next preceding his appointment or election.

(3) A judge of the court of appeals shall be governed by the code of judicial conduct as promulgated by the Idaho supreme court, and shall be subject to removal, discipline, or retirement pursuant to section 1-2103, Idaho Code.

(4) (a) Judges of the court of appeals shall be appointed by the governor effective the first Monday of January, 1982, for the following initial terms: one (1) judge shall be appointed for a term to expire on the first Monday of January, 1985, one (1) judge shall be appointed for a term expiring two (2) years later, and one (1) judge shall be appointed for a term expiring two (2) further years later. Thereafter, the term of office of a judge of the court of appeals shall be six (6) years, except that no judge of the court of appeals shall serve beyond the limits set forth in section 1-2007, Idaho Code.

(b) Vacancies in the office of judge of the court of appeals shall be filled in the same manner as vacancies in the office of supreme court justice or district judge.

(c) The positions of judges of the Idaho court of appeals shall first be filled as vacancies. The judicial council shall submit to the governor its recommendations for the offices at the earliest practicable time after the effective date of this act. The governor may make the appointment at any time thereafter, to be effective the first Monday of January, 1982, for the terms set forth in section 1-2404(4)(a), Idaho Code.

(d) In making its nominations for the initial vacancies to be created by this act, the Idaho judicial council shall submit the names of not less than six (6) nor more than nine (9) qualified persons for the initial three (3) vacancies to be created by this act. Otherwise, the judicial council shall submit the names of not less than two (2) nor more than four (4) persons for each vacancy. The governor shall appoint the judges, identifying each appointment by the length of the term of appointment.

(e) Nominations and appointments to fill initial or subsequent vacancies shall be made with due regard for balanced geographical membership of the court of appeals.

(f) Subsequent terms of office of a judge who has been appointed to the court of appeals shall be subject to a statewide nonpartisan election to be held in the primary election next preceding the expiration of an appointed term in the same method and manner as a justice of the supreme court.

(5) Judges of the court of appeals shall receive an annual salary in an amount one thousand dollars ($1,000) less than the annual salary of a supreme court justice and shall receive compensation upon retirement as provided in chapter 20, title 1, Idaho Code.

SECTION 6. That Section 34-615, Idaho Code, be, and the same is hereby amended to read as follows:

34-615. ELECTION OF JUSTICES OF THE SUPREME COURT -- QUALIFICA-

TIONS. (1) At the primary election, 1972, and every alternate year thereafter, subject to the provisions of section 34-1217, Idaho Code, there shall be elected justices of the Supreme Court to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members.

(2) No person shall be elected to the office of justice of the Supreme Court unless he has attained the age of thirty (30) years at the time of his election, is a citizen of the United States, ~~is~~ shall have been admitted to the practice of law ~~within this state~~ for at least ten (10) years prior to taking office, and is admitted to practice law in the state of Idaho, and has resided within this state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state. Each declaration shall have attached thereto a petition which shall contain the signatures of one thousand (1000) qualified electors.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of one hundred fifty dollars ($150) which shall be deposited in the general fund.

SECTION 7. That Section 34-616, Idaho Code, be, and the same is hereby amended to read as follows:

34-616. ELECTION OF DISTRICT JUDGES -- QUALIFICATIONS. (1) At the primary election, 1974, and every four (4) years thereafter, subject to the provisions of section 34-1217, Idaho Code, there shall be elected in each judicial district a sufficient number of district judges to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members.

(2) No person shall be elected to the office of judge of the district court unless he has attained the age of thirty (30) years at the time of his election, is a citizen of the United States, ~~is~~ shall have been admitted to the practice of law ~~within this state~~ for at least ten (10) years prior to taking office, and is admitted to practice law in the state of Idaho, and shall have resided within the judicial district one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state. Each declaration shall have attached thereto a petition which shall contain the signatures of two hundred (200) qualified electors which reside within the judicial district.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of seventy-five dollars ($75.00) which shall be deposited in the general fund.

SECTION 8. That Section 59-502, Idaho Code, be, and the same is hereby amended to read as follows:

59-502. SALARIES OF JUDGES. Commencing on July 1, 1985, and until June 30, 1986, t~~T~~he salary of the justices of the Supreme Court shall be ~~forty-seven~~ fifty-four thousand ~~three~~ seven hundred and seventy dollars ($~~47,300~~54,770) per annum, and the salary of the judges of the district courts shall be ~~forty-five~~ fifty-one thousand ~~three~~ seven

hundred and twenty dollars (~~$45,300~~51,720) per annum. Commencing on July 1, 1986, the salary of justices of the Supreme Court shall be fifty-nine thousand seven hundred fifty dollars ($59,750) per annum, and the salary of judges of the district court shall be fifty-six thousand dollars ($56,000) per annum. Salaries of magistrates shall be as prescribed by chapter 22, title 1, Idaho Code. Salaries shall be paid on regular pay periods not less frequently than monthly as determined by order of the Supreme Court as due out of the state treasury, but no justice of the Supreme Court or judge of the district court or magistrate shall be paid his salary, or any part thereof, unless he shall first take and subscribe an oath that there is not in his hands any matter in controversy not decided by him, which has been finally submitted for his consideration and determination thirty (30) days prior to his taking and subscribing said oath.

SECTION 9. This act shall be in full force and effect on and after July 1, 1985; provided that notwithstanding the provisions of sections 3, 4, 5 and 6 of this act, it is the intent of the legislature that the provisions of this act requiring that persons be admitted to the practice of law within this state for at least ten years prior to taking office, shall not apply to justices or judges holding office on the effective date of this act, nor prohibit them from seeking election, reelection or appointment to the office of supreme court justice, court of appeals judge, or district judge, as provided by law.

Approved March 7, 1985.

CHAPTER 30
(H.B. No. 256)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

FROM:

General Account	$9,017,400
Interagency Billing and Receipts Account	77,800
TOTAL	$9,095,200

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 the Supreme Court may upgrade nonlawyer magistrate positions to lawyer magistrate positions based on factors of need, including case load, county population, numbers of resident attorneys, circuit coverage from other counties and consolidation of positions, subject to appropriation by the Legislature.

Approved March 7, 1985.

CHAPTER 31
(H.B. No. 174)

AN ACT

RELATING TO THE CHILDREN'S TRUST ACCOUNT BOARD; PROVIDING LEGISLATIVE INTENT; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 60, TITLE 39, IDAHO CODE, TO CREATE THE CHILDREN'S TRUST ACCOUNT AND THE CHILDREN'S TRUST ACCOUNT BOARD AND TO PROVIDE MEMBERS OF THE BOARD, TO PROVIDE POWERS AND DUTIES OF THE CHILDREN'S TRUST ACCOUNT BOARD, TO PROVIDE CRITERIA FOR PROGRAMS FUNDED BY THE CHILDREN'S TRUST ACCOUNT, TO PROVIDE FACTORS TO BE CONSIDERED IN THE AWARD OF CONTRACTS, TO PROVIDE FOR MATCHING FUNDS, TO PROVIDE FOR REPORTS, TO CREATE THE CHILDREN'S TRUST ACCOUNT IN THE AGENCY ASSET FUND AND PROVIDE FOR EXPENDITURES OF MONEY FROM THE ACCOUNT, AND TO PROVIDE DUTIES OF THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 63-3067, IDAHO CODE, TO PROVIDE THAT CERTAIN MONEYS IN THE STATE REFUND ACCOUNT MAY BE PLACED IN CHILDREN'S TRUST ACCOUNT; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3067D, IDAHO CODE, TO PROVIDE THAT INDIVIDUALS MAY DESIGNATE A PORTION OF THEIR INCOME TAX REFUND OR IN THE CASE OF A TAX LIABILITY DONATE AN AMOUNT IN EXCESS OF THE LIABILITY TO BE PLACED IN THE CHILDREN'S TRUST ACCOUNT.

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

SECTION 1. The legislature hereby declares that the children of the state of Idaho are its single greatest resource and that these children require the utmost protection to guard their future and the future of the state. The legislature recognizes that child abuse and neglect is a threat to the family unit and imposes major expenses on society. The legislature further declares that there is a need to assist private and public agencies in identifying and establishing community-based educational and service programs for the prevention of child abuse and neglect. It is the intent of the legislature that an increase in prevention programs will help break the cycle of child abuse and will help reduce the breakdown in families and thus reduce the need for state intervention and state expenses. It is further the intent of the legislature that prevention of child abuse and child neglect programs are partnerships between communities, citizens, and the state.

SECTION 2. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 60, Title 39, Idaho Code, and to read as follows:

CHAPTER 60
CHILDREN'S TRUST ACCOUNT

39-6001. CHILDREN'S TRUST ACCOUNT BOARD -- CREATION. (1) There is hereby created within the department of health and welfare a children's trust account and a children's trust account board to administer the children's trust account.

(2) The children's trust account board shall consist of a chairperson and nine (9) other members as follows:

(a) The chairperson and six (6) other members of the board shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. There shall be one (1) board member appointed from each of the seven (7) judicial districts of the state as enumerated in chapter 8, title 1, Idaho Code. Members shall be appointed to serve for three (3) year terms except that the chairperson and three (3) other members shall initially serve for four (4) years. Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The superintendent of public instruction, the attorney general, and the director of the department of health and welfare or their designees shall be members and shall serve as voting members of the children's trust account board.

(3) A quorum of the children's trust account board shall consist of a majority of its members which quorum must be present in order to conduct any business.

(4) The chairperson of the children's trust account board shall have no vote except in the event of a tie vote of a quorum of the members of the board.

(5) Board members shall be compensated as provided in section 59-509(b), Idaho Code.

(6) Members of the children's trust account board may be removed by the governor for misconduct or failure to carry out the duties provided in this chapter.

39-6002. CHILDREN'S TRUST ACCOUNT BOARD — POWERS AND DUTIES. (1) To carry out the purposes of this chapter, the children's trust account board may:

(a) Contract with public or private nonprofit organizations, agencies, schools or with qualified individuals for the establishment of community-based educational and service programs designed to reduce the occurrence of child abuse and neglect. Each contract entered into by the board shall contain a provision for the evaluation of services provided under the contract. Contracts for services to prevent child abuse and child neglect may be awarded to existing programs and to demonstration projects. Continuation of contracts shall be based upon goal attainment.

(b) Facilitate the exchange of information between groups concerned with families and children.

(c) Consult with state departments, agencies, commissions and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect.

(d) The children's trust account board may adopt rules and regulations pursuant to chapter 52, title 67, Idaho Code, to carry out the provisions of this chapter.

39-6003. CRITERIA FOR PROGRAMS. (1) Programs contracted for under this chapter are intended to provide prevention services. "Prevention services" mean any community-based educational or service program designed to prevent or alleviate child abuse or neglect. "Prevention services" shall not include direct treatment programs.

(2) The children's trust account board shall develop policies to determine whether programs will receive renewed funding. Nothing in this chapter shall be construed to require continued funding by the state of Idaho or the children's trust account board.

39-6004. CONSIDERATION IN AWARD OF CONTRACTS. In awarding contracts pursuant to section 39-5502, Idaho Code, consideration shall be given to factors such as need, coordination with or enhancement of existing services, and evidence of community support or volunteers for the program.

39-6005. MATCHING FUNDS. The children's trust account board, in its discretion, may require a certain percentage of the funding for programs approved by the board be provided by the entity sponsoring or proposing the program. Contributions such as materials, personnel, supplies, physical facilities or services may be considered as all or part of the funding provided by the petitioning entity.

39-6006. REPORTS. Each year the children's trust account board shall make a report to the governor and the legislature concerning the board's activities and the effectiveness of those activities in

fostering the prevention of child abuse and neglect. The report shall be made on or before December 15 of each year.

39-6007. CHILDREN'S TRUST ACCOUNT -- CREATION. (1) There is hereby created an account in the agency asset fund in the state treasury to be designated the children's trust account.

(2) The account shall consist of;

(a) Moneys appropriated to the account;

(b) Moneys as provided in section 63-3067D, 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 expended for purposes provided in this chapter, provided that the children's trust account advisory board is authorized to expend up to fifty percent (50%) of the moneys generated annually pursuant to section 63-3067D, Idaho Code. Interest earned on the investment of idle money in the children's trust account shall be returned to the children's trust account.

(4) Disbursements of moneys from the account shall be on the authorization of the children's trust account board or a duly authorized representative of the board.

39-6008. DUTIES OF DEPARTMENT OF HEALTH AND WELFARE. The department of health and welfare under the direction of the children's trust account board shall be responsible for the management and accounting of moneys expended from the children's trust account.

SECTION 3. That Section 63-3067, Idaho Code, be, and the same is hereby amended to read as follows:

63-3067. REVENUE RECEIVED -- STATE REFUND ACCOUNT. All moneys, except as hereinafter provided, received by the state of Idaho under this act shall be deposited by the state tax commission, as received by it, with the state treasurer and shall be placed in and become a part of the general account under the custody of the state treasurer. Providing however, that an amount equal to twenty per cent (20%) of the amount deposited with the state treasurer shall be placed in the "state refund account" which is hereby created for the purpose of repaying overpayments made under this act, for the purpose of depositing in the fish and game trust account, such amounts as may be designated by individuals receiving refunds for such overpayment, for the purpose of depositing in the United States olympic account created by section 63-3067B, Idaho Code, an amount not exceeding five dollars ($5.00), as may be designated by the individual receiving a refund for such overpayment, for the purpose of depositing in the drug enforcement donation account, such amounts as may be designated by individuals receiving refunds for such overpayment, for the purpose of depositing in the children's trust account, such amounts as may be designated by individuals receiving refunds for such overpayment and for the purpose of paying any other erroneous receipts illegally assessed or collected, penalties collected without authority and taxes and licenses unjustly assessed, collected or which are excessive in amount, where the proceeds of such collection, tax, license or receipt

are credited to the general account; and provided further that whenever necessary for the purpose of making prompt payment of refunds, the board of examiners, upon request from the state tax commission, and after review, may authorize the state tax commission to transfer any additional specific amount from income tax collections to the "state refund account." There is hereby appropriated out of the state refund account so much thereof as may be necessary for the payment of the refunds herein provided for. No appropriation is made hereunder for refunds for gasoline tax or licenses, taxes, penalties, collections or any other payment, the proceeds of which go into an account or fund other than the general account. Claims for, and payment of refunds under the provisions of this section shall be made in the same manner as other claims against the state of Idaho.

Any unencumbered balance remaining in the state refund account on June 30 of each and every year in excess of the sum of four hundred thousand dollars ($400,000) shall be transferred to the general account and the state auditor is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

SECTION 4. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3067D, Idaho Code, and to read as follows:

63-3067D. DESIGNATION BY INDIVIDUALS -- CHILDREN'S TRUST ACCOUNT. (a) Beginning with tax year 1985, every individual who has a refund due and payable for overpayment of taxes under this chapter may designate all or any portion thereof to be deposited in the children's trust account which is created in section 39-6007, Idaho Code.

(b) Beginning with tax year 1985, every individual who has an income tax liability may, in addition to his tax obligation, include a donation to be deposited with the state treasurer which shall be placed in the children's trust account.

(c) A designation under subsection (a) or (b) of this section may be made in any taxable year in such manner as may be prescribed by the state tax commission. The manner and form so prescribed shall be a conspicuous portion of the principal form provided for the purpose of individual taxation.

(d) No less than quarterly, the tax commission shall transfer the moneys collected from contributing individuals pursuant to subsection (a) or (b) of this section to the children's trust account.

(e) Prior to transfer of money into the children's trust account from the refund account established under section 63-3067, Idaho Code, the state tax commission shall retain sufficient funds for the commission's direct actual cost of the collection and administration of these children's trust account moneys.

(f) After a total of two million five hundred thousand dollars ($2,500,000) has been distributed to the children's trust account, the provisions of this section shall no longer be of any force and effect and the state tax commission shall delete the provisions required by

subsections (a), (b) and (c) from its tax forms.

Approved March 7, 1985.

CHAPTER 32
(H.B. No. 231)

AN ACT

RELATING TO THE THEFT OF TELECOMMUNICATION SERVICES; AMENDING SECTION 18-6713, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL TO USE OR POSSESS ILLEGAL TELECOMMUNICATIONS EQUIPMENT, TO PROVIDE FOR THE CRIME OF THEFT OF TELECOMMUNICATIONS SERVICES, TO PROVIDE EXCEPTIONS, TO PROVIDE PENALTIES, TO PROVIDE CONDITIONS FOR ESTABLISHING INTENT, TO PROVIDE FOR CIVIL DAMAGES, AND TO EXEMPT PRIVATELY USED SATELLITE DISHES.

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

SECTION 1. That Section 18-6713, Idaho Code, be, and the same is hereby amended to read as follows:

18-6713. THEFT OF TELECOMMUNICATION SERVICES. (1) As used in this section:

(a) "Illegal telecommunications equipment" means any instrument, apparatus, equipment, or device which is designed or adapted, and otherwise used or intended to be used for the theft of any telecommunication service or for concealing from any supplier of telecommunication service or lawful authority the existence, place of origin, use or destination of any telecommunication.

(b) "Telecommunication service" means a service which, in exchange for a pecuniary consideration, provides or offers to provide transmission of messages, signals, facsimiles, video images or other communication between persons who are physically separated from each other by means of telephone, telegraph, cable, wire, or the projection of energy without physical connection.

(2) It is unlawful~~, knowingly,~~ intentionally to:

(a) Make~~, possess, or use~~ illegal telecommunications equipment; or

(b) Sell, give, or furnish to another or advertise or offer for sale illegal telecommunications equipment; or

(c) Sell, give, or furnish to another or advertise or offer for sale any plans or instructions for making, assembling, or using illegal telecommunications equipment or;

(d) Use or possess illegal telecommunications equipment.

~~(3) A person who violates subsection (2) of this section commits a misdemeanor and shall be punished by a fine not to exceed five hundred dollars ($500) or by imprisonment in the county jail for a term not to exceed six (6) months, or by both such fine and imprisonment.~~ It is theft of telecommunications services to use, receive, or control

telecommunications services without paying the pecuniary consideration regularly charged by the supplier of the telecommunication services used, received or controlled.

(a) Provided, however, it is not theft if the supplier of the telecommunications services has actual knowledge that a person is using, receiving, or controlling the services and permits such use, reception, or control to continue.

(4) A person who violates the provisions of subsections (2)(d) or (3) of this section commits a crime and shall be punished as follows:

(a) The first conviction shall be a misdemeanor, which shall be punished by a fine not to exceed three hundred dollars ($300) or by imprisonment in the county jail for a term not to exceed six (6) months, or by both such fine and imprisonment.

(b) Conviction of a second or subsequent violation shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment.

(5) A person who violates the provisions of either subsections (2)(a), (b) or (c) of this section commits a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000). or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment.

(~~4~~6) In a prosecution for ~~theft of telecommunications services,~~ violation of the provisions of subsection (2) or (3) of this section, the element of intent may be established by proof that the defendant obtained such services by any of the following means:

(a) By use of a code, prearranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information;

(b) ~~By installing, rearranging, or tampering with any facilities or equipment, whether~~ Without the consent of the supplier of the telecommunication services, the installation, connection, or alteration of any equipment, cable, wire, antenna or facilities capable of either physically, inductively, acoustically, or electronically enabling a person to use, receive or control telecommunication services without paying the regular pecuniary charge;

(c) By any other trick, stratagem, impersonation, false pretense, false representation, false statement, contrivance, device, or means; or

(d) By making, assembling, or possessing any instrument, apparatus, equipment, or device or the plans or instructions for the making or assembling of any instrument, apparatus, equipment, or device which is designed, adapted, or otherwise used or intended to be used to avoid the lawful charge, in whole or in part, for any telecommunications service by concealing the use, existence, place of origin, or destination of any telecommunications.

(7) The supplier of telecommunication services which is directly affected by the commission of any of the acts prohibited under subsections (2) and (3) of this section shall, regardless of whether there was a criminal conviction, have a civil cause of action against the person who commits any of the prohibited acts. The prevailing party

shall be awarded all reasonable costs of litigation, including but not limited to, attorney's fees and court costs. If the supplier prevails, he shall recover additionally:

(a) Actual damages; or

(b) Liquidated damages of ten dollars ($10.00) per day for each day of the violation or five hundred dollars ($500), whichever is greater; or

(c) If actual damages are greater than five hundred dollars ($500), and, if proven, punitive damages.

(8) Nothing in this section shall be construed to make unlawful the interception or receipt by any person or the assisting, including the manufacture or sale, of such interception or receipt, of any satellite cable programs for private viewing as defined and specifically permitted under the Cable Communications Policy Act of 1984.

Approved March 11, 1985.

CHAPTER 33
(H.B. No. 6)

AN ACT

RELATING TO THE DISTRIBUTION OF CERTAIN FUELS TAX REVENUES; AMENDING SECTION 63-2412, IDAHO CODE, TO PROVIDE A NEW DISTRIBUTION FLOW FOR GASOLINE AND AIRCRAFT ENGINE FUEL TAX REVENUES, AND TO STRIKE ERRONEOUS LANGUAGE; AMENDING SECTION 63-2418, IDAHO CODE, TO PROVIDE A NEW DISTRIBUTION FLOW FOR SPECIAL FUELS TAX REVENUE; DECLARING ALL TAX DISTRIBUTIONS UNDER SECTION 63-2414, IDAHO CODE, DURING FISCAL YEAR 1985 CONFIRMED AND APPROVED; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE FOR SECTION 1 OF THIS ACT.

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

SECTION 1. 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 the commission under the provisions of section 63-2409, Idaho Code, shall be ~~paid over to the state treasurer by the commission, to be~~ distributed periodically as follows:

(a) As soon as possible after the beginning of each fiscal year, ~~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~~ retained by the commission. The amount ~~transferred back to~~ retained by the com-

mission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (e) of this subsection on that date.

(b) An amount of money shall be transferred distributed to the gasoline state refund account, which--is-hereby-created in the dedicated trust and agency fund, sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the gasoline state refund account and sufficient amounts-to-pay those refunds moneys are hereby continuously appropriated for that purpose.

(c) At As soon as possible after the beginning of each fiscal year, the sum of one hundred thousand dollars ($100,000) shall be transferred distributed 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 As soon as possible after the beginning of each fiscal year, the sum of fifty thousand dollars ($50,000) shall be transferred distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-405B, 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.

(f) From the balance remaining with the state---treasurer commission after transferring distributing the amounts in paragraphs (a), (b), (c) and (d) of subsection (1) of this section:

1. One per cent (1%) shall be transferred distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code, until the distribution equals three hundred thousand dollars ($300,000), at which time the one percent (1%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code;

2. One per cent (1%) shall be transferred distributed to the off-road motor vehicle account as created in section 57-1901, Idaho Code, until the distribution equals three hundred thousand dollars ($300,000), at which time the one percent (1%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code; and

3. Ninety-eight per cent (98%) shall be transferred

distributed to the highway distribution account, created in section 40-405, 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~~ distributed to the ~~aircraft--engine--fuel--tax~~ state refund account, ~~which is hereby created~~ in the ~~dedicated~~ trust and agency fund, sufficient to pay current refund claims. All refunds authorized by the commission to be paid shall be paid from the ~~aircraft-engine-fuel-tax~~ state refund account, and ~~sufficient amounts to pay~~ those ~~refunds~~ moneys 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~~ distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 2. 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 the commission under the provisions of section 63-2438, Idaho Code, shall be ~~paid to the state treasurer by the commission, to be~~ distributed periodically 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~~ retained by the commission. The amount ~~transferred--back~~ retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the special fuels tax requirements by the commission at the end of each fiscal year shall be distributed to the highway distribution account.

(2) An amount of money shall be ~~transferred~~ distributed to the ~~special--fuels~~ state refund account~~, which is hereby created~~ in the ~~dedicated~~ trust and agency fund, sufficient to pay current refund claims. All refunds ~~of special fuels taxes~~ authorized by the commision to be paid ~~by~~ under this chapter shall be paid from the ~~special fuels~~ state refund account, ~~the~~ those moneys being hereby continuously appropriated for that purpose.

(3) The balance remaining with the ~~state treasurer~~ commission after ~~transferring~~ distributing the amounts specified in subsections (1) and (2) of this section shall be ~~transferred~~ distributed to the highway distribution account, created in section 40-405, Idaho Code.

SECTION 3. All distributions of taxes collected under the provisions of section 63-2412, Idaho Code, made by the commission during fiscal year 1985 are hereby approved and confirmed.

SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, section 1 of this act shall be in full force and effect on and after its passage and approval, and retroactively to July 1, 1984.

Approved March 11, 1985.

CHAPTER 34
(H.B. No. 13)

AN ACT
RELATING TO THE ASSESSMENT OF PROPERTY FOR TAX PURPOSES; REPEALING SECTION 63-2217, IDAHO CODE, RELATING TO ASSESSMENT RATIOS.

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

SECTION 1. That Section 63-2217, Idaho Code, be, and the same is hereby repealed.

Approved March 11, 1985.

CHAPTER 35
(H.B. No. 16)

AN ACT
RELATING TO THE EXEMPTION FROM SALES TAX FOR MOTOR FUELS; AMENDING SECTION 63-3622C, IDAHO CODE, TO EXTEND THE EXEMPTION TO THE SALE OR USE OF ANY FUEL UPON WHICH MOTOR FUELS TAXES HAVE BEEN PAID.

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

SECTION 1. That Section 63-3622C, Idaho Code, be, and the same is hereby amended 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, and purchases upon which motor fuels taxes have actually been paid.

Approved March 11, 1985.

CHAPTER 36
(H.B. No. 21, As Amended)

AN ACT

RELATING TO HIGHWAY FUNDS; AMENDING SECTION 20, CHAPTER 3, FIRST EXTRAORDINARY SESSION, LAWS OF 1983, TO CORRECT CODE CITATIONS FOR THE DISTRIBUTION OF CERTAIN MONEYS IN RELATION TO DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR INTOXICATING SUBSTANCES; AMENDING SECTION 49-101, IDAHO CODE, TO DEFINE UTILITY TRAILER AND DOMESTIC AND UTILITY USE; AND AMENDING SECTIONS 49-117, 49-128, 49-147 AND 49-695, IDAHO CODE, TO CORRECT CODE CITATIONS.

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

SECTION 1. That Section 20, Chapter 3, First Extraordinary Session, Laws of 1983, be, and the same is hereby amended to read as follows:

SECTION 20. It is legislative intent that any federal moneys that come to the state of Idaho as a result of the passage of this act, with its emphasis on the increased penalties for conviction of driving while under the influence, pursuant to the provisions of P.L. 97-364, shall be transferred, and distributed as follows, and any such amounts are hereby appropriated:

(1) One-third (1/3) of all such moneys shall be utilized by the department of law enforcement for traffic safety programs;

(2) One-third (1/3) of all such moneys shall be paid to the various counties, in the same manner as moneys are distributed to counties under the provisions of section 40-405~~(b)3~~,A(2)(c), Idaho Code, for traffic safety programs; and

(3) One-third (1/3) of all such moneys shall be paid to the various cities which maintain a city police force, in the same manner as moneys are distributed to cities under the provisions of section 40-405~~(a)~~A(1), Idaho Code, for traffic safety programs.

SECTION 2. 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 manufac-

turer 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. 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 semitrailers, 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.

kk. "Utility trailer" means a trailer or semitrailer where the 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.

ll. "Rental utility trailer" means a utility trailer offered for hire to the general public for private or commercial use.

mm. "Domestic and utility" 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.

SECTION 3. 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, 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 the registration plates shall be displayed upon another motor vehicle owned by the transferor, the transferor shall have that motor vehicle registered as provided for in section 49-107, Idaho Code. For 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 vehicle to be registered, the transferor shall pay a transfer fee of two dollars ($2.00). For vehicles registered in accordance with subsections (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 the transfer fee shall be placed in the county current expense fund.

b. The registration and use fee plates originally assigned to a motor vehicle registered under the provisions of section 49-127, 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 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 immediately surrendered to the department and the motor vehicle shall not be operated upon the highways of the state of Idaho until and unless the person entitled 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 the highways and upon displaying in plain sight upon 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 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 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 the motor vehicle.

SECTION 4. 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, 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 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 that report is made. Each report shall be cumulative of all miles traveled during all calendar months in that year for which 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 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 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. 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 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 the amount for each month or fraction thereof after the report was required to be filed or the fee became due, but the department if satisfied that the delay was excusable may remit all or any part of 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 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 section 49-127(ed), 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 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 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 a deposit or the reasonableness of the amount required. A hearing shall be granted and held within ten (10) days after the demand for 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 5. 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 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. Contract carriers included in ~~subsection hh. of~~ section 49-101hh., Idaho Code, and registered under the provisions of ~~subsection (a) of~~ section 49-127~~6~~(2), 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~~ sections 49-107b.(1) and ~~subsection (d)5. of section~~ 49-127(b), Idaho Code, shall be punished by a fine of not less than two hundred dollars ($200) nor more than three hundred dollars ($300).

SECTION 6. That Section 49-695, Idaho Code, be, and the same is hereby amended to read as follows:

49-695. 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_2) 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(b), 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.

Approved March 11, 1985.

CHAPTER 37
(H.B. No. 51)

AN ACT

RELATING TO FEES CHARGED FOR CONTROL OF ANIMAL DISEASES AND ANIMAL DAMAGE; AMENDING SECTION 25-232, IDAHO CODE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS, TO PROVIDE FOR AN ADDITIONAL FEE FOR ANIMAL DAMAGE CONTROL, AND TO PROVIDE FOR A LIMITATION ON EXPENSE REIMBURSEMENT FOR COLLECTION OF FEES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 25-232, Idaho Code, be, and the same is hereby amended to read as follows:

25-232. DISEASE AND ANIMAL DAMAGE CONTROL TAX LEVY AND FEES ON CATTLE, HORSES, AND MULES ~~AND HOGS. (a) There is hereby levied a tax not to exceed five (5) mills per dollar valuation on the assessed valuation of all cattle, horses, mules and hogs within the state of Idaho. Said tax shall be levied and assessed to and including December 31, 1971 and shall then expire.~~

~~(b)~~ There is hereby imposed upon cattle, horses, and mules in the state of Idaho a fee of ~~five cents (5¢) per head to be in effect on and after July 1, 1970 to and including June 30, 1971. On and after July 1, 1971, the amount of said fee shall be~~ fifteen cents (15¢) per head. Said fee shall be collected at the time of every brand inspection when a charge for brand inspection is made as required by law. Such fee when collected shall be paid by the person paying the charge for brand inspection and shall be used by the Idaho department of agriculture for livestock disease control. The state brand inspector shall collect said fees in addition to, at the same time and in the same manner~~,~~ as the fee collected for brand inspection. The fees so collected shall be deposited as provided in section 25-233, Idaho Code.

(b) In addition to the fee imposed in subsection (a) above, there is hereby imposed an additional fee of not to exceed five cents (5¢) per head upon the same livestock subject to the fee required in subsection (a). The amount of the additional fee shall be fixed by order of the state brand board upon the written recommendation of the Idaho cattle association. The fees collected under the provisions of this subsection (b) shall be paid quarterly to the state board of sheep commissioners. Pending payment to the board of sheep commissioners, the moneys shall be maintained in the brand recording account. Upon receipt of the actual amount of fees collected, the board of sheep commissioners shall immediately transmit the moneys to the board of directors of the animal damage control district from which the livestock for which the fee is imposed originated at the time of inspection. The provisions of section 67-3525, Idaho Code, shall not apply to the payment of moneys from the brand recording account to the sheep commission account, or from the sheep commission account to the animal damage control districts.

(c) The state brand inspector shall be reimbursed for the reasonable and necessary expenses incurred for ~~such~~ the collections required in this section, in an amount determined by the administrator of the division of animal industries and the inspector, but ~~which~~ the total of such expense reimbursement for the fees collected as required in subsections (a) and (b) of this section shall not exceed one cent (1¢) per head.

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 11, 1985.

CHAPTER 38
(H.B. No. 66)

AN ACT

RELATING TO WATER AND SEWER DISTRICTS; AMENDING SECTION 42-3217, IDAHO CODE, TO CHANGE THE TERM RESERVE FUND TO SINKING FUND, TO PROVIDE THAT THE BOARD OF DIRECTORS OF A WATER AND/OR SEWER DISTRICT MAY LEVY TAXES AND COLLECT REVENUE FOR THE PURPOSE OF CREATING A SINKING FUND AND TO PROVIDE LIMITATIONS FOR WHAT THE SINKING FUND MAY BE USED FOR.

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

SECTION 1. That Section 42-3217, Idaho Code, be, and the same is hereby amended to read as follows:

42-3217. SINKING FUND. Whenever any indebtedness has been incurred by a district, it shall be lawful for the board to levy taxes and collect revenue for the purpose of creating a ~~reserve~~ sinking fund in such amount ~~as-the-board-may-determine;-which-may-be-used-to-meet-the obligations-of-the-district;-for-maintenance-and-operating-charges-and depreciation;--and--provide--extensions--of--and--betterments--to--the improvements--of-the-district~~ sufficient to meet the payments of principal and interest on such indebtedness as the same matures, and to constitute a sinking fund for the payment of the principal amount of the indebtedness within thirty (30) years from the time of contracting the indebtedness evidenced thereby and in accordance with the provisions made for the payment of the principal and interest of such indebtedness and also to constitute a sinking fund for payment of the principal thereof, and theretofore provided by resolution pursuant to section 42-3222, Idaho Code, and as required by the constitution and laws of the state of Idaho. Such taxes shall be exempt from the limitation imposed by section 63-923(1), Idaho Code.

Approved March 11, 1985.

CHAPTER 39
(H.B. No. 106)

AN ACT

RELATING TO JUDICIAL DISTRICTS; AMENDING SECTION 1-804, IDAHO CODE, TO PROVIDE THAT ONE RESIDENT CHAMBERS OF THE DISTRICT COURT JUDGES OF THE THIRD JUDICIAL DISTRICT SHALL BE ESTABLISHED IN WASHINGTON OR PAYETTE COUNTY.

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

SECTION 1. That Section 1-804, Idaho Code, be, and the same is hereby amended to read as follows:

1-804. THIRD DISTRICT -- NUMBER OF JUDGES -- RESIDENT CHAMBERS. (1) The third judicial district shall consist of the counties of Adams, Washington, Payette, Gem, Canyon and Owyhee.

(2) The third judicial district shall have four (4) district judges.

(3) Resident chambers of the district judges of the third judicial district shall be established as follows:

(a) One (1) resident chambers shall be established in Washington ~~or Canyon~~ or Payette ~~or Gem~~ County.

(b) Three (3) resident chambers shall be established in Canyon County.

Approved March 11, 1985.

CHAPTER 40
(H.B. No. 110)

AN ACT

RELATING TO THE SPECIAL FUELS TAX; AMENDING SECTION 63-2401, IDAHO CODE, TO REDEFINE A BULK STORAGE TANK.

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~~ with a capacity of fifty-five (~~60~~55) gallons capacity or more 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 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.

Approved March 11, 1985.

CHAPTER 41
(H.B. No. 126)

AN ACT

RELATING TO THE RECOUNT OF BALLOTS CAST IN ELECTIONS; AMENDING SECTION 34-2301, IDAHO CODE, TO DESIGNATE WHICH CANDIDATES MAY APPLY FOR A RECOUNT AND TO PROVIDE THAT APPLICATION BE FILED WITHIN TWENTY DAYS OF THE ELECTION CANVASS BY THE STATE BOARD OF CANVASSERS OR COUNTY COMMISSIONERS; AMENDING SECTION 34-2304, IDAHO CODE, TO PROVIDE THAT THE ELECTION JUDGES AND CLERKS RETAIN THEIR POSITIONS FOR THE RECOUNT AND TO REQUIRE A RECOUNT BE MADE WITHIN TEN DAYS OF THE ORDER OF THE RECOUNT; AMENDING SECTION 34-2305, IDAHO CODE, TO REQUIRE THE RECOUNT ORDER TO SET THE TIME AND PLACE OF THE RECOUNT, TO SET RECOUNT PROCEDURE AND TO PROVIDE THAT THE ATTORNEY GENERAL IS THE FINAL AUTHORITY; AMENDING SECTION 34-2306, IDAHO CODE, TO REQUIRE A STATE SPONSORED FULL RECOUNT IF THE PARTIAL RECOUNT INDICATES A DIFFERENT RESULT THAT WOULD CHANGE THE ELECTION RESULT IN FAVOR OF THE APPLICANT, AND TO REQUIRE THE PARTIAL RECOUNT TO BE OF A CERTAIN SIZE BEFORE A STATE OR COUNTY SPONSORED RECOUNT CAN BE ORDERED; REPEALING SECTION 34-2307, IDAHO CODE; AMENDING CHAPTER 23, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-2307, IDAHO CODE, TO REQUIRE A FULL RECOUNT IF STATE OR COUNTY SPONSORED, AND TO REQUIRE THE STATE OR A COUNTY TO PAY FOR A RECOUNT; AMENDING SECTION 34-2308, IDAHO CODE, TO REQUIRE AN APPEAL REGARDING A GENERAL RECOUNT TO BE MADE IN THE ADA COUNTY DISTRICT COURT IF A FEDERAL OR STATE OFFICE IS INVOLVED, TO REQUIRE THE APPEAL BE MADE WITHIN TWENTY-FOUR HOURS OF THE RECOUNT, TO REQUIRE A DECISION WITHIN FIVE DAYS, TO REQUIRE APPEALS FROM THE DISTRICT COURT BE MADE WITHIN TWENTY-FOUR HOURS, TO REQUIRE A DECISION WITHIN FIVE DAYS, AND TO FORBID FURTHER APPEAL; REPEALING SECTION 34-2309, IDAHO CODE; AMENDING CHAPTER 23, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-2309, IDAHO CODE, TO PROVIDE AN AUTOMATIC RECOUNT PAID FOR BY THE STATE OR COUNTY, IF REQUESTED, AND IF THE VOTE MARGIN WAS LESS THAN OR EQUAL TO ONE-TENTH OF ONE PERCENT OF VOTES CAST, TO REQUIRE THE STATE OR COUNTY TO PAY FOR AUTOMATIC RECOUNTS; AMENDING CHAPTER 23, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-2310, IDAHO CODE, TO PROVIDE A DEFINITION OF RECOUNT COSTS.

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

SECTION 1. That Section 34-2301, Idaho Code, be, and the same is hereby amended to read as follows:

34-2301. APPLICATION FOR RECOUNT OF BALLOTS. Any candidate for federal, state or county office desiring a recount of the ballots cast in any nominating or general election may apply to the attorney general therefor, within twenty (20) days of the canvass of such election, by the state board of canvassers if for federal and state office, or within twenty (20) days of the canvass of such election by

the county commissioners if for a county office.

SECTION 2. That Section 34-2304, Idaho Code, be, and the same is hereby amended to read as follows:

34-2304. ORDER FOR RECOUNT -- PROCEDURE -- NOTICE. The attorney general shall then ~~make his~~ issue an order for recount. ~~In such order he~~ The order shall name ~~those persons to act as judges, who shall be~~ the prior election judges and clerks of the precinct ~~and the county commissioners and whom shall be entitled to receive~~ to act in the same capacity and receive the same compensation ~~for serving as such recount judge at the same rate as provided for the judge of~~ as they did on election day. The order shall provide for the place ~~in which~~ where the recount is to be made; ~~shall provide~~ that all candidates named on the ballot for the office contested, or a representative of either or all of them, may be present to watch the counting; and that every other person interested may be present. The order ~~and~~ shall state the date on which the recount is to be made which shall ~~be~~ not be more than ~~five~~ ten (~~5~~10) days from the date of the order. Copies of the order shall be mailed to each candidate named on the ballot for the office ~~contested, recount of which is~~ to be ~~had~~ recounted.

SECTION 3. That Section 34-2305, Idaho Code, be, and the same is hereby amended to read as follows:

34-2305. MANNER OF RECOUNTING. At the time and place fixed for recounting the ballots cast in any precinct all ballots shall be recounted in plain view of the candidates or their representatives, and if the recount is of a primary election the blank ballots shall be counted against the ballots that were voted. ~~Such~~ The recount shall commence at ~~9:00 A.M. of the day fixed, at the place in the order named~~ the time and place so ordered, and shall continue until the recount is finished and the results tabulated. The recount shall be conducted under the same conditions and in the same manner as the original count. The attorney general shall be the final authority concerning any question which arises during the recount.

SECTION 4. That Section 34-2306, Idaho Code, be, and the same is hereby amended to read as follows:

34-2306. ~~MATERIAL~~ DIFFERENCE REVEALED BY RECOUNT -- CANDIDATE RELIEVED OF COSTS. If the results of ~~such~~ the recount indicate a ~~material~~ difference ~~from the vote previously cast for the office of the candidate who has demanded the recount, and if the difference be such that it appears that a similar difference in all the precincts in the county or state would have changed the election~~ which if projected across all the precincts of the office in question would change the result of the election in favor of the candidate requesting the recount, then the cost of such recount shall be borne by the county or state and the sums of money theretofore paid for the recount shall be returned to the candidate.

~~Provided, however, that such result must be found to exist on a~~

~~recount--of--the--ballots--in-at-least-ten-(10)-precincts-in-which-not less-than-a-total-of-2,500-votes-were-cast-if-the-office--in--question be--a-state-office,-or-must-be-found-to-exist-in-at-least-two-(2)-precincts-having-a-total-vote-of-at-least-500-if-the-office-be--a--county office-in-order-to-entitle-the-candidate-to-a-refund.~~

In order to be relieved of the costs of the recount, the candidate must request that at least twenty (20) precincts containing not less than five thousand (5,000) votes cast be recounted if for a federal or state office, or five (5) precincts containing not less than one thousand two hundred fifty (1,250) votes cast be recounted for a state legislative district office, or two (2) precincts having not less than five hundred (500) votes cast be recounted for a county office.

SECTION 5. That Section 34-2307, Idaho Code, be, and the same is hereby repealed.

SECTION 6. That Chapter 23, 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 34-2307, Idaho Code, and to read as follows:

34-2307. WHEN GENERAL RECOUNT ORDERED. If the candidate who requested the recount is relieved of the costs of the recount as described in section 34-2306, Idaho Code, the attorney general shall require a recount to be made in all the remaining precincts of the office in question. The state shall pay for a general recount of a federal, state, or legislative district office, while the county shall pay for a general recount of a county office.

SECTION 7. That Section 34-2308, Idaho Code, be, and the same is hereby amended to read as follows:

34-2308. CANDIDATE DISAGREEING WITH RECOUNT RESULTS -- APPEAL. ~~If either~~ Any candidate for the office for which recount has been requested disagreeing with the results of the recount and ~~as grounds for disagreement~~ allegeing that the law has been misinterpreted or misapplied, and if it appear that different application or interpretation of the law would have required a general recount where no general recount was ordered or would not have required a general recount where a general recount was ordered then the candidate claiming the misinterpretation or the misapplication of law may appeal to the district court in the county concerned if the office be a county office or to the ~~Supreme Court~~ district court in Ada county if the office be a federal or state office. The submittal on appeal shall be by brief and submitted ~~immediately~~ within twenty-four (24) hours following the recount ~~and a~~. A decision thereon shall be given within ~~ten~~ five (~~10~~5) days. Any appeal from the decision of the district court must be taken within twenty-four (24) hours after a decision is rendered. A decision on the appeal shall be given within five (5) days. No further appeal shall be allowed.

SECTION 8. That Section 34-2309, Idaho Code, be, and the same is hereby repealed.

SECTION 9. That Chapter 23, 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 34-2309, Idaho Code, and to read as follows:

34-2309. AUTOMATIC RECOUNT. A losing candidate for nomination, or election to a federal, state, or county office may request a recount of the votes cast for the nomination or election to that office if the difference between the vote cast for that candidate and for the winning candidate for nomination or election is less than or equal to one-tenth of one percent (0.1%) of the total votes cast for that office, but in no case, less than one (1) vote. All requests shall be in writing, and filed with the attorney general during the time mentioned in section 34-2301, Idaho Code.

The state shall pay for the automatic recount of a federal, state, or legislative district office, while the county shall pay for the automatic recount of a county office.

SECTION 10. That Chapter 23, 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 34-2310, Idaho Code, and to read as follows:

34-2310. "COSTS" DEFINED. As used in this chapter, costs of recount shall include the following:

(1) Travel costs of the office of the attorney general including meals and lodging.

(2) Normal hourly rate for election judges and clerks who are not employees of the county.

(3) Mileage for election judges who are not employees of the county.

(4) Any other costs directly attributable to the recount.

Approved March 11, 1985.

CHAPTER 42
(H.B. No. 127)

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-501, IDAHO CODE, TO CHANGE THE NUMBER OF SIGNATURES REQUIRED TO CREATE A POLITICAL PARTY, TO REMOVE THE REQUIREMENT THAT SIGNATURES BE COLLECTED FROM MORE THAN ONE COUNTY, TO PROVIDE A FILING DATE, AND TO PROVIDE A DATE FOR CIRCULATION OF THE PETITION; AMENDING SECTION 34-603, IDAHO CODE, TO PROVIDE A DATE FOR CERTIFICATION OF CONSTITUTIONAL QUESTIONS; AMENDING SECTION 34-708A, IDAHO CODE, TO ESTABLISH THE NUMBER OF QUALIFIED ELECTORS NEEDED TO SIGN A PETITION TO PLACE AN INDEPEND-

ENT CANDIDATE ON THE BALLOT; AMENDING SECTION 34-711, IDAHO CODE, TO PROVIDE A DATE BY WHICH POLITICAL PARTIES MUST CERTIFY THEIR PRESIDENTIAL CANDIDATES; AMENDING SECTION 34-711A, IDAHO CODE, TO PROVIDE A DATE FOR CERTIFICATION OF INDEPENDENT PRESIDENTIAL ELECTORS AND FOR CERTIFICATION TO THE COUNTY CLERKS; AND AMENDING SECTION 34-909, IDAHO CODE, TO PROVIDE A DATE BY WHICH PREPARATION OF SAMPLE BALLOTS MUST BE PREPARED; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 34-501, Idaho Code, be, and the same is hereby amended to read as follows:

34-501. "POLITICAL PARTY" DEFINED -- PROCEDURES FOR CREATION OF A POLITICAL PARTY. (1) A "political party" within the meaning of this act, is an organization of electors under a given name. A political party shall be deemed created and qualified to participate in elections in any of the following three (3) ways:

(a) By having three (3) or more candidates for state or national office listed under the party name at the last general election, provided that those individuals seeking the office of president, vice president and president elector shall be considered one candidate, or

(b) By polling at the last general election for any one of its candidates for state or national office at least three per cent (3%) of the aggregate vote cast for governor or for presidential electors.

(c) By an affiliation of electors who shall have signed a petition which shall:

(A) State the name of the proposed party in not more than six (6) words;

(B) State that the subscribers thereto have affiliated, one with another, for the purpose of forming such party;

(C) State that the subscribers thereto are entitled to participate in the proposed party's convention to elect officers and nominate candidates;

(D) Have attached thereto a sheet or sheets containing the signatures of at least a number of qualified electors equal to ~~three~~ two per cent (~~3~~2%) of the aggregate vote cast for presidential electors in the state at the previous general election at which presidential electors were chosen~~;--provided that no more than twenty per cent (20%) of those so signing shall reside in any one county~~;

(E) Be filed with the secretary of state on or before ~~May~~ August 30 of even numbered years;

(F) The format of the signature petition sheets shall be prescribed by the secretary of state and shall be patterned after, but not limited to, such sheets as used for state initiative and referendum measures;

(G) The petitions and signatures so submitted shall be verified in the manner prescribed in section 34-1807, Idaho Code.

(H) The petition shall be circulated no earlier than August

30 of the year preceding the general election.

(2) Upon certification by the secretary of state that the petition has met the requirements of this act such party shall, under the party name chosen, have all the rights of a political party whose ticket shall have been on the ballot at the preceding general election.

The newly certified party shall proceed to hold a state convention in the manner provided by law; provided, that at the initial convention of any such political party, all members of the party shall be entitled to attend the convention and participate in the election of officers and the nominations of candidates. Thereafter the conduct of any subsequent convention shall be as provided by law.

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 ~~17~~ 7 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 34-708A, Idaho Code, be, and the same is hereby amended to read as follows:

34-708A. INDEPENDENT CANDIDATES FOR PRESIDENT AND VICE-PRESIDENT. Persons who desire to be independent candidates for the offices of president and vice-president, must file, prior to June 25 of the election year, declarations of candidacy as independent candidates. Such declarations must state that such persons are offering themselves as independent candidates and must declare that they have no political party affiliation. The declarations shall have attached thereto a petition signed by a number of qualified electors not less than ~~three~~ one percent (~~3~~1%) of the number of votes cast in this state for presidential electors at the previous general election at which a president of the United States was elected.

The candidates for president and vice-president shall be considered as candidates for one (1) office, and only one (1) such petition need be filed for both offices.

SECTION 4. 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 ~~August 25~~ September 1, in order for them to appear on the general election ballot. The secretary of state shall certify such candi-

dates 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 5. 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 ~~August 25~~ September 1, 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 ~~17~~7.

SECTION 6. 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 ~~17~~7, 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 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 11, 1985.

CHAPTER 43
(H.B. No. 156)

AN ACT

RELATING TO THE SALE, DELIVERY OR ADMINISTRATION OF PRESCRIPTION DRUGS; AMENDING SECTION 54-1732, IDAHO CODE, TO PROVIDE THAT VETERINARIANS MAY DISPENSE OR DELIVER PRESCRIPTION DRUGS UPON THE PRESCRIPTION OF ANOTHER VETERINARIAN; AMENDING SECTION 54-1733, IDAHO CODE, TO PROVIDE THAT IT IS UNLAWFUL FOR A VETERINARIAN TO KNOWINGLY FILL AN INVALID PRESCRIPTION DRUG ORDER; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 54-1732, Idaho Code, be, and the same is hereby amended to read as follows:

54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in section 54-1729, Idaho Code, shall be operated until a certificate of registration has been issued to said facility by the board. Upon the finding of a violation of this section, the board may impose one or more of the penalties enumerated in section 54-1728, Idaho Code.

(2) Reinstatement of a certificate that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified by in section 54-1728(2), Idaho Code.

(3) The following acts, or the failure to act, and the causing of any such act or failure are unlawful;

(a) The sale, delivery or administration of any prescription drug or legend drug unless:

1. Such legend drug is dispensed or delivered by a pharmacist upon an original prescription, drug order or prescription drug order by a practitioner in good faith in the course of his practice. Any person violating the provisions of this subsection shall be guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars ($5,000) or by both such fine and imprisonment.

2. There is affixed, in the case of a legend drug dispensed or delivered by a pharmacist, to the immediate container in which such drug is delivered a label bearing the name, address, and phone number of the establishment from which such drug was dispensed; the date on which the prescription for such drug was filled; the number of such prescription as filed in the prescription files of the pharmacist who filled the prescription; the name of the practitioner who prescribed such drug; the name of the patient, and if such drugs were prescribed for an animal, a statement of the species of the animal; and the directions for the use of the drug as contained in the prescription; or in the case of a legend drug delivered or administered by a practitioner in the course of his practice, the immediate container in which such drug is delivered bears a label on which appears the directions for use of such drug; the name and address of such practitioner; the name of the patient; and if such drug is prescribed for an animal, a statement of the species of the animal. Any person violating this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500). Nothing in this paragraph prohibits a practitioner from delivering professional samples of legend drugs in their original containers in the course of his practice when oral directions for use are given at the time of such delivery.

(b) The refilling of any prescription or drug order for a legend drug except as designated on the prescription or drug order, or by the authorization of the practitioner. Any person guilty of vio-

lating this section shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars ($1,000) or by both such fine and incarceration.

(c) The possession or use of a legend drug or a precursor by any person unless such person obtains such drug on the prescription or drug order of a practitioner. Any person guilty of violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars ($1,000) or by both such fine and incarceration.

(d) The failure to keep records as required by the board. Any person guilty of violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars ($1,000) or by both such fine and incarceration.

(e) The refusal to make available and to accord full opportunity to check any record, as required by the board. Any person guilty of violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or punished by a fine of not more than one thousand dollars ($1,000) or by both such fine and incarceration.

(f) It is unlawful to:

1. Obtain or attempt to obtain a legend drug or procure or attempt to procure the administration of a legend drug by fraud, deceit, misrepresentation or subterfuge; by the forgery or alteration of a prescription, drug order, or of any written order; by the concealment of a material fact; or by the use of a false name or the giving of a false address.

2. Communicate information to a physician in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug. Any such communication shall not be deemed a privileged communication.

3. Intentionally make a false statement in any prescription, drug order, order, report or record required by this chapter.

4. For the purpose of obtaining a legend drug to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other person.

5. Make or utter any false or forged prescription or false drug order or forged written order.

6. Affix any false or forged label to a package or receptacle containing legend drugs. This paragraph does not apply to law enforcement agencies or their representatives while engaged in enforcing state and federal drug laws.

7. To wholesale or retail any prescription or legend drug to any person in this state not entitled by law to deliver such drug to another.

(4) Provided, however, that a veterinarian may dispense or

deliver a legend drug prescribed for an animal upon the prescription, drug order, or prescription drug order of another veterinarian. The label shall comply with the provisions of subsection (3)(a)2. of this section, and penalties for violations of the provisions of this subsection shall be provided in this section for like violations by a pharmacist.

Every violation of subsections 1, 2, 3, 4, 5 and 6 of subsection (f) shall be a misdemeanor and any person convicted thereof shall be incarcerated in the county jail for a term not to exceed one (1) year, or fined not more than one thousand dollars ($1,000), or punished by both such fine and imprisonment. Any person violating subsection 7 of subsection (f) is guilty of a felony, and on conviction thereof shall be imprisoned in the state penitentiary for a term not to exceed three (3) years, or punished by a fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment.

SECTION 2. That Section 54-1733, Idaho Code, be, and the same is hereby amended to read as follows:

54-1733. VALIDITY OF PRESCRIPTION DRUG ORDERS. (1) A prescription or drug order for a legend drug is not valid unless it is issued for a legitimate medical purpose by a practitioner acting in the usual course of his profession.

(2) It is unlawful for a practitioner to knowingly issue an invalid prescription or drug order for a legend drug.

(3) It is unlawful for a pharmacist or veterinarian to knowingly fill an invalid prescription or drug order for a legend drug.

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 11, 1985.

CHAPTER 44
(H.B. No. 201)

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 167, LAWS OF 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 1, Chapter 167, Laws of 1984, 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, 1984, through June 30, 1985:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. BOARD OF MEDICINE:			
FROM:			
State Board of Medicine Account		$27,600	$27,600
B. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:			
FROM:			
Public Works Contractors State License Board Account	$3,500		$ 3,500
GRAND TOTAL	$3,500	$27,600	$31,100

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 11, 1985.

CHAPTER 45
(H.B. No. 235)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF FINANCE FOR FISCAL YEAR 1986.

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 account for the period July 1, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Finance Administration Account	$988,800	$223,800	$42,100	$1,254,700

Approved March 11, 1985.

CHAPTER 46
(H.B. No. 236)

AN ACT

APPROPRIATING MONEYS TO THE AGENCIES LISTED IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE ATHLETIC DIRECTOR:				
FROM:				
General Account		$ 2,500		$ 2,500
Athletic Account		7,500		7,500
TOTAL		$ 10,000		$ 10,000
B. BOARD OF PHARMACY:				
FROM:				
General Account	$ 30,000			$ 30,000
Pharmacy Board Account	170,700	$ 107,100	$ 7,700	285,500
TOTAL	$ 200,700	$ 107,100	$ 7,700	$ 315,500
C. BOARD OF ACCOUNTANCY:				
FROM:				
State Board of Accountancy Account	$ 73,600	$ 117,100		$ 190,700
D. BOARD OF DENTISTRY:				
FROM:				
State Board of Dentistry Account	$ 65,800	$ 48,700	$ 1,000	$ 115,500
E. BOARD OF ENGINEERING EXAMINERS:				
FROM:				
Professional Engineers Account	$ 78,300	$ 82,100	$ 8,000	$ 168,400
F. BOARD OF MEDICINE:				
FROM:				
State Board of Medicine Account	$ 117,100	$ 89,100	$ 4,400	$ 210,600
G. BOARD OF NURSING:				
FROM:				
State Board of Nursing Account	$ 172,200	$ 108,100	$10,000	$ 290,300
H. BUREAU OF OCCUPATIONAL LICENSES:				
FROM:				
Occupational License Account	$ 306,200	$ 193,200	$14,500	$ 513,900

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. PUBLIC WORKS CONTRACTORS STATE LICENSE BOARD:				
FROM:				
Public Works Contractors State License Board Account	$ 103,100	$ 71,600	$ 8,600	$ 183,300
J. IDAHO REAL ESTATE COMMISSION:				
FROM:				
Idaho Real Estate Brokers Commission Account	$ 462,400	$ 200,600	$32,100	$ 695,100
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	$ 122,900	$ 74,000	$ 3,900	$ 200,800
O. BOARD OF VETERINARY MEDICINE:				
FROM:				
State Board of Veterinary Medicine Account	$ 16,500	$ 15,000		$ 31,500
GRAND TOTAL	$1,740,400	$1,146,600	$90,200	$2,977,200

Approved March 11, 1985.

CHAPTER 47
(H.B. No. 238)

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 REGIONAL HEALTH EDUCATION PROGRAMS FOR FY 1986; 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 Regional Health Education Programs not exceed the following amounts

for the period July 1, 1985, through June 30, 1986:

FOR:	
WAMI Medical Education	$2,116,400
WOI - Regional Instruction in Veterinary Medicine	1,138,300
WOI - Regional Research in Veterinary Medicine	113,100
PSEP-WICHE-Utah Medical Education	578,000
IDEP-Idaho Dental Education Program	287,200
TOTAL	$4,233,000
FROM:	
General Account	$3,591,400
Interagency Billing and Receipts Account	641,600
TOTAL	$4,233,000

SECTION 2. There is hereby appropriated to the State Board of Education and the Board of Regents of the University of Idaho, for the Regional Health Educational Programs the following amounts, to be expended for designated programs according to designated expense classes from the listed accounts for the period July 1, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. WAMI MEDICAL EDUCATION:					
FROM:					
General Account	$ 209,700	$ 31,900		$1,598,300	$1,839,900
Interagency Billing and Receipts Account	84,800	12,800	$ 8,000	170,900	276,500
TOTAL	$ 294,500	$ 44,700	$ 8,000	$1,769,200	$2,116,400
II. WOI-REGIONAL INSTRUCTION IN VETERINARY MEDICINE:					
FROM:					
General Account	$ 811,300	$ 48,000			$ 859,300
Interagency Billing and Receipts Account	134,400	140,200	$ 4,400		279,000
TOTAL	$ 945,700	$188,200	$ 4,400		$1,138,300
III. WOI-REGIONAL RESEARCH IN VETERINARY MEDICINE:					
FROM:					
General Account	$ 72,500	$ 2,400			$ 74,900
Interagency Billing and Receipts Account	36,200	2,000			38,200
TOTAL	$ 108,700	$ 4,400			$ 113,100
IV. PSEP-WICHE-UTAH MEDICAL EDUCATION:					
FROM:					
General Account				$ 578,000	$ 578,000

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
V. IDEP-IDAHO DENTAL EDUCATION PROGRAM:					
FROM:					
General Account	$ 41,000	$ 3,300		$ 195,000	$ 239,3(
Interagency Billing and Receipts Account	47,900				47,9(
TOTAL	$ 88,900	$ 3,300		$ 195,000	$ 287,2(
GRAND TOTAL	$1,437,800	$240,600	$12,400	$2,542,200	$4,233,0(

Approved March 11, 1985.

CHAPTER 48
(H.B. No. 255)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, FOR THE FOREST UTILIZATION RESEARCH PROGRAM FOR FISCAL YEAR 1986; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR THE FOREST UTILIZATION RESEARCH 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 from the listed accounts, to be expended for the Forest Utilization Research Program for the period July 1, 1985, through June 30, 1986:

FOR:	
Forest Utilization Research	$107,000
FROM:	
General Account	$107,000

SECTION 2. Any General Account unexpended and unencumbered balances existing on June 30, 1985, from the appropriation made by Section 3, Chapter 277, Laws of 1984, 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 Forest Utilization Research Program for fiscal year 1986.

Approved March 11, 1985.

CHAPTER 49
(H.B. No. 8)

AN ACT

RELATING TO QUALIFICATIONS FOR PHARMACIST LICENSURE; AMENDING SECTION 54-1722, IDAHO CODE, TO PROVIDE FOR LICENSURE EXAMINATION FOR CERTAIN INDIVIDUALS GRADUATED FROM A SCHOOL OR COLLEGE OF PHARMACY LOCATED OUTSIDE THE UNITED STATES AND WHICH HAS NOT BEEN APPROVED BY THE PHARMACY BOARD.

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

SECTION 1. That Section 54-1722, Idaho Code, be, and the same is hereby amended to read as follows:

54-1722. QUALIFICATIONS FOR LICENSURE BY EXAMINATION. (1) To obtain a license to engage in the practice of pharmacy, an applicant for licensure by examination shall:

(a) Have submitted a written application in the form prescribed by the board of pharmacy.

(b) Have attained the age of majority.

(c) Be of good moral character and temperate habits.

(d) Have graduated and received the first professional undergraduate degree from a school or college of pharmacy which has been approved by the board of pharmacy.

(e) Have completed an internship or other program which has been approved by the board of pharmacy, or demonstrated to the board's satisfaction experience in the practice of pharmacy which meets or exceeds the minimum internship requirements of the board.

(f) Have successfully passed an examination given by the board of pharmacy.

(g) Paid the fees specified by the board of pharmacy for examination and issuance of license.

(2) Examinations.

(a) The examination for licensure required under Ssection 54-1722(1)(f), Idaho Code, shall be given by the board at least two (2) times during each fiscal year of the state. The board shall determine the content and subject matter of each examination, the place, time and date of administration of the examination, and those persons who shall have successfully passed the examination.

(b) The examination shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. The board may employ and cooperate with any organization or consultant in the preparation and grading of an appropriate examination, but shall retain the sole discretion and responsibility of determining which applicants have successfully passed such an examination.

(3) Internship and other training programs.

(a) All applicants for licensure by examination shall obtain practical experience in the practice of pharmacy concurrent with or after college attendance, or both, under such terms and condi-

tions as the board shall determine.

(b) The board shall establish standards for internship or any other program necessary to qualify an applicant for the licensure examination and shall also determine the necessary qualifications of any preceptors used in any internship or other program.

(4) Any applicant who is a graduate of a school or college of pharmacy located outside the United States, the degree program of which has not been approved by the board, but who is otherwise qualified to apply for a license to practice pharmacy in this state, may be considered to have satisfied the degree requirements of subsection (1)(d) of this section by verification to the board of his academic record and his graduation and by meeting any other requirements as the board may establish from time to time. The board may require the applicant successfully pass an examination given or approved by the board to establish proficiency in english and an equivalency of education with qualified graduates of a degree program specified in subsection (1)(d) of this section as a prerequisite of taking the licensure examination as provided in subsection (1)(f) of this section.

Approved March 11, 1985.

CHAPTER 50
(H.B. No. 18)

AN ACT

APPROPRIATING THREE HUNDRED THOUSAND DOLLARS OR SUCH LESSER AMOUNT THEREOF AS MAY BECOME AVAILABLE FROM THE FUNDS MADE AVAILABLE TO THE DEPARTMENT OF EMPLOYMENT OF THE STATE OF IDAHO PURSUANT TO SECTION 903 OF THE SOCIAL SECURITY ACT, AS AMENDED, FOR THE PURCHASE OF REAL AND PERSONAL PROPERTY, THE CONSTRUCTION OF OFFICE BUILDINGS FOR USE BY THE DEPARTMENT OF EMPLOYMENT, AND FOR REPAIRING, REMODELING AND MAINTAINING OFFICE BUILDINGS FOR USE OF THE DEPARTMENT OF EMPLOYMENT; AND PROVIDING THAT NO PART OF THE MONEY APPROPRIATED MAY BE OBLIGATED AFTER THE EXPIRATION OF THE TWO-YEAR PERIOD BEGINNING WITH THE FIRST DAY OF JULY, 1985.

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

SECTION 1. There is hereby appropriated out of the funds made available to the Department of Employment of the State of Idaho, pursuant to Section 903 of the Social Security Act, as amended, the sum of $300,000, or such lesser amount thereof as may become available as this state's share of funds allocated under the provisions of said Section 903 of the Social Security Act, as amended, to be used for the purpose of purchase of real and personal property, the construction of office buildings for use by the Department of Employment, and for repairing, remodeling and maintaining office buildings used by the Department of Employment of the State of Idaho, as authorized by and subject to the limitations of Section 72-1346(e), Idaho Code, and

Section 72-1348(d), Idaho Code.

SECTION 2. No part of the money hereby appropriated shall be obligated after the expiration of the two-year period beginning with the first day of July, 1985.

Approved March 11, 1985.

CHAPTER 51
(H.B. No. 39, As Amended)

AN ACT

RELATING TO THE REQUIRED MEDICAL CERTIFICATE OF A RUBELLA TEST FOR THE ISSUANCE OF MARRIAGE LICENSES; AMENDING SECTION 32-412, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR A WOMAN WHO STATES A RELIGIOUS OBJECTION TO DRAWING A BLOOD SAMPLE OR TO RECEIVING A VACCINATION; AMENDING SECTION 2, CHAPTER 119, LAWS OF 1980, TO DELAY THE AUTOMATIC NULLIFICATION OF SECTION 32-412, IDAHO CODE, FROM JUNE 30, 1985, TO JUNE 30, 1988; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 32-412, Idaho Code, be, and the same is hereby amended to read as follows:

32-412. MEDICAL CERTIFICATE REQUIRED. Before any county recorder shall issue any marriage license, each female applicant therefor shall file with him a certificate from a physician licensed by the Idaho state board of medicine or its counterpart in other states certifying that she has submitted to a test of immunological response to rubella, utilizing a test approved by the department of health and welfare. Provided, however, that the county recorder shall excuse any woman under forty-five (45) years of age from this requirement if she submits a statement of a religious objection to the drawing of a blood sample, or if she states a religious objection which would prevent receiving a rubella vaccination even if a test indicated nonimmunity to rubella. In the event of nonimmunity to rubella, the certificate shall indicate the physician has informed the person of the results of the test and the medical significance. Neither the certificate nor the rubella test shall be required if the applicant is forty-five (45) years of age or older, or if the applicant presents documentation of previous vaccination against rubella. The rubella test shall not be required if the certificate signed by the physician or his authorized representative indicates the applicant is incapable of bearing a child because of prior surgery or other physical condition. When the results of a prior test of immunological response to rubella, utilizing a test approved by the department of health and welfare, are available to the physician completing the certificate, an additional test shall not be required.

SECTION 2. That Section 2, Chapter 119, Laws of 1980, be, and the same is hereby amended to read as follows:

SECTION 2. Section 32-412, Idaho Code, shall become null and void after June 30, 1985~~8~~, unless reenacted by the Idaho legislature.

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

Approved March 11, 1985.

CHAPTER 52
(H.B. No. 55)

AN ACT

RELATING TO PARKING PERMITS FOR WINTER RECREATIONAL PARKING LOCATIONS; AMENDING SECTION 49-3104, IDAHO CODE, TO CLARIFY THE PROCESS BY WHICH A SNOWMOBILE OWNER OBTAINS A WINTER RECREATION PARKING PERMIT; AND AMENDING SECTION 49-3105, IDAHO CODE, TO PROVIDE PROCEDURES FOR THE SALE OF PARKING PERMITS THROUGH AUTHORIZED VENDORS.

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

SECTION 1. That Section 49-3104, Idaho Code, be, and the same is hereby amended to read as follows:

49-3104. PARKING PERMIT -- FEE -- FINES -- PERMITS FOR SNOWMOBILE OWNERS -- EXEMPTIONS. (1) Except as hereinafter provided, no person shall, from November 15 of any year to April 30 of the next year, park a vehicle in a winter recreational parking location unless the vehicle displays a parking permit. The permit shall be permanently affixed on the side window of the vehicle nearest the driver's seat in such a manner that it is completely visible and shall be kept in a legible condition at all times.

(2) A fee of five dollars ($5.00) shall be charged for each permit.

(3) Any violation of the provisions of this section shall be a misdemeanor and be subject to a fine of ten dollars ($10.00).

(4) All snowmobile owners shall, ~~concurrently~~ with the receipt of a certificate of number as provided in section 49-2605, Idaho Code, be entitled to receive from the department a parking permit as established by this chapter at no cost. Snowmobile owners holding unexpired certificates of number issued prior to the date on which permits become available may obtain a permit at no cost upon presentation of the certificate to the department; provided, however, that the department shall require the presentation of suitable identification to

verify that the certificate was issued to the person requesting the permit.

(5) No parking permit shall be required under the provisions of this chapter for:

(a) A vehicle owned and operated by the United States, another state or a political subdivision thereof; or

(b) A vehicle owned and operated by this state or by any county, city or political subdivision thereof.

(6) The fact that a motor vehicle which is illegally parked under this act is registered in the name of a person shall be considered prima facie evidence that such person was in control of the vehicle at the time of such parking.

SECTION 2. That Section 49-3105, Idaho Code, be, and the same is hereby amended to read as follows:

49-3105. PRINTING, DISTRIBUTION AND SALE OF PERMITS. (1) The department shall print the permits required by this chapter and shall supervise the sale of the permits throughout the state.

(2) The department shall distribute and sell the permits directly or may authorize vendors thereof under agreement with and according to rules and regulations of the department. The department may require that such authorized vendors shall be bonded in accordance with ~~such~~ its rules and regulations ~~and~~. Authorized vendors will receive a stipulated commission for each permit sold. The department may, with the advice and assistance of the county cross-country skiing advisory committee, appointed as hereinafter set forth in section 49-3108, Idaho Code, solicit the participation of qualified retail commercial enterprises engaged in the sale or rental of cross-country skiing equipment to act as authorized vendors of the permits.

Approved March 11, 1985.

CHAPTER 53
(H.B. No. 69)

AN ACT

RELATING TO REGISTRATION OF MOTOR VEHICLES; AMENDING SECTION 49-113, IDAHO CODE, TO PROVIDE FOR ISSUING COLORED REGISTRATION VALIDATION STICKERS WITH NUMBERS TO CORRESPOND WITH THE NUMBER OF THE CALENDAR MONTH IN WHICH THE REGISTRATION EXPIRES; AMENDING SECTION 49-126, IDAHO CODE, TO PROVIDE FOR TWELVE REGISTRATION PERIODS DURING A YEAR RATHER THAN TEN; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. 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 furnish to every owner whose vehicle shall be registered by that office one (1) number plate for a motorcycle, trailer, truck-tractor, or semitrailer 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 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 which time 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, t~~The assessor shall also furnish for each registration, and to validate the number plate, a pressure-sensitive registration sticker. This registration sticker shall be serially numbered. 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 colored registration validation stickers showing the year of registration ~~only~~. Each registration validation sticker shall bear a number from 1 to 12, which number shall correspond to the month of the calendar year in which the registration of the vehicle expires and shall be affixed to the lower right-hand corner of the plate within the outlined rectangular area.

b. Every number plate shall have displayed upon it the registration number assigned to the vehicle and its owner, 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. The plate and the required letters and numerals, 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 is subject to the payment of the use fee provided by subdivision (e) of section 49-127, Idaho Code, a use fee number plate. The use fee number plate shall be similar in form to the registration plate and shall contain 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 of them by the owner.

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 2. That Section 49-126, Idaho Code, be, and the same is hereby amended to read as follows:

49-126. ~~OPERATING--FEES~~ ANNUAL REGISTRATION. (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)~~ twelve (12) registration periods, starting in January for holders of ~~license--plates~~ validation registration stickers ending in 1, and proceeding consecutively through ~~October~~ December for holders of ~~license--plates~~ validation registration stickers ending in ~~0~~ 12, 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 validation sticker ~~or year embossed on the plate~~. The ~~last~~ numeral digit on the ~~number--plate--or plates~~ validation registration stickers 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	Annual Registration Fee 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 3. This act shall be in full force and effect on and after January 1, 1986.

Approved March 11, 1985.

CHAPTER 54
(H.B. No. 113)

AN ACT

RELATING TO CLAIMS OF PATERNITY; AMENDING CHAPTER 15, TITLE 16, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 16-1513, IDAHO CODE, TO PROVIDE A PROCESS FOR A PERSON WHO IS THE FATHER OR CLAIMS TO BE THE FATHER OF A CHILD BORN OUT-OF-WEDLOCK TO REGISTER HIS CLAIM OF PATERNITY.

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

SECTION 1. That Chapter 15, 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 16-1513, Idaho Code, and to read as follows:

16-1513. CLAIM OF PATERNITY. (1) A person who is the father or claims to be the father of a child born out-of-wedlock may claim rights pertaining to his paternity of the child by registering with the vital statistics unit of the department of health and welfare, a notice of his claim of paternity to the child born out-of-wedlock and his willingness and intent to support the child to the best of his ability. The vital statistics unit of the department of health and welfare shall provide forms for the purpose of registering the notice, and the forms shall be made available through the vital statistics unit of the Idaho department of health and welfare and in the office of the county clerk in every county of this state. When making a claim of paternity, a person who is the father or claims to be the father of a child born out-of-wedlock, shall mail to the vital statistics unit of the department of health and welfare, the completed form prescribed by the vital statistics unit of the department of health and welfare. Said form will be filled out completely, signed by the person claiming paternity, and witnessed before a notary public.

(2) The claim of paternity may be registered prior to the birth of the child, but must be registered prior to the date of any termination proceeding, or proceeding wherein the child is placed with an agency licensed to provide adoption services. The claim of paternity shall be signed by the registrant and shall include his name and address, the name and last address of the mother, and either the birthdate of the child or the probable month and year of the expected birth of the child. The vital statistics unit of the department of health and welfare shall maintain a confidential registry for this purpose.

(3) Any father of such child who fails to file and register his notice of claim to paternity and to assume responsibility for the child shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Failure of such filing or registration shall constitute an abandonment of said child and shall be prima facie evidence of sufficient grounds to support termination of such father's parental rights in accordance with section 16-2005, Idaho Code.

(4) The department of health and welfare, division of social services, private adoption agencies or attorneys and/or their representatives involved in adoptions shall notify all putative fathers by personal service of their need to register their intent to support and exercise their rights and responsibilities toward the child born out-of-wedlock, whether born or unborn.

(5) If personal service cannot be obtained, then service by publication, notifying the father of the requirement to register his claim of paternity with the vital statistics unit of the department of health and welfare prior to the date of any termination proceeding or

proceeding wherein the child is placed with an agency licensed to provide adoption services, shall be sufficient. Service by publication shall include sending of notice by registered or certified mail to the last known address of the person to be notified and publication of the notice once a week for three (3) successive weeks in a newspaper of general circulation within the county where the court is located. Notification by publication must be completed at least ten (10) days prior to any termination proceeding, or proceeding wherein the child is placed with an agency licensed to provide adoption services.

(6) Notice of the requirement to register, as provided in this section, may be combined with a notice of termination of parental rights, as provided in chapter 20, title 16, Idaho Code.

(7) In any termination proceeding pertaining to a child born out-of-wedlock, if there is no showing that the putative father has consented to termination prior to the granting of a decree allowing the termination, a certificate shall be obtained from the vital statistics unit of the department of health and welfare, signed by the state registrar of vital statistics, which certificate shall state that a diligent search has been made of the registry of notices from putative fathers, of a child born out-of-wedlock, and that the putative father involved is not registered.

(8) Identities of putative fathers can only be released, whether in or out of state, to the department of health and welfare, organizational units for social services and child support enforcement, licensed private adoption agencies, or attorneys involved in adoptions of the children related to the registrant.

(9) To cover the cost of implementing and maintaining said registry, the vital statistics unit of the department of health and welfare shall charge a registration fee of ten dollars ($10.00) at the time the putative father registers his intent to exercise his parental rights. It is the intent of the legislature that the fee shall cover all direct and indirect costs incurred pursuant to this section. The board of health and welfare shall annually review the fees and expenses incurred pursuant to administering the provisions of this section.

(10) Consistent with its authority denoted in the vital statistics act, section 39-242(c), Idaho Code, the board of health and welfare shall adopt, amend and repeal regulations for the purpose of carrying out the provisions of this section.

Approved March 11, 1985.

CHAPTER 55
(H.B. No. 167)

AN ACT

RELATING TO THE TERMINATION OF A PARENT AND CHILD RELATIONSHIP; AMENDING SECTION 16-2008, IDAHO CODE, TO PROVIDE THAT A COURT MAY DIRECT AN INVESTIGATION BE MADE BEFORE A TERMINATION HEARING.

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

SECTION 1. That Section 16-2008, Idaho Code, be, and the same is hereby amended to read as follows:

16-2008. INVESTIGATION PRIOR TO DISPOSITION. Upon the filing of a petition, the court ~~shall~~ may direct, in all cases where written consent to termination has not been given as provided in this act, that an investigation be made by an authorized agency and that a report in writing of such study be submitted to the court prior to the hearing, except that where an authorized agency is a petitioner, either in its own right or on behalf of a parent, a report in writing of the investigation made by such agency shall accompany the petition. The authorized agency shall have thirty (30) days from notification by the court during which it shall complete and submit its investigation unless an extension of time is granted by the court upon application by the agency. The court may order additional investigation as it deems necessary. The social study shall include the circumstances of the petition, the investigation, the present condition of the child and parents, proposed plans for the child, and such other facts as may be pertinent to the parent and child relationship, and the report submitted shall include a recommendation and the reasons therefor as to whether or not the parent and child relationship should be terminated. Where the parent is a minor, if the report does not include a statement of contact with the parents of said minor, the reasons therefor shall be set forth. The purpose of the investigation is to aid the court in making disposition of the petition and shall be considered by the court prior thereto.

Approved March 11, 1985.

CHAPTER 56
(H.B. No. 249)

AN ACT

RELATING TO HERD DISTRICTS; AMENDING SECTION 25-2402, IDAHO CODE, TO PROVIDE THAT A HERD DISTRICT MAY NOT PROHIBIT THE TRAILING OR DRIVING OF LIVESTOCK FROM ONE LOCATION TO ANOTHER ON PUBLIC ROADS OR RECOGNIZED LIVESTOCK TRAILS.

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

SECTION 1. That Section 25-2402, Idaho Code, be, and the same is hereby amended to read as follows:

25-2402. PETITION AND REQUIREMENTS FOR DISTRICT. (1) A majority of the landowners in any area or district described by metes and bounds not including open range and who are also resident in, and qualified electors of, the state of Idaho may petition the board of county commissioners in writing to create such area a herd district.

Such petition shall describe the boundaries of the said proposed herd district, and shall designate what animals of the species of horses, mules, asses, cattle, swine, sheep and goats it is desired to prohibit from running at large, also prohibiting said animals from being herded upon the public highways in such district; and shall designate that the herd district shall not apply to nor cover livestock, excepting swine, which shall roam, drift or stray from open range into the district unless the district shall be inclosed by lawful fences and cattle guards in roads penetrating the district so as to prevent livestock, excepting swine, from roaming, drifting or straying from open range into the district; and may designate the period of the year during which it is desired to prohibit such animals from running at large, or being herded on the highways. Provided, any herd district heretofore established shall retain its identity, geographic definition, and remain in full force and effect, until vacated or modified hereafter as provided by section 25-2404, Idaho Code.

(2) Notwithstanding any other provision of law to the contrary, no herd district established before or after July 1, 1983, shall:

(a) Contain any lands owned by the United States of America, and managed by the department of interior, bureau of land management, or its successor agency, upon which lands the grazing of livestock has historically been permitted.

(b) Result in a highway district being held liable for personal injury, wrongful death or property damage resulting from livestock within the public right-of-way of the highway district.

(c) Prohibit trailing or driving of livestock from one location to another on public roads or recognized livestock trails.

(3) Open range means all uninclosed lands outside cities and villages upon which by custom, license or otherwise, livestock, excepting swine, are grazed or permitted to roam.

Approved March 11, 1985.

CHAPTER 57
(H.B. No. 283)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

OPERATION OF THE SECRETARY OF STATE OFFICE:

FOR:

Personnel Costs	$ 638,700

Operating Expenditures	383,400
Capital Outlay	76,700
Trustee & Benefit Payments	224,200
TOTAL	$1,323,000
FROM:	
General Account	$ 806,200
Interagency Billing and Receipts Account	49,500
Idaho Commission on Arts & Humanities Account	467,300
TOTAL	$1,323,000

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, 1985, through June 30, 1986:

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	$466,200	$120,200	$73,300		$ 659,700
II. COMMISSION ON UNIFORM LAWS:					
FROM:					
General Account		$ 8,900			$ 8,900
III. ARTS AND HUMANITIES COMMISSION:					
FROM:					
General Account	$106,700	$ 21,700	$ 3,400	$ 5,800	$ 137,600
Interagency Billing and Receipts Account		43,700		5,800	49,500
Idaho Commission on Arts and Humanities Account	65,800	188,900		212,600	467,300
TOTAL	$172,500	$254,300	$ 3,400	$224,200	$ 654,400
GRAND TOTAL	$638,700	$383,400	$76,700	$224,200	$1,323,000

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 March 11, 1985.

CHAPTER 58
(H.B. No. 286)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF HEALTH, IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 275, LAWS OF 1984; 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 275, Laws of 1984, there is hereby appropriated to the Department of Health and Welfare, Division of Health, 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, 1984, through June 30, 1985:

A. EMERGENCY MEDICAL SERVICES:

FOR:	
Operating Expenditures	$40,000
FROM:	
Cooperative Welfare Account	$40,000

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 11, 1985.

CHAPTER 59
(H.B. No. 38)

AN ACT

RELATING TO A VOLUNTARY ADOPTION REGISTRY; AMENDING SECTION 39-241, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 39-258, IDAHO CODE, TO STRIKE REFERENCE TO PROVIDING INFORMATION ABOUT AN ADOPTION TO A COURT, AND TO PROVIDE AN EXCEPTION FOR ACCESS TO ADOPTION RECORDS; AMENDING SECTION 39-259, IDAHO CODE, TO PROVIDE AN EXCEPTION FOR ACCESS TO ADOPTION RECORDS, TO PROVIDE FOR FILING OF ADOPTION REPORTS, AND TO PROVIDE FOR AMENDING A CERTIFICATE OF BIRTH UPON RECEIPT OF AN AMENDED DECREE OF ADOPTION; AND AMENDING CHAPTER 2, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-259A, IDAHO CODE, TO PROVIDE FOR A VOLUNTARY ADOPTION REGISTRY FOR BIRTH INFORMATION OF ADULT ADOPTEES.

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

SECTION 1. That Section 39-241, Idaho Code, be, and the same is hereby amended to read as follows:

39-241. DEFINITIONS. For the purposes of this chapter and this chapter only, the following terms shall be construed to have the meanings hereinafter set forth:

(a) "Vital statistics" include the registration, preparation, transcription, collection, compilation and preservation of data pertaining to births, adoptions, legitimations, deaths, stillbirths, induced terminations of pregnancy, marital status and data incidental thereto.

(b) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(c) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(1) "Induced termination of pregnancy (induced abortion)" means the purposeful interruption of pregnancy with an intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth.

(2) "Spontaneous fetal death" means the expulsion or extraction of a product of human conception resulting in other than a live birth and which is not an induced termination of pregnancy.

(d) "Stillbirth" means a spontaneous fetal death of twenty (20) completed weeks gestation or more, calculated from the date the last normal menstrual period began to the date of delivery, or a weight of three hundred and fifty (350) grams (twelve and thirty-five hundredths (12.35) ounces) or more.

(e) "Dead body" means lifeless human body or such parts of the human body or the bones thereof from the state of which it reasonably may be concluded that death recently occurred.

(f) "Person in charge of interment" means any person who places or causes to be placed a stillborn fetus or dead body or the ashes of the same, after cremation, in a grave, vault, urn, or other receptacle, or otherwise disposes thereof.

(g) "Physician" means a person legally authorized to practice medicine and surgery in this state.

(h) "Board" means the Idaho state board of health and welfare.

(i) "Record" means the original certificate of an event and any replacement thereof filed for record by virtue of authority contained in this chapter, as well as instruments of any nature provided by this chapter as a means of effecting replacement of certificates.

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

(k) "Certified copy" means the reproduction of an original vital

record by typewritten, photographic, or electronic means. Such reproductions, when certified by the state registrar, shall be used as the original.

(l) "Adoptive parent" means an adult who has become a parent of a child through the legal process of adoption.

(m) "Consent" means a verified written statement which has been notarized.

(n) "Identifying information" includes the following information:

(1) The name of the qualified adoptee before placement in adoption;

(2) The name and address of each qualified birthparent as it appears in birth records;

(3) The current name, address, and telephone number of the qualified adult adoptee; and

(4) The current name, address, and telephone number of each qualified birthparent.

(o) "Qualified adult adoptee" means an adopted person eighteen (18) years of age or older who was born in Idaho.

(p) "Qualified birthparent" means a genetic, biological, or natural parent whose rights were voluntarily or involuntarily terminated by a court or otherwise. "Birthparent" includes a man who is the parent of a child prior to the termination of parental rights.

(q) "Qualified adult birth sibling" means a genetic, biological, or natural brother or sister or half-brother or sister, eighteen (18) years of age or older.

(r) "Registrar" means the state registrar of vital statistics or a designated representative.

(s) "Relative" includes only an individual's spouse, birthparent, adoptive parent, sibling, or child who is eighteen (18) years of age or older.

(t) "Voluntary adoption registry" or "registry" means a place where eligible persons, as described in section 39-259A, Idaho Code, may indicate their willingness to have their identity and whereabouts disclosed to each other under conditions specified in section 39-259A, Idaho Code.

SECTION 2. That Section 39-258, Idaho Code, be, and the same is hereby amended to read as follows:

39-258. ADOPTION OF PERSONS BORN IN IDAHO -- NEW BIRTH CERTIFICATE ISSUED TO REPLACE ORIGINAL CERTIFICATE -- PROCEDURE -- ADOPTION PROCEEDINGS NOT OPEN TO INSPECTION WITH CERTAIN EXCEPTIONS -- DUTIES OF THE CLERKS OF COURTS ISSUING ADOPTION DECREES -- DUTIES OF STATE REGISTRAR OF VITAL STATISTICS. (a) Whenever a final decree of adoption, issued by an Idaho court, declares a person born in Idaho to be adopted by someone other than his or her natural parents, the court shall require the preparation of a report (denominated as a certificate in accordance with Idaho court rules) of adoption on a form prescribed and furnished by the state registrar. The report shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted; shall provide information necessary to establish a new certificate of birth for the person adopted; and shall

identify the order of adoption and be certified by the clerk of the court.

(b) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. ~~Any--person--having-knowledge-of-the-facts-shall-supply-the court-with-such-additional-information-as-may-be-necessary-to-complete the-report.~~ The provision of such information shall be prerequisite to the issuance of a final decree in the matter of the court.

(c) The report of adoption shall, within fifteen (15) days after becoming final, be recorded by the clerk of the court with the vital statistics unit in the state department of health and welfare.

(d) If a court of some other state issued a decree or report of adoption of a person actually born in Idaho, the certified copy or report may be similarly filed by the person involved or by the adoptive parents. Failure to file certified copies or reports of said decrees within said period of time, however, shall not bar issuance of a new birth certificate as hereinafter provided. This copy of said decree or report shall be filed with and remain a part of the records of the vital statistics unit.

(e) Upon receipt by the vital statistics unit of the certified report of adoption, a new certificate of birth shall be issued (but only in cases where such person's birth is already recorded with the vital statistics unit) bearing among other things the name of the person adopted, as shown in the report of adoption, except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person. No such birth certificate shall have reference to the adoption of said person. Such birth certificate shall supplant and constitute a replacement of any birth certificate previously issued for said person and shall be the only birth certificate open to public inspection.

Provided, however, upon good cause shown and the affidavit of the adoptive parents that a diligent search has been made, but no certificate of birth for the adoptive child can be located, the probate judge may order the adoptive child examined, at the expense of the adoptive parents, by a doctor of medicine licensed by the state of Idaho. The examination will be conducted pursuant to rules and regulations promulgated by the state board of health and welfare for the purpose of determining those matters required for the issuance of an original birth certificate. Upon the examination of the doctor made pursuant to the rules and regulations of the state board of health and welfare, the court may order the vital statistics unit to issue an original birth certificate for the adoptive child based upon those facts determined by the examination and included in the court's order. In such case a certified copy of the court order shall be provided to the vital statistics unit.

(f) In respect to form and nature of contents, such a new birth certificate shall be identical with a birth certificate issued to natural parents for the birth of a child, except that the adoptive parents shall be shown as parents and the adopted person shall have the name assigned by the decree of adoption as shown on the report of adoption. In a case where a single person adopts another person, any new birth certificate may designate the adopting parent as adoptive.

(g) Whenever an adoption decree is amended, annulled or rescinded, the clerk of the court shall forward a certified copy of the amendment, annulment or rescindment to the vital statistics unit in accordance with the time provisions in (c) of this section. Unless otherwise directed by the court, the vital statistics unit shall amend the certificate of birth upon receipt of a certified copy of an amended decree of adoption. Upon receipt of a certified copy of a decree of annulment or rescindment of adoption, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of record of this state.

(h) All records and information specified in this section other than a new birth certificate issued hereunder, and all records, files and information of any court in this state relating to adoption proceedings, shall not be open to inspection except as provided in section 39-259A, Idaho Code, or upon the order of a court of record of this state; provided, however, that the provisions of section 16-1609, Idaho Code, to the contrary notwithstanding, any probate court, or the judge thereof, may furnish a certified copy of a decree of adoption to any duly authorized agency of the United States or the state of Idaho without procuring any prior court order therefor.

SECTION 3. That Section 39-259, Idaho Code, be, and the same is hereby amended to read as follows:

39-259. ADOPTION OF PERSONS BORN IN FOREIGN COUNTRIES. (a) When it appears from a final decree of adoption issued by an Idaho court that a person born in a foreign country has been adopted in Idaho by someone other than the person's natural parents, the court shall require the preparation of a report (denominated as a certificate in accordance with Idaho court rules) of adoption on a form prescribed and furnished by the state registrar. Upon receipt by the state registrar of vital statistics of the report of adoption and evidence as to the child's birthdate and birthplace provided by the original birth certificate, or a certified copy, official extract or official translation thereof or by any other essentially equivalent document including, but not limited to, the records of the United States immigration and naturalization service or of the United States department of state, the state registrar of vital statistics shall make and file a new birth certificate for the child. The new birth certificate shall include the place and date of birth as shown by documentation, the child's name and parentage as stated in the report of adoption, and any other necessary facts as required by the state registrar. This birth certificate shall not be evidence of United States citizenship. The form and content of the certificate of foreign birth shall be established by the director.

(b) All records and information specified in this section other than a new birth certificate issued hereunder, and all records, files and information of any court in this state relating to adoption proceedings, shall not be open to inspection except as provided in section 39-259A, Idaho Code, or upon the order of a court of record of this state; provided, however, that the provisions of section 16-1609,

Idaho Code, to the contrary notwithstanding, any probate court, or the judge thereof, may furnish a certified copy of a decree of adoption to any duly authorized agency of the United States or the state of Idaho without procuring any prior court order therefor.

(c) The report of adoption shall, within fifteen (15) days after becoming final, be recorded by the clerk of the court with the vital statistics unit in the state department of health and welfare.

(d) Whenever an adoption decree is amended, annulled or rescinded, the clerk of the court shall forward a certified copy of the amendment, annulment or rescindment to the vital statistics unit in accordance with the time provisions in subsection (c) of this section. Unless otherwise directed by the court, the vital statistics unit shall amend the certificate of birth upon receipt of a certified copy of an amended decree of adoption. Upon receipt of a certified copy of a decree of annulment or rescindment of adoption, the Idaho birth certificate shall be removed from the file and along with the decree of annulment or rescindment shall be placed in the sealed file for that person. Such sealed file shall not be subject to inspection except upon order of a court of record of this state.

SECTION 4. That Chapter 2, 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 39-259A, Idaho Code, and to read as follows:

39-259A. VOLUNTARY ADOPTION REGISTRY FOR PROVIDING LIMITED ACCESS TO BIRTH INFORMATION OF ADULT ADOPTEES. (a) The state registrar of vital statistics shall establish and maintain a confidential list of qualified adult adoptees who have presented a consent regarding the release of identifying information about themselves. Any consent by a qualified adult adoptee shall be accompanied by the adoptee's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Any consent shall also indicate whether the qualified adult adoptee desires release of his identifying information if a match occurs after his death. The qualified adult adoptee may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed adoptee. The registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with the provisions of this section.

(b) The state registrar of vital statistics shall establish and maintain a confidential list of qualified birthparents who have presented a consent regarding the release of identifying information about themselves. Any consent by a qualified birthparent shall be accompanied by the birthparent's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Any consent shall also indicate whether the qualified birthparent desires release of his identifying information if a match occurs after his death. The qualified

birthparent may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed birthparent. The registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with the provisions of section 39-258(h), and subsections (b) (c) and (d) of section 39-259, Idaho Code. Any birthparent who, in terminating his parental rights, used an alias and this alias is listed in the original sealed birth certificate, may also file a consent with the registry. A birthparent shall not be matched with a qualified adult adoptee without the consent of the other birthparent unless:

(1) There is only one (1) birthparent listed on the birth certificate; or

(2) The other birthparent is deceased; or

(3) The other birthparent is unable to be located by the department of health and welfare or by a licensed child placement agency designated by the department of health and welfare, after a search, which shall consist, at a minimum, of a certified letter to the other birthparent at the last known address and a newspaper advertisement made in the county of the last known address; such search to be completed within ninety (90) days and the cost of said search to be fully funded and completed by the birthparent seeking a match; said search to be in accordance with the rules and regulations promulgated by the department.

(c) The state registrar of vital statistics shall establish and maintain a confidential list of qualified adult birth siblings who have presented a consent regarding the release of identifying information about themselves. Any consent by a qualified birth sibling shall be accompanied by the birth sibling's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Any consent shall also indicate whether the qualified birth sibling desires release of his identifying information if a match occurs after his death. The qualified birth sibling may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed birth sibling. The registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with the provisions of sections 39-258(h) and 39-259(b), Idaho Code, and this section.

(d) The state registrar shall maintain a confidential list of relatives of deceased qualified adult adoptees and relatives of deceased qualified birthparents who have presented a consent regarding the release of identifying information about themselves. Any consent by such relative shall be accompanied by the person's desired method of notification in the event that a match occurs; however, the state shall not incur costs of notification in excess of that part of the fee charged to the applicant for the purpose of notification. Such relative may revise his consent with respect to change of address or method of notification. Any name and accompanying information shall be removed from the list upon the verified written request of the listed

relative. The state registrar shall maintain a closed record of such list and accompanying information, except as provided in accordance with the provisions of this section.

(e) The state registrar shall regularly review the lists provided for in subsections (a), (b), (c) and (d) of this section, and any other nonsealed administrative files or records within the office to determine if there is a match. If it appears that a match has occurred, then and only then is the registrar authorized to proceed to confirm the match through recourse to sealed documents on file in the office of the registrar. When a match is confirmed, the registrar shall notify each party, by its designated method only, prior to an exchange of identifying information. Nothing in this section shall be construed to allow any state or local governmental department, agency, or institution, or any employee thereof, to solicit any consent for the release of identifying information.

(f) When a match is made and both the adopted person and the birthparent or parents, submit to the state registrar a notarized request for a copy of the original birth record of the adopted person, the state registrar shall issue such copy, marked "NOT FOR OFFICIAL USE", at the usual cost of certificate copies.

(g) Nothing in this section shall be construed to allow the registrar to issue a copy of the original birth certificate to any registrant, except as provided for in subsection (f) of this section.

(h) Except upon order of a court of record of this state and notwithstanding any other provision of law, the information acquired by the registry shall not be disclosed under its public records law, sunshine or freedom of information legislation, rules or practice.

(i) The initial fee to be charged each person requesting that his name be placed on the list provided for in subsections (a), (b), (c) and (d) of this section, and for the services provided by the registrar in establishing and implementing the registry pursuant to this section, shall be ten dollars ($10.00). Except for the cost of the search described in subsection (b)(3) of this section, the fee shall cover all direct and indirect costs incurred pursuant to this section. The state board of health and welfare shall annually review the fees and expenses incurred pursuant to this section and, as needed, adjust the fees charged to cover the expenses of administering the provisions of this section.

Approved March 11, 1985.

CHAPTER 60
(H.B. No. 65)

AN ACT

RELATING TO CLEAN INDOOR AIR; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 55, TITLE 39, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT; TO PROVIDE DEFINITIONS; TO PROVIDE FOR PROHIBITIONS AND EXCEPTIONS; TO PROVIDE FOR THE DESIGNATION OF

SMOKING AREAS; TO PROVIDE FOR THE PROHIBITION OF SMOKING IN ELEVATORS; TO PROVIDE FOR RESPONSIBILITIES OF PROPRIETORS AND THE EFFECT OF NOT POSTING SIGNS; TO PROVIDE FOR VIOLATIONS; TO PROVIDE FOR RULES AND REGULATIONS; TO PROVIDE THE EFFECT ON OTHER STATUTES; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 55, Title 39, Idaho Code, and to read as follows:

CHAPTER 55
CLEAN INDOOR AIR

39-5501. LEGISLATIVE INTENT. The intent of this chapter is to protect the public health, comfort and environment and the rights of nonsmokers to breathe clean air by restricting smoking in public places and at public meetings to designated smoking areas.

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

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

(2) "Public place" means any enclosed indoor area used by the general public including but not limited to restaurants with a seating capacity of thirty (30) or more customers, retail stores, grocery stores and stores which sell food primarily for off-site consumption, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas and meeting rooms.

(3) "Smoking" includes carrying a lighted cigar, cigarette, pipe, or any other matter or substance which contains tobacco.

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

39-5503. PROHIBITIONS -- EXCEPTIONS. (1) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(2) The following may be designated as smoking areas in their entirety:

(a) When an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place;

(b) Bars; and

(c) Bowling alleys.

39-5504. DESIGNATED SMOKING AREAS. (1) Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

(2) Where smoking areas are designated, a "good faith" effort shall be made to minimize the effect of smoke in adjacent nonsmoking

areas. In the case of public places consisting of a single room, the provisions of this chapter shall be considered met if one side of the room is reserved and posted as a no smoking area.

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

39-5506. RESPONSIBILITIES OF PROPRIETORS. (1) The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking in the public place by posting appropriate signs designating smoking and nonsmoking areas.

(2) Failure to post signs shall not be construed as indicating the area to be either smoking or nonsmoking.

39-5507. VIOLATIONS. Any person who violates any of the provisions of this chapter is guilty of an infraction and is subject to a fine not to exceed fifty dollars ($50.00). Any violation may be reported to a law enforcement officer.

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

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

SECTION 2. This act shall be in full force and effect on and after January 1, 1986.

Approved March 11, 1985.

CHAPTER 61
(H.B. No. 169)

AN ACT

RELATING TO SUBSTITUTES FOR DAIRY PRODUCTS; AMENDING CHAPTER 3, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-334a, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING CHAPTER 3, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-334b, IDAHO CODE, TO

PROVIDE FOR LABEL REQUIREMENTS OF FOOD PRODUCTS MADE TO RESEMBLE DAIRY PRODUCTS; AMENDING CHAPTER 3, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-334c, IDAHO CODE, TO PROVIDE FOR LABELING REQUIREMENTS TO SHOW INGREDIENTS AND NUTRITIONAL VALUES OF FOOD PRODUCTS MADE TO RESEMBLE DAIRY PRODUCTS; AND AMENDING SECTION 37-335, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT AUTHORITY.

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

SECTION 1. That Chapter 3, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-334a, Idaho Code, and to read as follows:

37-334a. FOOD PRODUCTS MADE TO RESEMBLE DAIRY PRODUCTS -- DEFINITIONS. As used in sections 37-334, 37-334a, 37-334b and 37-334c, Idaho Code:

(1) "Dairy product" includes:

(a) Milk, skim milk, milk fat, cream, sour cream, lowfat milk and nonfat milk used in fluid, concentrated or dry form.

(b) Cheese. All varieties including asiago, blue, brick, caciocavallo, cheddar, colby, cook cheese, cottage, cream, washed curd, edam, gammelost, gorgonzola, gouda, granular and grated, gruyere, hard, limburger, monterey, monterey jack, mozzarella, scamorze, meunster, neufchatel, nuworld, parmesan, reggiano, pasteurized, blended and processed cheeses, pasteurized cheese spreads, provolone, pasta filata, romano, roquefort, samsoe, sapsago, semi-soft and skim milk, spiced, swiss and emmentaler as described in 21 CFR, part 133.

(c) Butter as defined in section 37-332, Idaho Code.

(d) Ice cream, frozen custard, ice milk, sherbet as defined in 21 CFR, part 135, frozen yogurt dessert mix, frozen yogurt dessert, frozen lowfat and nonfat yogurt dessert, dietetic or dietary frozen dessert, lowfat or nonfat frozen dairy dessert, and milk shake base as defined in state department of agriculture dairy regulations.

(e) Any manufactured food which:

1. Uses milk or a milk ingredient as the principal or characterizing constituent of the food product;

2. Does not contain ingredients added for the purpose of replacing milk or milk ingredients;

3. Does not contain milk-derived ingredients at levels in excess of those permitted in similar standardized dairy products;

4. Does not contain any vegetable-derived ingredients unless the ingredients are used as carriers or function as stabilizers or emulsifiers; and

5. Has no standard of identity recognized by any federal or state of Idaho law or regulation as a dairy product.

(2) "Milk ingredient" includes milk, skim milk, milk fat, cream, sour cream, lowfat milk and nonfat milk used in fluid, concentrated or dry form.

(3) "Milk derived ingredient" includes buttermilk, whey, modified whey products, casein, caseinates, lactose, lactalbumins and lactoglobulins used in fluid, concentrated or dry forms.

(4) "Artificial dairy product" means any food manufactured or labeled so as to purport to resemble the identity, intended use, composition, physical and sensory properties of a dairy product as defined in subsection (1) of this section.

SECTION 2. That Chapter 3, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-334b, Idaho Code, and to read as follows:

37-334b. LABEL REQUIREMENTS FOR FOOD PRODUCTS MADE TO RESEMBLE DAIRY PRODUCTS. (1) The statement "this is an artificial dairy product" or "an artificial dairy product" shall be placed in the upper thirty percent (30%) of the principal display panel of the package or container of all artificial dairy products as defined in section 37-334a(4), Idaho Code. The print size shall be no less than one-half (1/2) the size of the product name, but in no case less than eighteen (18) point type, three-sixteenths (3/16) inch, and the letters shall be of the same color and on the same contrasting background as the product name.

(2) The product name shall be in bold face type on the principal display panel and in lines generally parallel to the base of the container or package.

(3) The type size requirement shall not apply to individual serving size packages of artificial dairy products of one (1) ounce or less served with meals in restaurants, institutions or on passenger carriers provided all required information is on the label in type of at least one-sixteenth (1/16) inch in height.

SECTION 3. That Chapter 3, Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 37-334c, Idaho Code, and to read as follows:

37-334c. INGREDIENT AND NUTRITIONAL VALUES. (1) A food product made to resemble a dairy product as defined in section 37-334a(1), Idaho Code, shall include on the principal display panel a statement which will provide the major ingredients.

(a) The information regarding major ingredients shall be in type size which is twenty-five percent (25%) of the size as the name of the food product but not less than one-eighth (1/8) inch in height.

(2) A nutritional panel shall be provided.

(a) The panel shall include calories, protein, carbohydrates, and fat in grams per serving and nutrients as a percent of the U.S.R.D.A. for protein, vitamin A, vitamin C, thiamine, riboflavin, niacin, calcium, and iron in that order. The following optional nutrients may also be declared: vitamins D, B and B , phosphorus, iodine, magnesium, zinc, biotin and pantothenic acid.

(b) The nutritional panel is not required on individual serving size packages of artificial products of one (1) ounce or less served with meals in restaurants, institutions or on passenger carriers.

SECTION 4. That Section 37-335, Idaho Code, be, and the same is hereby amended to read as follows:

37-335. PENALTY ~~FOR---VIOLATING--SECTIONS--37-331--TO--37-334--~~ ENFORCEMENT. (1) Any person, firm or corporation, violating the provisions of sections 37-331 ~~to~~ through 37-334c, ~~inclusive~~ Idaho Code, or any part or provision of any of said sections, shall be guilty of a misdemeanor and punishable by a fine not exceeding two hundred dollars ($200~~.00~~) or imprisonment in the county jail not exceeding six (6) months or by both such fine and imprisonment.

(2) In addition, any products not in compliance with the provisions of sections 37-334 through 37-334c, Idaho Code, after January 1, 1986, shall be subject to seizure and disposition in accordance with an appropriate court order or rule adopted by the director of the department of agriculture.

Approved March 11, 1985.

CHAPTER 62
(H.B. No. 170)

AN ACT

RELATING TO ASSESSMENTS PAID TO THE PEA AND LENTIL COMMISSION; AMENDING SECTION 22-3515, IDAHO CODE, TO IMPOSE AN ASSESSMENT UPON CHICKPEAS OR GARBANZOS.

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

SECTION 1. That Section 22-3515, Idaho Code, be, and the same is hereby amended to read as follows:

22-3515. IMPOSITION OF ASSESSMENT. (1) (a) From and after the first day of July, 1983, there is hereby levied and imposed an assessment of eight cents (8¢) per cwt. on lentils, seven cents (7¢) per cwt. on dry green and yellow and other smooth varieties of peas, seven cents (7¢) per cwt. on Austrian winter varieties of peas and seven cents (7¢) per cwt. on smooth green and yellow seed peas sold after July 1, 1983, dockage free weight, grown in the state of Idaho and sold or contracted through commercial channels, and each and every crop grown thereafter, which assessment shall be due on or before the time when such peas and lentils are 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.

(b) From and after the first day of July 1, 1985, there is hereby

levied and imposed an assessment of eight cents (8¢) per cwt. on chickpeas or garbanzos sold after July 1, 1985, dockage free weight, grown north of the Salmon River and sold or contracted through commercial channels, and each and every crop grown thereafter, which assessment shall be due on or before the time when such chickpeas or garbanzos are 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. The Idaho pea and lentil commission shall contract with the Idaho bean commission for any domestic advertising.

(2) The assessment shall be levied and assessed to the grower at the time of delivery for sale and shall be deducted by the first purchaser from the price paid to the grower at the time of sale or in case of a lienholder who may possess such peas or lentils under his lien, the assessment shall be deducted by the lienholder from the proceeds of the claim secured by such lien at the time the peas or lentils are pledged or mortgaged. The assessment shall be deducted as provided in this section whether the peas or lentils are stored in this or any other state. The commission may, however, permit any federal corporation, such as the Commodity Credit Corporation, to waive its responsibility for the collection of the assessment, provided the amount of the assessment is one dollar ($1.00) or less.

(3) The assessment shall be levied on peas and lentils grown and delivered on seed or grower contracts. The assessment shall be levied and assessed to the grower at the time of settlement and shall be deducted by the seed company, corporation, cooperative, partnership, or person from the price paid to the grower at the time of settlement for fulfillment of conditions as set forth in grower contracts.

(4) The assessment shall not be levied on peas and lentils retained and used by the grower for his own seed and feed.

(5) The assessment constitutes a lien prior to all other liens and encumbrances upon such peas or lentils except liens which are declared prior by operation of a statute of this state.

Approved March 11, 1985.

CHAPTER 63
(H.B. No. 176)

AN ACT

RELATING TO THE SHEEP COMMISSION; AMENDING SECTION 25-126, IDAHO CODE, TO PROVIDE THAT THE BOARD, ITS OFFICERS AND EMPLOYEES, SHALL NOT BE SUBJECT TO THE ADMINISTRATIVE CONTROL OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, TO PROVIDE THAT OFFICERS AND EMPLOYEES OF THE BOARD SHALL BE NONCLASSIFIED EMPLOYEES, AND TO PROVIDE THAT ADMINISTRATIVE OR VETERINARY SERVICES MAY BE PROVIDED BY CONTRACT; AMENDING SECTION 25-127, IDAHO CODE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS; AMENDING SECTION 25-128, IDAHO CODE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS, TO CREATE THE STATE ANIMAL DAMAGE CONTROL BOARD, TO PROVIDE FOR THE CHAIRMAN OF THE BOARD, TO

PROVIDE FOR DUTIES OF THE BOARD, TO PROVIDE FOR MEMBERSHIP ON THE BOARD, AND TO PROVIDE FOR ADMINISTRATIVE AND FISCAL SERVICES FOR THE BOARD; AMENDING SECTION 25-129, IDAHO CODE, TO PROVIDE NAME CHANGES AND TO STRIKE REFERENCE TO THE ADMINISTRATOR OF THE DIVISION OF ANIMAL INDUSTRIES; AMENDING SECTION 25-130, IDAHO CODE, TO PROVIDE NAME CHANGES, AND TO PROVIDE FOR DUTIES OF THE BOARD OF SHEEP COMMISSIONERS; AMENDING SECTION 25-131, IDAHO CODE, TO PROVIDE NAME CHANGES, AND TO PROVIDE THAT MONEYS APPROPRIATED FOR SHEEP DISEASE CONTROL MUST BE USED FOR THAT PURPOSE; AMENDING SECTION 25-137, IDAHO CODE, TO PROVIDE NAME CHANGES, AND TO STRIKE REFERENCE TO OBSOLETE PROVISIONS; AMENDING SECTION 25-138, IDAHO CODE, TO PROVIDE NAME CHANGES, AND TO PROVIDE PROPER CODE REFERENCES; AMENDING SECTION 25-139, IDAHO CODE, TO PROVIDE A NAME CHANGE; AMENDING SECTION 25-142, IDAHO CODE, TO INCLUDE TRUCK LINES WITHIN THE REQUIREMENT FOR NOTICE OF QUARANTINE; AMENDING SECTION 25-204, IDAHO CODE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS; AMENDING CHAPTER 26, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-2629, IDAHO CODE, TO PROVIDE FOR ANIMAL DAMAGE CONTROL DISTRICTS IN THE STATE, TO PROVIDE FOR A BOARD OF DIRECTORS OF EACH DISTRICT, TO PROVIDE FOR MEETINGS OF THE BOARD OF DIRECTORS, TO PROVIDE AUTHORITY FOR THE BOARD OF DIRECTORS, AND TO PROVIDE FOR MAINTAINING WRITTEN RECORDS.

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

SECTION 1. That Section 25-126, Idaho Code, be, and the same is hereby amended to read as follows:

25-126. CREATION OF BOARD. A state board of sheep commissioners is hereby created within the department of agriculture, but its officers and employees shall not be subject to the administrative control of the director of the department of agriculture. The administrative officers and employees of the board shall be nonclassified employees. The board may contract with the director of the department of agriculture for administrative and/or veterinary services.

SECTION 2. That Section 25-127, Idaho Code, be, and the same is hereby amended to read as follows:

25-127. MEMBERS -- APPOINTMENT, QUALIFICATIONS, SALARY -- BOND AND OATH. The state board of sheep commissioners, hereinafter called the board, shall consist of five (5) members, all of whom shall be experienced wool growers and no two (2) of whom shall be from the same county; said members shall be appointed by the governor and hold their offices for the term for which they are appointed and thereafter until their successors are duly appointed and qualified. ~~In--making--said appointments,--the--governor--shall--consider--for-appointment-to-said board-the-members-of-the-former-state-board-of-sheep-commissioners.~~

As vacancies occur upon the board, the Idaho Wool Growers Association shall submit to the governor the names of two (2) persons qualified and suitable for appointment for each such vacancy from whom the governor shall make his appointment to fill such vacancies. The first

commissioners shall be appointed for the following terms: two (2) commissioners shall be appointed to hold office until the first Monday of January 1952; two (2) commissioners shall be appointed to hold office until the first Monday of January 1954; one (1) commissioner shall be appointed to hold office until the first Monday of January 1956; and at the expiration of said dates for the commissioners first appointed and until the expiration of terms thereafter, commissioners shall be appointed to fill such vacancies for a term of six (6) years; and in case of any vacancy occurring in the office of commissioner at any time other commissioners shall be appointed, who in each instance shall hold office until the unexpired term of the commissioner whom he is appointed to succeed. Each of said commissioners, before entering upon the duties of his office, shall take and subscribe to the oath of office required by section 59-401, Idaho Code, and be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code. The members of the board shall be compensated as provided by section 59-509(d), Idaho Code. Said compensation shall be paid from the sheep commission ~~fund~~ account in the same manner as other expenses 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 semiannually and at any other time if so requested by any member of the board.

~~This--section-shall-be-expressly-exempt-from-the-terms-of-sections 67-2007-and-67-2008,-Idaho-Code,-cited--and--known--as--the--"Standard Travel-Pay-and-Allowance-Act-of-1949."~~

SECTION 3. That Section 25-128, Idaho Code, be, and the same is hereby amended to read as follows:

25-128. DUTIES AND POWERS OF BOARD. (1) The ~~said~~ board ~~herein created~~ of sheep commissioners shall perform all those duties and powers ~~in-the-department-of-agriculture-now-performed-by-said--department--of--agriculture--or--the-administrator-of-the-division-of-animal industries,-relating-to~~ necessary for the supervision of sheep, handling of sheep, shipping, transporting or moving of sheep, regulation of sheep, eradication of all diseases among sheep, the making of all rules and regulations concerning sheep and all other matters pertaining to sheep either in the state of Idaho or which may be brought into or shipped from the state of Idaho.

(2) There is hereby created a state animal damage control board. The chairman of the board of sheep commissioners shall ~~also-perform~~ be a voting member and serve as the chairman of the state animal damage control board which shall have such duties and powers ~~in--the--department--of--agriculture--herein--provided--as--are-now-performed-by-said department-of-agriculture~~ relating to the ~~eradication,-destruction-and control-of-predatory-animals~~ prevention and control of damage caused by predatory animals and other vertebrate pests within the state of Idaho ~~and-it~~ as are established by federal or state law, federal or state regulation, or county ordinance. It is hereby made the duty of the ~~sheep-commissioners~~ state animal damage control board to ~~exercise general-supervision-over-the-killing,-destruction-and-extermination-of~~

~~such--predatory--animals--as--are--in--the--habit--of-preying-upon-and destroying-sheep,-calves,-colts,-pigs,-poultry-and-other-domestic-animals,-fowls-and-wild-game-and-to-devise-and-put--into--operation--such methods--and--means--as--will--best--secure--and--obtain-the-object-of exterminating-such-wild,-destructive-and--pestiferous--animals--within the--state--of-Idaho~~ coordinate and give general direction to programs to prevent and control damage or conflicts on federal, state, or other public or private lands caused by predatory animals, rodents, or birds injurious to animal husbandry, agriculture, horticulture, forestry, wildlife and human health or safety; and also to facilitate, coordinate or conduct such investigations, experiments or tests as deemed necessary to determine, demonstrate and promulgate the best methods of predatory animals and other vertebrate pest control. In carrying out these duties, the board may cooperate with federal, state, county, city and private agencies, organizations or individuals; provided, however, that the authority of this board is not to supersede the state fish and game department or the ~~United-States-biological-survey~~ responsible federal agency in the utilization of the funds of those two (2) agencies in their conduct of similar work within the state of Idaho, but the board shall cooperate and work with these two (2) agencies. Prevention and control of predatory animals and other vertabrate pests does not include the payment of compensation for damages.

(3) In addition to the chairman, the state animal damage control board shall consist of a member appointed by the president of the Idaho cattle association, the director of the state department of agriculture, the director of the state department of fish and game, and the chairman of the board of directors of each of the five (5) animal damage control districts.

(4) The state animal damage control board shall have as its primary duties the coordination of the control efforts of the five (5) animal damage control districts; the establishment of general policies for the control programs; the establishment of annual priorities for control efforts; and the assignment or distribution of moneys made available to the board from any source. All contracts or agreements for providing prevention and control services which involve an expenditure of moneys from the state animal damage control board shall be in writing and shall be maintained as a part of the official records of the board.

(5) The state board of sheep commissioners shall provide staff, administrative and fiscal services for the animal damage control board.

SECTION 4. That Section 25-129, Idaho Code, be, and the same is hereby amended to read as follows:

25-129. RULES AND REGULATIONS -- EXECUTIVE SECRETARY, VETERINARIAN, INSPECTORS, SALARIES, EXPENSES AND OFFICE. (1) The board shall elect one (1) of its members ~~president~~ chairman. The said 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 the provisions of this ~~act~~ chapter and to enforce all such rules and regulations, and shall have exclusive control of all matters pertain-

ing to the sheep industry. It shall be empowered to make and enforce rules and regulations for quarantining, dipping or otherwise treating sheep which may be infected, affected or infested with scabies, ticks, lice or any other parasites detrimental or injurious to sheep, or any infectious or contagious disease of sheep and for the speedy and effective suppression and extirpation of infectious or contagious diseases, scabies, ticks, lice or other parasites detrimental to sheep as are not in conflict with the provisions of this ~~act~~ chapter. All such rules and regulations adopted by said board shall have the same force and effect as law and any person, association, firm or corporation violating such rules or regulations shall be deemed guilty of a misdemeanor.

(2) The board is empowered to select an executive secretary who may or may not be a member of the board, and such executive secretary shall have the authority and power to sign any and all lawful claims or vouchers to be made, filed or drawn by or on behalf of the board against the "sheep commission ~~fund,"-hereinafter-described-for-the payment-of-money~~ account, and for such purposes he shall be regarded as the administrative head of the ~~department~~ agency and he shall perform such other and further duties as the board shall direct.

(3) The board is empowered to appoint, with the approval of the governor, a veterinarian in charge, who must be duly licensed in the state of Idaho and who is a graduate of a recognized and accredited school of veterinary medicine, ~~but-who-may-or-may-not-be-the-regular administrator-of-the-division-of-animal-industries,~~ whose duties and powers shall be defined and prescribed by said board; which said officer shall be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code. The veterinarian in charge shall receive such compensation as may be allowed by said board and actual and necessary expenses incurred in the performance of his duties. ~~Provided,-that-where-the-administrator-of-the-division-of-animal--industries--is--designated--by--said-board-as-its-veterinarian-in charge,-such-administrator-shall-not-receive-any-additional-salary-for such-work,-but-all-of-his-traveling-and-other-expenses-incurred-in-the handling-of-such-additional-duties-shall--be--a--charge--against--said sheep-commission-fund-and-shall-be-paid-therefrom.~~ The veterinarian in charge shall be at all times subject to the authority of the board and shall have the same powers hereinafter provided for all other inspectors appointed by the board under this ~~act~~ chapter. The veterinarian in charge shall have authority and power to sign all lawful claims or vouchers filed or drawn on behalf of the board against the sheep commission ~~fund~~ account.

(4) The board is hereby empowered to appoint all other inspectors, veterinarians and such other employees and assistants as may be necessary to carry out the duties and powers herein conferred and fix the compensation of all such appointees. All salaries and expenses of every kind incurred in carrying out the provisions of this ~~act~~ chapter shall be paid from the sheep commission ~~fund-herein-created~~ account.

(5) Inspectors and veterinarians appointed by the board of sheep commissioners shall have the power and duty to enforce all of the laws of the state for the identification, inspection and transportation of sheep and other livestock, and shall have general authority to enforce

theft laws of the state with respect to sheep and other livestock.

SECTION 5. That Section 25-130, Idaho Code, be, and the same is hereby amended to read as follows:

25-130. FIXING ASSESSMENT RATE -- PAYMENT OF CLAIMS -- REPORT -- INSPECTION, QUARANTINE AND TREATMENT OF SHEEP -- DISTRICTS. The board shall meet annually and fix the rate of special assessment to be levied as provided for in this ~~act~~ chapter. The board shall audit all bills of salaries and expenses incurred in the enforcement of this ~~act~~ chapter that may be payable from the sheep commission ~~fund~~ account which shall be audited, allowed and paid as other claims against the state. The board shall make an annual report in writing to the governor on or before the first day of December in each year, giving a statement of the transactions of the board and facts relating to the condition of the sheep industry in this state and facts relating to the ~~eradication of predatory animals~~ prevention and control of damage caused by predatory animals and other vertebrate pests within the state. The board shall have power to order an inspection or quarantine of any sheep in the state of Idaho, whether diseased or exposed to disease, to compel dipping or other treatment of sheep, whether diseased or exposed to disease, at such times and as often as it deems necessary to insure the suppression or eradication of scabies or any infectious or contagious disease of sheep and divide the state into such districts as may be necessary for the enforcement of this ~~act~~ chapter.

SECTION 6. That Section 25-131, Idaho Code, be, and the same is hereby amended to read as follows:

25-131. SHEEP COMMISSION ~~FUND~~ ACCOUNT -- ASSESSMENT -- FIRST PURCHASER TO MAKE REPORT -- PENALTY FOR FAILURE TO MAKE REPORT -- APPROPRIATION. (1) In order for the board of sheep commissioners to carry out the provisions of this chapter, the board shall assess, levy and collect an assessment established by the board, not to exceed six cents (6¢) per pound on all wool, in the grease basis, sold through commercial channels. In the event that a sheep, which produces wool subject to this assessment, shall be located outside the state of Idaho during a part of the assessment year, the amount of the assessment shall be reduced on a pro rata basis. Such assessment shall be levied and assessed to the producer at the time of the first sale of wool and shall be deducted by the first purchaser from the price paid to the producer at the time of such first sale. The assessment provided in this section shall not be levied or collected on any casual sale.

(2) The assessment provided by this section shall constitute a lien prior to all other liens and encumbrances upon such wool except liens which are declared prior by operation of a statute of this state.

(3) If the first purchaser lives or has his principal office in another state, the producer shall make the reports and pay the assessments to the ~~commission~~ board as required under this section unless

the first purchaser agrees in writing to make such reports and pay such assessments.

(4) The first purchaser shall specify the amounts of assessments withheld in any written statements made to the producer.

(5) The first purchaser shall make reports to the board on forms prescribed by the board, and no first purchaser shall fail to make such reports or falsify any such reports. The assessment deducted and withheld by a first purchaser, as required in subsection (1) of this section, shall be paid to the board on a quarterly calendar year basis, and shall be due and payable within thirty (30) days after the end of the quarter. All moneys collected by the board under the provisions of this chapter shall be paid to the state treasurer. All moneys received from the assessment pursuant to this section shall be deposited in the state treasury by the state treasurer to the credit of a special account in the state operating fund hereby created to be known as the "sheep commission account."

(6) A first purchaser who delays transmittal of reports and payments of assessments beyond the time stated in subsection (5) of this section shall pay five percent (5%) of the amount due for the first month of delay and one percent (1%) of the amount due for each month of delay thereafter. Such moneys shall be deposited in the sheep commission account.

(7) In addition thereto, the said account shall consist of any appropriations made by the legislature for the use of and expenditure by said board. All fees of every kind collected under the provisions of this ~~act~~ chapter, or under any rules and regulations made pursuant to the provisions of this ~~act~~ chapter, shall be deposited in the state treasury in the manner hereinabove described. The moneys in said special account are hereby appropriated for the use and expenditure of said board carrying out the provisions of this ~~act~~ chapter and the rules and regulations made herein and said account is hereby declared to be a continuing account.

(8) All moneys appropriated to the board for the purposes of sheep disease prevention, abatement, suppression, control or eradication shall be expended by the board only for those purposes, in accordance with the duties specified in section 25-128(1), Idaho Code.

(9) All moneys received by the state board of sheep commissioners from that portion of the special assessment which is made to carry on the ~~predatory-animal~~ work for prevention and control of damage caused by predatory animals and other vertebrate pests shall be expended by the sheep commission in the respective districts comprising the counties where the assessment was collected less the actual and necessary administrative costs for carrying out the provisions of this ~~act~~ chapter. All moneys received by such account for ~~predatory-animal~~ work for prevention and control of damage caused by predatory animals and other vertebrate pests except as herein otherwise provided shall be expended by the sheep commission within the district or districts specified by the party or agency providing such funds and any trust fund must be held inviolate for the purposes of the trust.

SECTION 7. That Section 25-137, Idaho Code, be, and the same is hereby amended to read as follows:

25-137. PUNISHMENT FOR DISREGARD OF QUARANTINE REGULATIONS -- TAKING EVIDENCE. Any person, company, corporation or association or any agent, servant or employee of such, who shall violate or disregard any quarantine provision of this ~~act~~ chapter or any other provision of law or any sanitary or quarantine rule, ~~regulation--or~~ order of the board or inspector thereof or any of the provisions of this ~~act~~ chapter, shall be deemed guilty of a misdemeanor ~~and--upon--conviction thereof,--be--punished-by-imprisonment-in-a-county-jail-for-a-term-not to-exceed-one-(1)-year-or-by-a-fine-of-not-more-than-$1,000-or-by-both such-fine-and-imprisonment~~. For the purpose of carrying out the provisions of this ~~act-each-member-of~~ chapter, the board ~~and-the--executive secretary--of--said--board~~ is authorized to subpoena and examine witnesses and to administer oaths for the purpose of soliciting information to be used in enforcing the provisions hereof and in the furtherance of the quarantine, sanitary or other regulations.

SECTION 8. That Section 25-138, Idaho Code, be, and the same is hereby amended to read as follows:

25-138. FILING AND ENFORCING OF LIENS. All liens provided for in this ~~act~~ chapter shall be filed, enforced and foreclosed as if it were an income tax lien as provided by ~~sections-45-401-to-45-417~~ chapter 30, title 63, Idaho Code, ~~inclusive,~~ and said statutes are hereby declared to apply to and include any liens provided for in this chapter.

SECTION 9. That Section 25-139, Idaho Code, be, and the same is hereby amended to read as follows:

25-139. ATTACHMENT OF PROPERTY. Whenever it shall be necessary in the enforcement of the provisions of this ~~act~~ chapter for the board or any of its inspectors to take charge of any sheep, corral, building or other place, demand therefor shall be made upon the owner or person in charge thereof; in event of refusal of said owner or person in charge of said sheep, corral, building or place, said board or any inspector may have said sheep, corral, building or place seized and held by writ of attachment to issue in the same manner as provided by the general laws of this state; provided, that action shall be brought in the name of the state of Idaho and no bond on attachment be required.

SECTION 10. That Section 25-142, Idaho Code, be, and the same is hereby amended to read as follows:

25-142. QUARANTINES AGAINST SHEEP DISEASES. The state board of sheep commissioners is hereby authorized and directed to quarantine any portion of this state when the fact shall have been determined that sheep therein are affected with scabies or any other contagious, infectious or communicable disease and the board is directed to give written or printed notice of the establishment of any such quarantine to any railroad, truck line or other transportation company and shall be published in a newspaper having a general circulation in the

section where said quarantine is established and for such length of time as by the board may be deemed necessary; and proof of the mailing of such written notice and of the newspaper publication thereof, shall be deemed conclusive evidence of notice of the establishment of such quarantine.

SECTION 11. That Section 25-204, Idaho Code, be, and the same is hereby amended to read as follows:

25-204. VETERINARIANS AND LIVESTOCK INSPECTORS. When it shall be deemed necessary by reason of the prevalence of disease among any of the animals of this state, the division may employ deputy state veterinarians and livestock inspectors to assist in its control and eradication.

Veterinarians so employed shall be competent, qualified graduates in good standing of a veterinary college recognized by the United States bureau of animal industry. Each veterinarian shall receive a per diem not to exceed the reasonable value of his services and actual and necessary traveling expenses incurred in the performance of his duties, to be approved by the state veterinarian and director and paid as other like claims.

Livestock inspectors shall be competent and qualified to inspect and dip sheep for scabies, to supervise the cleaning and disinfecting of premises where any contagious, infectious or communicable disease has existed, and to perform such other duties as may be imposed by the division. They shall receive ~~not-to-exceed-five-dollars-($5.00)~~ a per diem and actual and necessary traveling expenses incurred in the performance of their duties.

SECTION 12. That Chapter 26, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-2629, Idaho Code, and to read as follows:

25-2629. ANIMAL DAMAGE CONTROL DISTRICTS. (1) There are hereby established five (5) animal damage control districts in the state of Idaho.

(a) Animal damage control district number 1 shall consist of the counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone.

(b) Animal damage control district number 2 shall consist of the counties of Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington.

(c) Animal damage control district number 3 shall consist of the counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

(d) Animal damage control district number 4 shall consist of the counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida and Power.

(e) Animal damage control district number 5 shall consist of the counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton.

(2) A board of directors for each animal damage control district is hereby created. The board of directors of an animal damage control district shall consist of one (1) director appointed by the board of county commissioners from each of the participating counties within the district. Nomination for directors shall be made to the county commissioners by livestock and agriculturally oriented groups which have a vested and economic interest in the animal damage control program, and appointees must have a substantial vested and economic interest in the livestock or other agricultural industry. The length of term shall be two (2) years. A director shall receive such compensation as may be fixed by order of the district animal damage control board, and shall be entitled to expense reimbursement in the same manner as a county employee; compensation and expense reimbursement shall be made from the moneys available to the district animal damage control board.

(3) The board of directors shall meet at least annually. Such meeting shall be called at the direction of the chairman of the board or by a majority of the directors in that district. At said annual meeting, the board of directors shall organize by electing from amongst its members a chairman, a vice chairman, and such other officers as may be necessary. They shall also establish operating rules for the board and approve annual work plans for the animal damage control programs. After the annual meeting, the board of directors shall meet at such times and places as are required by the board's rules.

(4) The board of directors shall have authority to receive and disperse funds from any source for the purpose of controlling predatory animal and other vertebrate pest damage in the district. Any moneys received by the board shall be maintained on deposit in a bank or trust company designated as a state depository, and may be dispersed from such account only over the signature of at least two (2) members of the board.

(5) All contracts and agreements between the board of directors and any agency, unit of government, association, organization or private party shall be reduced to writing, and shall be maintained as a part of the official records of the board.

Approved March 11, 1985.

CHAPTER 64
(H.B. No. 46, As Amended)

AN ACT

RELATING TO THE CONFIDENTIAL CHARACTER OF PUBLIC ASSISTANCE RECORDS; AMENDING SECTION 56-221, IDAHO CODE, TO ALLOW THE RELEASE OF THE CURRENT ADDRESS OF AN AFDC RECIPIENT UPON PROVISION OF PROOF THAT SUCH RECIPIENT IS A FUGITIVE FELON OR A PERSON WANTED ON A FUGITIVE WARRANT.

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

SECTION 1. That Section 56-221, Idaho Code, be, and the same is hereby amended to read as follows:

56-221. CONFIDENTIAL CHARACTER OF PUBLIC ASSISTANCE RECORDS. The rule-making power of the state department shall include the power to establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the state department. Wherever, under provisions of law, names and addresses of recipients of public assistance are furnished to or held by any state or county official, such state or county official shall be required to adopt regulations necessary to prevent the publication of lists thereof or their use for purposes not directly connected with the administration of public assistance; but such safeguards shall not prevent the furnishing to a state or local law enforcement officer, upon his written request, with the current address of any AFDC recipient if the officer furnishes the state department with such recipient's name and social security account number and proof that such recipient is a convicted fugitive felon or an indicted fugitive felon, or a person for whom a fugitive warrant has been issued, and that the location or apprehension of such felon or person is within the officer's official duties, and that the request is made in the proper exercise of those duties.

Approved March 12, 1985.

CHAPTER 65
(H.B. No. 143)

AN ACT

RELATING TO FEES FOR NONRESIDENT FISHING LICENSES; AMENDING SECTION 36-407, IDAHO CODE, TO INCREASE THE FEE FOR NONRESIDENT SEASON FISHING LICENSES TO THIRTY-FIVE DOLLARS; TO ELIMINATE THE NONRESIDENT SEVEN DAY FISHING LICENSE; TO CREATE A NONRESIDENT TEN DAY FISHING LICENSE WITH A FEE OF SEVENTEEN DOLLARS AND TO INCREASE THE FEE FOR ONE DAY FISHING LICENSES TO FIVE DOLLARS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 36-407, Idaho Code, be, and the same is hereby amended to read as follows:

36-407. NONRESIDENT FISHING, HUNTING, AND TRAPPING LICENSES -- FEES -- RIGHTS UNDER. Licenses of the fifth class shall be issued to nonresidents in the several kinds and for fees as follows:

(a) Nonresident Hunting License. A license issued only to a person twelve (12) years of age or older entitling said person to pursue, hunt, or kill game birds, small game animals, unprotected

birds and animals and predatory birds and animals and to purchase game tags as provided in subsection 36-409(b), Idaho Code. A license of this kind may be had upon payment of seventy-five dollars ($75.00).

(b) Nonresident Season Fishing License. A license entitling a person to fish in the public waters of the state. A license of this kind may be had by persons fourteen (14) years of age or older upon payment of thirty-five dollars ($30~~5~~.00).

(c) Nonresident Trapping License. A license entitling a person to trap fur-bearing, unprotected, and predatory animals. A license of this kind may be had upon payment of one hundred and fifty dollars ($150.00) providing the state of residence of said person grants similar trapping license privileges to residents of Idaho.

(d) Nonresident Nongame License. A license entitling a person to carry a shotgun or rifle for the protection of livestock, or to pursue, hunt and kill unprotected birds and animals and predatory birds and animals of this state. A license of this kind may be had by a nonresident person who is twelve (12) years of age or older upon payment of ten dollars ($10.00). This license shall be valid only during the period of January 1 to August 31 of the calendar year in which issued, unless verified by the director that the licensee requires such a license to authorize him to carry a shotgun or rifle for the protection of livestock, in which case said license shall be valid until December 31 of the year in which issued.

(e) Nonresident ~~Seven~~ Ten Day Fishing License. A license entitling a person to fish in the waters of the state for a period of ~~seven~~ ten (~~7~~10) consecutive days only. A license of this kind may be had upon payment of ~~fourteen~~ seventeen dollars ($14~~7~~.00).

(f) Daily Fishing License -- Resident May Purchase. A license entitling a person to fish in the waters of the state on a day-to-day basis. A license of this kind may be had by a resident or nonresident person (the provisions of section 36-405, Idaho Code, notwithstanding), upon payment of ~~four~~ five dollars ($4~~5~~.00) per day for each effective day thereof.

SECTION 2. This act shall be in full force and effect on and after January 1, 1986.

Approved March 12, 1985.

CHAPTER 66
(H.B. No. 248)

AN ACT

RELATING TO THE ERADICATION OF WEEDS; AMENDING SECTION 22-2443, IDAHO CODE, TO REQUIRE THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE TO EMPLOY A STATEWIDE WEED COORDINATOR.

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

SECTION 1. That Section 22-2443, Idaho Code, be, and the same is hereby amended to read as follows:

22-2443. ENFORCEMENT OF CHAPTER VESTED IN DIRECTOR -- POWERS AND DUTIES. (1) (a) The duty of enforcing this chapter and carrying out its provisions is vested in the director, and the control authorities designated in this chapter acting under the supervision and direction of the director. The director shall determine what weeds are noxious for the purposes of this chapter, and shall compile and keep current a list of such noxious weeds, which list shall be published and incorporated in the rules and regulations of the director. The director shall, from time to time, adopt and publish methods as official for control and eradication of noxious weeds and make and publish such rules and regulations as in his judgment are necessary to carry out the provisions of this chapter.

(b) The director is authorized to investigate the subject of noxious weeds; to require information, annual work plans, and reports from each county as to the presence of noxious weeds and other information relative to noxious weeds and the control and eradication thereof; to cooperate in carrying out other acts administered by him; to cooperate with agencies of federal and state governments and persons in carrying out his duties under this chapter, and, with the consent of the governor, in the conduct of investigation outside this state in the interest of the protection of the economic activities of this state from noxious weeds not generally distributed therein; with the consent of the federal agency involved, to control and eradicate noxious weeds on federal lands within this state, with or without reimbursement, when deemed by him to be necessary to an effective weed control and eradication program; to advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control and eradication thereof; to call and attend meetings and conferences dealing with the subject of noxious weeds; to disseminate information and conduct educational campaigns in cooperation with the University of Idaho's extension service, and others with respect to the prevention, control, and eradication of noxious weeds; to procure materials and equipment and employ ~~personnel necessary~~ a statewide weed coordinator to carry out his duties and responsibilities; and to perform such other acts as may be necessary or appropriate to the administration of this chapter.

(c) When determined by the director that a county has failed to carry out any of its duties and responsibilities as a control authority, the director may request that the attorney general bring an action in the district court against the control authority to require compliance with the provisions of this chapter.

(d) The director is authorized to investigate the subject of noxious weeds, to require information, annual work plans, and reports from each state department, board, commission, or institution which exercises administrative control over lands owned or controlled by the state. The annual work plans shall be submitted to the director and the respective county control authority within those particular areas of jurisdiction.

(e) The director shall have the responsibility of cooperating

with the federal government in planning, coordinating and executing a meaningful program of weed control on indigenous federal land. To the extent possible, all noxious weed control expenses should be considered a regular maintenance and operating expense of the administrating federal agency.

Approved March 12, 1985.

CHAPTER 67
(H.B. No. 253)

AN ACT

RELATING TO EXCEPTIONS TO THE OPTOMETRISTS LICENSING LAW; AMENDING SECTION 54-1517, IDAHO CODE, TO AUTHORIZE THE SALE AND DISPENSING OF CONTACT LENSES BY A RETAIL OR WHOLESALE OUTLET OR OPTICAL DEPARTMENT ONLY WHEN THE PRESCRIPTION STATES THAT IT IS INTENDED FOR CONTACT LENSES AND INCLUDES THE TYPE AND SPECIFICATIONS OF CONTACT LENSES BEING PRESCRIBED.

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

SECTION 1. That Section 54-1517, Idaho Code, be, and the same is hereby amended to read as follows:

54-1517. OPHTHALMIC LENS OR PRISM -- ACCEPTANCE FOR DUPLICATION BY OTHER THAN LICENSED OPTOMETRIST OR PHYSICIAN PROHIBITED -- EXCEPTION. It shall be unlawful for any person other than a licensed optometrist or physician to accept or offer to accept for purpose of duplication any ophthalmic lens or prism ordinarily used before the human eye for corrective purposes, or for assisting vision; provided, however, that any manufacturing, dispensing or surfacing optician ~~be~~ is hereby permitted to grind or supply, dispense, replace or duplicate any such lens in conformity with the prescription or instruction of any optometrist or physician duly licensed to practice within the state of Idaho. Contact lenses may be sold or dispensed in a retail or wholesale outlet or other permanently established place of business with an optical department only when the prescription specifically states on its face that it is intended for contact lenses and includes the type and specifications of the contact lens being prescribed.

Approved March 12, 1985.

CHAPTER 68
(H.B. No. 292)

AN ACT

APPROPRIATING MONEYS TO THE ATTORNEY GENERAL IN ADDITION TO THE APPROPRIATION CONTAINED IN SECTION 2, CHAPTER 185, LAWS OF 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 185, Laws of 1984, there is hereby appropriated to the Attorney General for the State Legal Services Program the following amount to be expended according to the designated expense classes from the listed account for the period July 1, 1984, through June 30, 1985:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
Interagency Billing and Receipts Account	$93,000	$10,000	$103,000

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, 1985.

CHAPTER 69
(H.B. No. 293)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL FOR FISCAL YEAR 1986 AND DESIGNATING PROGRAM LIMITS; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE ATTORNEY GENERAL; 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, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$2,489,900
Operating Expenditures	285,900
Capital Outlay	11,700
TOTAL	$2,787,500

FROM:	
General Account	$1,384,900
Interagency Billing and Receipts Account	1,402,600
TOTAL	$2,787,500

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. STATE LEGAL SERVICES:				
FROM:				
General Account	$1,097,800	$225,400	$11,700	$1,334,900
Interagency Billing and Receipts Account	1,392,100	10,500		1,402,600
TOTAL	$2,489,900	$235,900	$11,700	$2,737,500
B. SPECIAL SERVICES LITIGATION:				
FROM:				
General Account		$ 50,000		$ 50,000
GRAND TOTAL	$2,489,900	$285,900	$11,700	$2,787,500

SECTION 3. There is hereby reappropriated to the Attorney General any unexpended and unencumbered balances of the General Account money appropriated by Section 2, Chapter 185, Laws of 1984, for the Special Services Litigation Program, to be expended for the Special Services Litigation Program for the period July 1, 1985, through June 30, 1986.

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 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 March 12, 1985.

CHAPTER 70
(H.B. No. 298)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF WELFARE, FOR FISCAL YEAR 1986, 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, 1985 through June 30, 1986:

FROM:	
General Account	$ 37,637,400
Medical Assistance Account	15,000
Liquor Account	650,000
Cooperative Welfare Account	101,215,300
TOTAL	$139,517,700

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, 1985 through June 30, 1986:

A. ELIGIBILITY SERVICES:	
FROM:	
General Account	$ 4,936,300
Cooperative Welfare Account	5,278,000
TOTAL	$ 10,214,300
B. MEDICAL ASSISTANCE PAYMENTS:	
FROM:	
General Account	$ 20,339,500
Medical Assistance Account	15,000
Liquor Account	650,000
Cooperative Welfare Account	47,007,000
TOTAL	$ 68,011,500
C. ADULT AND A.D.C. ASSISTANCE PAYMENTS:	
FROM:	
General Account	$ 9,978,400
Cooperative Welfare Account	29,004,600
TOTAL	$ 38,983,000
D. SOCIAL SERVICES:	
FROM:	
General Account	$ 2,383,200
Cooperative Welfare Account	19,925,700
TOTAL	$ 22,308,900
GRAND TOTAL	$139,517,700

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 March 12, 1985.

CHAPTER 71
(H.B. No. 297)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE VETERANS SERVICES PROGRAM FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

FROM:

General Account	$ 458,200
Cooperative Welfare Account	1,997,200
Idaho Veterans Home Income Account	231,800
TOTAL	$2,687,200

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 March 12, 1985.

CHAPTER 72
(H.B. No. 223)

AN ACT

RELATING TO THE HEALTH FACILITIES AUTHORITY; AMENDING SECTION 39-1447, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT LEASES OF FACILITIES BE FOR A TERM NOT SHORTER THAN THE LONGEST MATURITY OF ANY BONDS ISSUED TO FINANCE SUCH FACILITIES; AMENDING SECTION 39-1449, IDAHO CODE, TO PERMIT THE DELEGATION OF THE POWER TO FIX PRINCIPAL AMOUNTS, MATURITY DATES, INTEREST RATES AND PURCHASE PRICES OF OBLIGATIONS OF THE AUTHORITY MATURING NOT LATER THAN ONE YEAR FROM DATE OF ISSUANCE, TO REMOVE SPECIFIC REQUIREMENTS AS TO THE INVESTMENT OF PROCEEDS OF REFUNDING BONDS AND TO EXPAND THE PERMITTED USES OF SUCH INVESTMENT INCOME; REPEALING SECTION 39-1450C, IDAHO CODE; AMENDING SECTION 39-1457, IDAHO CODE, TO PERMIT THE INVESTMENT OF PROCEEDS OF AUTHORITY OBLIGATIONS AND RELATED FUNDS IN THE SECURITIES OR OTHER INVESTMENTS PROVIDED FOR IN THE PROCEEDINGS OF THE AUTHORITY AUTHORIZING SUCH OBLIGATIONS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-1447, Idaho Code, be, and the same is hereby amended to read as follows:

39-1447. POWERS. The authority shall have the following powers together with all powers incidental thereto or necessary for the performance thereof:

(1) to have perpetual succession as a body politic and corporate;

(2) to adopt by-laws for the regulation of its affairs and the conduct of its business;

(3) to sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(4) to have and to use a corporate seal and to alter the same at pleasure;

(5) to maintain an office at such place or places as it may designate;

(6) to determine the location and character of any facility to be financed under the provisions of this act to acquire, construct, reconstruct, renovate, improve, replace, maintain, repair, operate, lease as lessee or lessor and regulate the same, to enter into contracts for any and all of such purposes and for the management and operation of a facility to designate a participating health institution as its agent to determine the location and character of a facility undertaken by such participating health institution, under the provisions of this act and, as agent of the authority, to acquire, construct, reconstruct, renovate, replace, improve, maintain, repair, operate, lease as lessee or lessor and regulate the same, and, as agent of the authority, to enter into contracts for any and all of such purposes including contracts for the management and operation of such facility;

(7) to lease to a participating health institution any or all of the facilities upon such terms and conditions as the authority shall deem proper, and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods and at such rent and upon such terms or conditions as shall be determined by the authority or to purchase any or all of the facilities or that upon payment of all of the indebtedness incurred by the authority for the financing of such facilities the authority may convey any or all of the facilities to the lessee or lessees thereof with or without consideration;

(8) to borrow money and to issue bonds, notes, bond anticipation notes or other obligations for any of its corporate purposes and to refund the same, all as provided for in this act;

(9) generally to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and services furnished or to be furnished by facilities or any portion thereof and to contract with any person, association, partnership, firm or corpo-

ration or other body public or private in respect thereof;

(10) to establish rules and regulations for the use of facilities and to designate a participating health institution as its agent, to establish rules and regulations for the use of the facilities undertaken or operated by such participating health institution; to employ or contract for consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment and to fix their compensation;

(11) to receive and accept from the federal government or the state of Idaho or any other public agency loans or grants for or in aid of the construction of facilities or any portion thereof, or for equipping the same, and to receive and accept grants, gifts or other contributions from any source;

(12) to mortgage all or any portion of the facilities and the site or sites thereof, whether then owned or thereafter acquired, for the benefit of the holders of bonds issued to finance such facilities or any portion thereof;

(13) to make loans to any participating health institution, for the cost of the facilities in accordance with an agreement between the authority and such participating health institution; provided that no such loan shall exceed the total cost of such facilities as determined by such participating health institution, and approved by the authority;

(14) to make mortgage loans or other secured or unsecured loans to a participating health institution, to refund outstanding obligations, mortgages or advances issued, made or given by such institution for the cost of its facilities including the function to issue bonds and make loans to a participating health institution, to refinance outstanding obligations and indebtedness incurred for facilities undertaken and completed prior to or after the enactment of this act and when the authority finds that such financing is in the public interest and either alleviates the financial hardship upon the participating health institution or is in connection with other financing by the authority for such participating health institution or may be expected to result in a lesser cost of patient care and a saving to third parties, including state or federal governments, and to others who must pay for such health care, or any combination thereof;

(15) to do all things necessary and convenient to carry out the purposes of this act;

(16) to charge to and equitably apportion among participating health institutions its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this act;

(17) to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this act.

The authority shall not have the power to operate the facilities as a business other than as a lessee or lessor. Any lease of the facilities entered into pursuant to the provisions of this act shall ~~be for a term not shorter than the longest maturity of any bonds issued to finance such facilities or a portion thereof and shall~~ provide for rentals adequate to pay principal and interest on such bonds

as the same fall due and to create and maintain such reserves and accounts for depreciation as the authority shall determine to be necessary.

SECTION 2. That Section 39-1449, Idaho Code, be, and the same is hereby amended to read as follows:

39-1449. BONDS. (a) The authority is authorized from time to time to issue its bonds in such principal amount as the authority shall determine for the purpose of financing all or a part of the cost of any facilities authorized hereby or for the refinancing of outstanding obligations. In anticipation of the sale of such bonds, the authority may issue bond anticipation notes and may renew the same from time to time. Such notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) The bonds may be issued as serial bonds or as term bonds or a combination of both types. All bonds issued by the authority shall be payable solely out of the revenues and receipts derived from the leasing, mortgaging or sale by the authority of the facilities concerned or of any part thereof as may be designated in the resolutions of the authority under which the bonds shall be authorized to be issued or as may be designated in a trust indenture authorized by the authority, which such trust indenture shall name a bank or trust company in Idaho as trustee or from other moneys available therefor and not otherwise pledged. Such bonds may be executed and delivered by the authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in fully registered form or in bearer form registerable either as to principal or interest or both, may bear such conversion privileges and be payable in such instalments and at such time or times not exceeding forty (40) years from the date thereof, may be payable at such place or places whether within or without the state of Idaho, may bear interest at such rate or rates per annum as shall be determined by the authority and without regard to any interest rate limitation appearing in any other law, payable at such time or times and at such place or places and evidenced in such manner, may be executed by such officers of the authority, either manually or by facsimile, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of an authorized officer of the authority and may contain such provisions not inconsistent herewith, all as shall be provided in the resolutions of the authority whereunder the bonds shall be authorized to be issued or as shall be provided in a trust indenture authorized by the authority. Notwithstanding any provision of this section to the contrary, in the case of obligations maturing not later than one (1) year from the date of issuance thereof, the authority may authorize the executive director, associate executive director or any officer of the authority to fix principal amounts, maturity dates, interest rates, and purchase

prices of any particular issue of such short-term obligations, subject to such limitations as to maximum term, maximum principal amount outstanding, and maximum interest rates as the authority shall prescribe by resolution. Any such authorization shall remain effective for the period of time designated in the resolution, regardless of whether the composition of the authority changes in the interim.

(c) If deemed advisable by the authority there may be retained in the resolutions or the trust indenture under which any bonds of the authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such resolutions or in such trust indenture, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such resolutions or in such trust indenture, and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the authority the right or option to redeem any bonds except as may be provided in the resolutions or in such trust indenture under which they shall be issued.

(d) The bonds or notes of the authority may be sold at public or private sale for such price or prices and in such manner and from time to time as may be determined by the authority, and the authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance thereof. The power to fix the date of sale of bonds and notes, to receive bids or proposals, to award and sell bonds and notes, and to take all other necessary action to sell and deliver bonds and notes may be delegated to the executive director of the authority by resolution of the authority. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(e) Issuance by the authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facilities or any other facilities or any other purpose hereunder, but the resolutions or trust indenture whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the authority at any time outstanding may at any time and from time to time be refunded by the authority by the issuance of its bonds for such purpose in such amount as the authority may deem necessary ~~but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any premiums, commissions, service fees and other expenses necessary to be paid in connection therewith~~ and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a facility or any portion thereof.

Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in

connection with the same facilities or separate facilities or for any other purpose hereunder, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise. The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations ~~of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment as to principal, interest and redemption premium, if any, of the outstanding bonds to be so refunded~~ determined by the authority. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds or notes to be so refunded, to the payment of principal or interest on the refunding bonds or may be used by the authority in any lawful manner. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner. The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a facility may be invested and reinvested in obligations ~~of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost~~ determined by the authority. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner. All such bonds shall be subject to the provisions of this act in the same manner and to the same extent as other bonds issued pursuant to this act. All bonds and the interest coupons applicable thereto are hereby made and shall be construed to be negotiable instruments within the meaning of and for all the purposes of article 8, uniform commercial code, subject only to the provisions of such bonds, notes or other obligations for registration.

SECTION 3. That Section 39-1450C, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Section 39-1457, Idaho Code, be, and the same is hereby amended to read as follows:

39-1457. INVESTMENT OF FUNDS. The authority may invest the proceeds from the sale of a series of obligations or any funds related to the series in such securities and other investments, whether or not any such investment or reinvestment is authorized under any other law of the state, as may be provided in the proceedings under which the series of obligations are authorized to be issued. The authority may invest any other funds in obligations of the federal government, the state or of any municipality thereof or obligations of agencies of the federal government; in bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of the United States of America; in certificates of deposit or time deposits constituting direct obligations of any bank in Idaho; provided, however, that investments may be made only in those certificates of deposit or time deposits in banks which are insured by the federal deposit insurance corporation, if then in existence, and may exceed the maximum of such insurance; or in short term discount obligations of the federal national mortgage association. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. The authority may invest ~~its~~ any other funds with such maturities as the authority shall determine provided that such maturities are on a date or dates prior to the time when, in the judgment of the authority, the funds so invested will be required for expenditure. The express judgment of the authority as to the time when any such funds will be required for expenditure or be redeemable is final and conclusive.

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 13, 1985.

CHAPTER 73
(H.B. No. 226)

AN ACT

RELATING TO FUNERAL FUND TRUSTS; AMENDING SECTION 54-1124, IDAHO CODE, TO PROVIDE THAT A CERTAIN AMOUNT OF A FUNERAL TRUST MAY BE MADE IRREVOCABLE, OR IN THE ALTERNATIVE, THAT THE BENEFICIARY MAY DEMAND THE RETURN OF THE MONEY.

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

SECTION 1. That Section 54-1124, Idaho Code, be, and the same is hereby amended to read as follows:

54-1124. ADVANCE FUNERAL FUND TRUST -- OBLIGATIONS OF TRUSTEE. All funds received as herein provided shall be placed in trust with a trustee pursuant to an agreement executed by the depositor and trustee

which shall provide that the trustee shall hold the same in trust for the purposes for which deposited, and that the trustee shall pay the same to the depositor upon the filing of a certified copy of the death certificate or other satisfactory evidence of the death of the beneficiary with the trustee; provided, however, that the said agreement ~~shall further~~ may provide that up to two thousand five hundred dollars ($2,500) of the deposit made thereunder shall be irrevocable, or, in the alternative, that the beneficiary or his duly appointed guardian may, in writing, demand the return of the money, together with accrued interest, if any, less costs incurred in the operation of such trust, and the depositor shall be entitled to receive such money from the trustee for payment to the beneficiary upon delivery of such written demand to the trustee. The payment of such funds and accumulated interest, pursuant to the terms of this act and the agreement herein referred to, shall relieve the trustee of any further liabilities with regard to such funds or interest thereon.

Approved March 13, 1985.

CHAPTER 74
(S.B. No. 1010)

AN ACT

RELATING TO TOLLING OF STATUTES OF LIMITATIONS AND PERSONS UNDER DISABILITIES; AMENDING SECTION 5-230, IDAHO CODE, BY DELETING THE REFERENCE TO PERSONS WITHIN THE AGE OF MAJORITY AND INCLUDING THE REFERENCE TO PERSONS UNDER THE AGE OF MAJORITY.

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

SECTION 1. That Section 5-230, Idaho Code, be, and the same is hereby amended to read as follows:

5-230. PERSONS UNDER DISABILITIES -- OTHER THAN FOR REAL PROPERTY. If a person entitled to bring an action, other than for the recovery of real property, be, at the time the cause of action accrued, either:

1. ~~Within~~ Under the age of majority; or~~,~~
2. Insane; or~~,~~
3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life; the time of such disability is not a part of the time limited for the commencement of the action, provided however, that the time limited for the commencement of an action shall not be tolled for a period of more than six (6) years on account of minority, incompetency, a defendant's absence from the jurisdiction, any legal disability or for other cause or reason except as specifically provided in section 5-213, Idaho Code.

Approved March 12, 1985.

CHAPTER 75
(S.B. No. 1012, As Amended)

AN ACT

RELATING TO POST-CONVICTION PROCEDURES, AMENDING SECTION 19-4909, IDAHO CODE, TO PROVIDE THAT THE TIME FOR APPEAL FROM THE ENTRY OF A JUDGMENT IN A POST-CONVICTION RELIEF ACTION SHALL BE FORTY-TWO DAYS RATHER THAN SIXTY DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 19-4909, Idaho Code, be, and the same is hereby amended to read as follows:

19-4909. REVIEW. A final judgment entered under this act may be reviewed by the Supreme Court of this state on appeal brought either by the applicant or by the state within ~~60~~ forty-two (42) days from the entry of the judgment. On appeal the state shall be represented by the attorney general.

SECTION 2. This act shall be in full force and effect on and after July 1, 1985 and shall apply to all final judgments entered under the Uniform Post Conviction Procedure Act after July 1, 1985.

Approved March 12, 1985.

CHAPTER 76
(S.B. No. 1013)

AN ACT

RELATING TO COMPENSATION FOR MEMBERS OF THE JUDICIAL COUNCIL; AMENDING SECTION 1-2104, IDAHO CODE, TO PROVIDE THAT MEMBERS OF THE COUNCIL SHALL BE COMPENSATED AS PROVIDED BY SECTION 59-509(h), IDAHO CODE.

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

SECTION 1. That Section 1-2104, Idaho Code, be, and the same is hereby amended to read as follows:

1-2104. HONORARIA AND EXPENSES OF MEMBERS. Each member of the judicial council, except a judge or justice, shall be compensated as provided by section 59-509(~~f~~h), Idaho Code.

Approved March 12, 1985.

CHAPTER 77
(S.B. No. 1025)

AN ACT

RELATING TO THE IDAHO TORT CLAIMS ACT; AMENDING CHAPTER 9, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-906A, IDAHO CODE, TO PROVIDE THAT A MINOR MAY FILE A CLAIM ONE HUNDRED TWENTY DAYS AFTER REACHING MAJORITY OR SIX YEARS FROM THE DATE THE CLAIM AROSE WHICHEVER IS EARLIER.

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

SECTION 1. 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 6-906A, Idaho Code, and to read as follows:

6-906A. TIME FOR FILING CLAIMS BY MINORS. No person who is a minor shall be required to present and file a claim against a governmental entity or its employee under this act until one hundred twenty (120) days after said person reaches the age of majority or six (6) years from the date the claim arose or should reasonably have been discovered, whichever is earlier.

Approved March 12, 1985.

CHAPTER 78
(S.B. No. 1045, As Amended)

AN ACT

RELATING TO ILLICIT CONVEYANCE OF ARTICLES; AMENDING SECTION 18-2510, IDAHO CODE, TO UPDATE LANGUAGE RELATING TO CORRECTIONAL FACILITIES; AND TO DEFINE CORRECTIONAL FACILITY.

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

SECTION 1. That Section 18-2510, Idaho Code, be, and the same is hereby amended to read as follows:

18-2510. ILLICIT CONVEYANCE OF ARTICLES INTO ~~PENITENTIARY~~ CORRECTIONAL FACILITIES. (1) If any person delivers or procures to be delivered, or has in his possession with intent to be delivered in any manner, to a convict of ~~the Idaho~~ any state ~~penitentiary~~ correctional facility, or deposits or conceals in or about the ~~penitentiary~~ facility or dependencies thereon, or upon any lands belonging or pertaining thereto, or in any ~~wagon or other~~ vehicle going into the premises belonging to the said ~~penitentiary~~ facility, any letter, article or thing with the intent that a convict confined in said ~~penitentiary~~

facility shall obtain or receive the same, or if any person receives from any convict of said ~~penitentiary~~ facility, any letter, article or thing with intent to convey the same out of the ~~penitentiary~~ facility contrary to the rules and regulations thereof, and without the knowledge and permission of the warden of said ~~penitentiary~~ facility, or if any person shall purchase, exchange, take or receive from any convict thereof while he may be working outside ~~the walls of~~ said ~~penitentiary~~ facility, any letter, article or thing, whether state or other property, manufactured or used in and about said ~~penitentiary~~ facility, without the knowledge and permission of the warden of said ~~penitentiary~~ facility, such person shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding three hundred dollars ($300~~.00~~), or imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

(2) A correctional facility is a facility for housing persons committed or transferred to the custody of the board of correction, except for facilities operated by, or under the control of, other agencies of state, county or municipal government.

Approved March 12, 1985.

CHAPTER 79
(S.B. No. 1070)

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; AMENDING SECTION 42-3115, IDAHO CODE, TO PROVIDE FOR INDEPENDENT AUDITS AT A FREQUENCY BASED UPON EXPENDITURES OF THE DISTRICT.

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

SECTION 1. That Section 42-3115, Idaho Code, be, and the same is hereby amended to read as follows:

42-3115. COMMISSIONERS -- POWERS AND DUTIES. The board of commissioners of flood control districts shall have the following powers and duties:

1. To annually fix and determine, the amount of money required to be raised by taxation to supply funds for costs of construction, costs of operation and maintenance of the work and equipment of the district, and to levy and cause to be collected assessments on real property within the district in an amount not to exceed three (3) mills for each dollar of assessed valuation, provided however that a higher levy may be approved and ratified by the qualified voters at an election to be held for that purpose in the same manner as provided for the approval and ratification of contracts, in section 42-3117, Idaho Code, and said levy shall be certified by the board to the board of county commissioners of the county, or counties, in which said district is located, with directions that at the time and in the manner

required by law for levying taxes for county purposes, such board, or boards, of county commissioners shall levy such tax upon the assessed valuation of the real property within the boundaries of the district. Such certification of levies shall be prepared and forwarded by the board of the flood control district to the board, or boards, of county commissioners on or before September 1 of each year.

Such levies shall be levied and collected in the manner provided by law, and the moneys collected shall be turned over to the treasurer or treasurers, of the county, or counties, in which said district is located.

Said moneys shall be public funds and subject to the provisions of the public depository laws of the state.

2. To employ such personnel as may be necessary to carry out the purposes and objects of this act, with the full power to bind said district for the compensation of such personnel.

3. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its power and to promulgate, amend and repeal rules and regulations not consistent with the provisions of this act.

4. To manage and conduct the business and affairs of the district, both within and without the district.

5. To construct, operate and maintain structural works of improvement for the prevention of floodwater and sediment damages, and the conservation, development, utilization, and disposal of water, whether within or without the boundaries of the district, and to enter into contract for the purposes set forth above, provided however, that the board shall not enter into contracts that necessitate an expenditure in excess of five thousand dollars ($5,000), without first advertising for sealed competitive bids as herein provided. However, where it is determined by order of the board that there is an existing emergency, or where it is determined that the district is in a flood fight resulting from unanticipated conditions, the requirement for sealed competitive bids shall not apply.

6. To prescribe the duties of officers, agents and employees as may be required.

7. To establish the fiscal year of the district and to keep records of all business transactions of the district.

8. To prepare a statement of the financial condition of the district at the end of each fiscal year, in a form to be prescribed by the director or by the legislative auditor, and publish in at least one (1) issue of some newspaper published, or in general circulation in, the county, or counties, in which such district is located and to file a certified copy of such financial report with the director and the legislative auditor on or before February 2 of each year.

9. To have an audit, by an independent public accounting firm, of the financial affairs of the district ~~at the close of each fiscal year and to include a certification of said audit with the required financial reports~~. The audit shall be made at intervals of not more than two (2) years for districts having an annual expense of more than three thousand dollars ($3,000) and shall be made at intervals of not

more than three (3) years for districts having an annual expense of three thousand dollars ($3,000) or less. A certified copy of said audit shall be filed with the director and with the legislative auditor on or before February 2 following the audit.

10. To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; to lease any of its property or interest therein in furtherance of the purposes and provisions of this act, provided that no contract or agreement for the acquisition, purchase or repair of personal property involving expenditure in excess of one thousand dollars ($1,000), shall be entered into without first advertising for sealed competitive bids as herein provided.

11. To have the power of eminent domain for the use of the district in the construction, operation, maintenance and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary in the carrying out of the provisions of this act.

12. To convey rights of way and easements for highways, public roads, public utilities, and for other purposes, over district property, as shall be determined by the board to be in the best interests of the district.

13. To convey, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district, in any real or personal property. 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 minutes of the board. The property may be sold at public auction or at a private sale by sealed competitive bids, as the board shall determine, to the highest cash bidder, provided that in no case shall any property of a district be sold for less than its appraised value. All sales by sealed competitive bids shall be advertised as herein provided.

14. To use natural streams and to improve the same for use as a flood control structure. However, in the event that the use of the natural stream involves alteration of the stream channel, no such alteration shall be made by the district until such alteration is approved by the director.

15. To enter into contracts or agreements with the United States or any of its officers, agents, or subdivisions, or with the state or any of its officers, agents or political subdivisions, and to cooperate with such governments, persons or agencies in effectuating, promoting and accomplishing the purposes of this act, provided that the district has sufficient moneys on hand, or in their budget for the year in which said contract is entered into, to defray the expenditure of funds called for in such contract without the creation of any indebtedness.

Whenever any such contract shall, by its terms, require the expenditure of funds by the district in excess of the moneys on hand or the funds to be realized from their budget for ~~in~~ the year in which said contract is entered into, then such contract may not be entered into by the district until ratified by two-thirds (2/3) of the qualified voters voting at an election to be held for that purpose, accord-

ing to the provisions of this act.

16. To bear its allocated share of the cost of any project resulting from any contract or agreement entered into as provided herein.

17. To take over, administer and maintain pursuant to any agreement or contract entered into in accordance with the provisions of this act, any flood control project within or without the boundaries of the district undertaken in cooperation with the United States or any of its agencies, or with the state of Idaho or any of its agencies, or any combinations thereof.

18. To accept donations, gifts and contributions in money, services, or materials, or otherwise, from the United States or any of its agencies, or the state of Idaho or any of its agencies or any combinations thereof, and to expend such moneys, services, or materials in carrying on its operations.

19. To exercise all other powers necessary, convenient or incidental to carrying out the purposes and provisions of the act.

Approved March 12, 1985.

CHAPTER 80
(S.B. No. 1080)

AN ACT

RELATING TO THE EXPENSE OF TRIALS; AMENDING SECTION 18-2507, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF MONIES TO COUNTIES WHICH INCUR EXPENSES IN PROSECUTING CONVICTS.

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~~ PROSECUTION -- HOW PAID. Whenever a ~~trial shall be had of any~~ person is prosecuted under any of the provisions of section 18-2505, Idaho Code, and whenever a state convict in the state prison shall be ~~tried~~ prosecuted 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~~ prosecution 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. 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.

Approved March 12, 1985.

CHAPTER 81
(S.B. No. 1090)

AN ACT

RELATING TO THE ENTICEMENT OF CHILDREN; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1509, IDAHO CODE, TO PROVIDE THAT THE ATTEMPTED ENTICEMENT OR ENTICEMENT OF A MINOR CHILD UNDER THE AGE OF SIXTEEN YEARS IS UNLAWFUL, TO PROVIDE EXCEPTIONS, AND TO PROVIDE PENALTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 15, 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 18-1509, Idaho Code, and to read as follows:

18-1509. ENTICING OF CHILDREN. (1) A person shall be guilty of a misdemeanor if that person attempts to persuade, or persuades, whether by words or actions or both, a minor child under the age of sixteen (16) years to either:

(a) Leave the child's home or school; or

(b) Enter a vehicle or building; or

(c) Enter a structure or enclosed area, or alley, with the intent that the child shall be concealed from public view;

while the person is acting without the authority of (i) the custodial parent of the child, (ii) the state of Idaho or a political subdivision thereof or (iii) one having legal custody of the minor child. Nothing contained in this section shall be construed to prevent the lawful detention of a minor child or the rendering of aid or assistance to a minor child.

(2) Every person who is convicted of a violation of the provisions of this section shall be punished by imprisonment in the county or municipal jail for not more than six (6) months or by a fine of not more than one thousand dollars ($1,000) or by both such fine and imprisonment. A person convicted a second or subsequent time of violating the provisions of this section shall be guilty of a felony and shall be punished by imprisonment in the state penitentiary for a period of time of not more than five (5) years.

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 13, 1985.

CHAPTER 82
(S.B. No. 1115)

AN ACT

RELATING TO RAILROADS; AMENDING CHAPTER 4, TITLE 62, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 62-424, IDAHO CODE, TO PROVIDE FOR A HEARING BY THE PUBLIC UTILITIES COMMISSION ON A PROPOSED ABANDONMENT OF RAILROAD LINES AND A REPORT OF THE FINDINGS TO THE INTERSTATE COMMERCE COMMISSION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 4, Title 62, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 62-424, Idaho Code, and to read as follows:

62-424. HEARING ON ABANDONMENT. Whenever any railroad proposes to abandon any branch line or main line now in operation within the state of Idaho, the railroad shall file notice of the intended abandonment with the public utilities commission. Not less than ninety (90) days after such notice, the public utilities commission shall schedule a public hearing on the proposed abandonment. If the hearing results in a finding by the commission that the abandonment of the branch line or main line would adversely affect the area then being served and that there is reason to believe that the closure would impair the access of Idaho communities to vital goods and services and market access to those communities and that the line has potential for profitability, then the public utilities commission shall transmit a report of its findings to the interstate commerce commission on behalf of the people of the state of Idaho.

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, 1985.

CHAPTER 83
(S.B. No. 1146)

AN ACT

RELATING TO CITY ELECTIONS; AMENDING SECTION 50-423, IDAHO CODE, TO PROVIDE FOR SWEARING OR AFFIRMING TO THE OATH ON THE REGISTRATION CARD; AMENDING SECTION 50-424, IDAHO CODE, TO PROVIDE FOR ELECTION OFFICIALS TO RECORD AN ADDRESS CHANGE IN THE ELECTION RECORD AND POLL BOOK AND FOR A CITY CLERK TO MAKE CHANGES IN THE ELECTION REGISTER FOR ELECTORS MOVING WITHIN SAME PRECINCT AND TO REPEAL

THE PROVISION PERMITTING CHANGE IN REGISTRATION BY NOTIFYING THE CITY CLERK IN WRITING; AMENDING SECTION 50-427, IDAHO CODE, TO PROVIDE FOR THE CITY CLERK TO CORRECT ELECTION REGISTER FOR CHALLENGED ENTRIES IN THE ELECTION RECORD AND POLL BOOK; AMENDING SECTION 50-443, IDAHO CODE, TO PROVIDE THAT APPLICATION FOR ABSENTEE BALLOT BE FILED WITH THE CITY CLERK NOT LATER THAN 5:00 P.M. ON THE DAY BEFORE ELECTION AND TO PROVIDE POSTCARD REGISTRATION FOR PERSONS IN THE UNITED STATES SERVICE; AMENDING SECTION 50-444, IDAHO CODE, TO PROVIDE A CLASSIFICATION FOR ABSENT ELECTOR'S BALLOT FOR PERSONS IN THE UNITED STATES SERVICE; AMENDING SECTION 50-445, IDAHO CODE, TO STRIKE SUPERFLUOUS WORDING ON ISSUANCE OF ABSENTEE BALLOT AND TO PROVIDE FOR REGISTRATION AND ISSUANCE OF ABSENTEE BALLOT TO PERSONS SUBMITTING POSTCARD REGISTRATION; AMENDING SECTION 50-447, IDAHO CODE, TO PROVIDE A CITY CLERK SHALL COMPARE SIGNATURE UPON RETURN ENVELOPE CONTAINING ABSENTEE BALLOT WITH SIGNATURE ON REGISTRATION CARD TO INSURE SIGNATURES CORRESPOND; AMENDING SECTION 50-450, IDAHO CODE, TO PROVIDE PROCEDURE FOR ELECTION JUDGE IN HANDLING ABSENTEE BALLOTS AT POLLS; AMENDING SECTION 50-457, IDAHO CODE, TO PROVIDE CERTAIN ENFORCEMENT DUTIES FOR THE ELECTION JUDGE INSTEAD OF A CONSTABLE; AMENDING SECTION 50-460, IDAHO CODE, TO PROVIDE FOR PHYSICALLY DISABLED ELECTORS TO VOTE OUTSIDE THE POLLING PLACE; AMENDING SECTION 50-463, IDAHO CODE, TO REPEAL THE PROVISION OF EARLY COUNTING OF BALLOTS BY CITY CLERK; AMENDING SECTION 50-464, IDAHO CODE, TO PROVIDE AT BOND ELECTIONS ANY BALLOT OR PART OF A BALLOT FROM WHICH IT IS IMPOSSIBLE TO DETERMINE AN ELECTOR'S CHOICE SHALL BE VOID AND SHALL NOT BE COUNTED, AND DECLARING THAT ANY QUALIFIED ELECTOR CASTING SUCH BALLOT OR PART OF A BALLOT SHALL BE DEEMED NOT TO HAVE VOTED AND SUCH BALLOT OR PART OF A BALLOT SHALL NOT BE COUNTED IN DETERMINING THE NUMBER OF QUALIFIED ELECTORS VOTING IN SUCH BOND ELECTION; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 50-423, Idaho Code, be, and the same is hereby amended to read as follows:

50-423. REGISTRATION CARDS. (1) The city clerk or deputy registrar shall enter information supplied by the elector under section 50-420, Idaho Code, on the prescribed registration card.

(2) The ~~registrar must read the oath on the registration card to the~~ elector ~~who~~ will swear or affirm to the oath on the registration card by signing his name in the appropriate place after which the registrar shall sign his name and title in attestation.

(3) The registration card completed and signed as provided in this section constitutes the official registration card of the elector. Such card constitutes the register of electors. Registration cards completed by the deputy precinct registrars shall be transmitted weekly to the city clerk for recording and filing in the register of electors except that all registration cards received up to the closing of the register as provided in section 50-417(1), Idaho Code, should be transmitted the day following such closing.

SECTION 2. That Section 50-424, Idaho Code, be, and the same is hereby amended to read as follows:

50-424. REREGISTRATION -- WHEN REQUIRED. (1) An elector shall reregister if:

(a) His registration is canceled by the city clerk as provided by law.

(b) He changes his residence to another precinct.

(c) ~~i.~~ An elector who has moved from one residence to another residence within the same precinct shall be permitted to vote and the election officials shall note the change of address ~~on--the registration-card.~~

~~ii.--An--elector--who--has-moved-from-one-precinct-to-another within-the-same-city-shall-be-permitted-to-change-his-registration by-notification-in-writing-to-the-city-clerk-if-such--notification is--received--by--not-later-than-the-close-of-registration-as-provided-in-section-50-417,-Idaho-Code~~ in the election record and poll books and the city clerk shall correct the election register following the canvass of the ballot.

(2) An elector shall be reregistered in the same manner as a first registration.

SECTION 3. That Section 50-427, Idaho Code, be, and the same is hereby amended to read as follows:

50-427. CHALLENGES OF ENTRIES IN ELECTION RECORD AND POLL BOOK. At the time of an election, any registered elector may challenge the entry of an elector's name as it appears in the election record and poll book. Such a challenge will be noted in the remarks column following the elector's name stating the reason, such as "died," "moved," or "incorrect address." The elector making the challenge shall sign his name following the remarks. ~~When--t~~ The city clerk shall corrects the election register following the canvass of the ballot ~~he--will~~ by contacting the person whose name was challenged to ascertain if information given by the challenger is correct before making any change on the registration card.

SECTION 4. That Section 50-443, Idaho Code, be, and the same is hereby amended to read as follows:

50-443. APPLICATION FOR ABSENTEE BALLOT. Any registered elector may make written application to the city clerk for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, his home address and address to which such ballot shall be forwarded. The application for an absent elector's ballot shall be signed personally by the applicant. The application shall be filed with the city clerk not later than 5:00 P.M. on the day before the election nor earlier than sixty (60) days before the election. In the event a registered elector is unable to vote in person at his designated polling place on the day of election because of an emergency situation which rendered him

physically unable, he may nevertheless apply for an absent elector's ballot on the day of election by notifying the city clerk. No person, may, however, be entitled to vote under an emergency situation unless the situation claimed rendered him physically unable to vote at his designated polling place within forty-eight (48) hours prior to the closing of the polls.

A person in the United States service may make application for an absent elector's ballot by use of a properly executed federal postcard application as provided for in the laws of the United States known as "Federal Voting Assistance Act of 1955." The issuing officer shall keep as a part of the records of his office a list of all applications so received and of the manner and time of delivery or mailing to and receipt of returned ballot.

SECTION 5. That Section 50-444, Idaho Code, be, and the same is hereby amended to read as follows:

50-444. CLASSIFICATIONS FOR ABSENT ELECTOR'S BALLOT. For the purpose of issuing absent elector's ballot, the city clerk shall determine under which of the following subsections the applicant should be classified.

(1) A person out of the city ~~or state~~ at the time of application and who expects not to be physically present in his home precinct on day of election.

(2) A person who expects to be out of the city ~~or state~~ on day of election who is not physically disabled.

(3) A person who is in the city but who will be physically unable to vote at his designated polling place on day of election.

(4) A person who is in the city who is physically unable to vote at his designated polling place because of an emergency situation which rendered him incapable within forty-eight (48) hours prior to the closing of the polls.

(5) A person in the United States service.

SECTION 6. That Section 50-445, Idaho Code, be, and the same is hereby amended to read as follows:

50-445. ISSUANCE OF ABSENTEE BALLOT. Upon receipt of an application for an absent elector's ballot within the proper time, the city clerk receiving it shall examine the records of his office ~~and contact the county clerk if necessary~~ 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 50-444(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 50-444(5), Idaho Code, and if the applicant in the United States service submits a

properly executed federal postcard application and the city clerk receiving it shall determine that such applicant is not properly registered, the city 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 50-444(3), Idaho Code, the city clerk shall forthwith notify the applicant that he shall appear personally and vote at the "absent elector's voting place" in the city hall during the time prescribed.

(~~3~~4) In the case of applicants classified under section 50-444(1) or (2), Idaho Code, 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 city clerk.

(~~4~~5) If the applicant is classed under section 50-444(4), Idaho Code, the city clerk shall forthwith notify the applicant by setting forth the time and place at which the city clerk shall deliver the absentee ballot.

(~~5~~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 city clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

SECTION 7. That Section 50-447, Idaho Code, be, and the same is hereby amended to read as follows:

50-447. RETURN OF ABSENTEE BALLOT. The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an absentee ballot must be received by the issuing officer by 8 p.m. on the day of election before such ballot may be counted.

Upon receipt of an absent elector's ballot the city clerk of the city wherein such elector resides shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office, comparing the signature upon the return envelope with the elector's registration card to insure that signatures correspond and, if the ballot was delivered in person, the name and address of the person delivering the same. He shall safely keep and preserve all absent elector's ballots unopened until the time prescribed for delivery to the judges in accordance with this chapter.

SECTION 8. That Section 50-450, Idaho Code, be, and the same is hereby amended to read as follows:

50-450. DEPOSIT OF ABSENTEE BALLOTS. Between the opening and

closing of the polls on ~~such~~ election day the judges of election of such precinct shall open the carrier envelope only, announce the absent elector's name, ~~and compare the signature upon the return envelope with the elector's registration card, and in the event they find such signatures to correspond and the applicant to be~~ check the election record and poll book to ascertain if the applicant is a duly registered elector of the precinct and that he has not heretofore voted at the election, they shall open the return envelope and remove the ballot envelopes and deposit the same in the proper ballot boxes and cause the absent elector's name to be entered on the poll books ~~and his registration card marked~~ the same as though he had been present and voted in person. The ballot envelope shall not be opened until the ballots are counted.

SECTION 9. That Section 50-457, Idaho Code, be, and the same is hereby amended to read as follows:

50-457. ENFORCEMENT DUTIES OF ~~CONSTABLE~~ JUDGE. The judge of any election ~~may appoint some capable person to act as election constable during the election, and he~~ shall have the power to make arrests for disturbance of the peace, as provided by law for constables, and he shall allow no one within the voting area except those who go to vote, and shall allow but one (1) elector in a compartment at one (1) time. He shall remain and keep order at the polling place until all of the votes are tallied. ~~In the event a constable is not appointed the election judge will assume these duties.~~

SECTION 10. That Section 50-460, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 11. That Section 50-463, Idaho Code, be, and the same is hereby amended to read as follows:

50-463. CANVASS OF VOTES. (1) When the polls are closed the election personnel must immediately proceed to count the ballots cast at such election. The counting must be continued without adjournment

until completed and the result declared.

(2) If the precinct has duplicate ballot boxes, the counting shall begin after five (5) ballots have been cast. At this time, the additional clerks shall close the first ballot box and retire to the counting area and count the ballots. Upon completion of this counting the clerks shall return the ballot box and then proceed to count all of the ballots cast in the second box during this period. This counting shall continue until the polls are closed at which time all election personnel may assist in completing the counting of the ballots.

~~(3)--At any time prior to the closing of the polls--provision--may be made for the delivery of voted ballots to the city clerk for counting.--If--such--procedure--is--adopted,-the-result-of-this-early-count shall-not-be-released-until-after-8-p.m.-on-election-day.~~

SECTION 12. That Section 50-464, Idaho Code, be, and the same is hereby amended to read as follows:

50-464. COMPARISON OF POLL LISTS AND BALLOTS -- VOID BALLOTS. The ballot box shall be opened and the ballots found therein counted by the judges, unopened and the number of ballots in the box must agree with the number marked in the poll book or election register as having received a ballot, and this number, together with the number of spoiled ballots, must agree with the number of stubs in the books from which the ballots have been taken. If the number of ballots issued does not agree with the number of stubs the election judges shall have authority to make any decision to correct the situation; but this shall not be construed to allow the judges to void all ballots cast at that polling place.

When duplicate ballot boxes are used in a precinct, the duties herein prescribed shall be done after all of the votes have been tallied.

At any bond election conducted by a city any ballot or part of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted. It is hereby declared that any qualified elector casting such ballot or part of a ballot shall be deemed not to have voted at or participated in such bond election and such ballot or part of a ballot shall not be counted in determining the number of qualified electors voting at or participating in such bond election.

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 April 1, 1985.

Approved March 12, 1985.

CHAPTER 84
(S.B. No. 1161, As Amended)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1302, IDAHO CODE, TO PROVIDE THAT POLICE OFFICER FOR RETIREMENT PURPOSES SHALL BE AS DEFINED IN SECTION 59-1302A, IDAHO CODE, AND TO PROVIDE A DEFINITION; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1302A, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS FOR RETIREMENT PURPOSES, TO PROVIDE THAT POLICE OFFICER STATUS MAY BE FIXED ONLY BY LAW OR BY ORDER OF THE RETIREMENT BOARD, TO DESIGNATE BY LAW CERTAIN EMPLOYEES WHO ARE POLICE OFFICERS FOR RETIREMENT PURPOSES, TO PROVIDE FOR INCLUDING EMPLOYEES AS POLICE OFFICERS FOR RETIREMENT PURPOSES WHO ARE NOT DESIGNATED BY LAW AS POLICE OFFICERS, TO PROVIDE A PROCEDURE TO PETITION FOR INCLUDING A POSITION AS A POLICE OFFICER MEMBER, TO PROVIDE FOR CERTIFYING TO THE RETIREMENT BOARD ACTIVE MEMBERS AS POLICE OFFICERS FOR RETIREMENT PURPOSES, AND TO PROVIDE THAT AN ACTIVE MEMBER CLASSIFIED AS A POLICE OFFICER FOR RETIREMENT PURPOSES AND RECLASSIFIED AS A GENERAL MEMBER FOR RETIREMENT PURPOSES SHALL NOT LOSE RETIREMENT BENEFITS.

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" mean 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) 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. During such period, the member shall remain classified in the membership category held during the month of final contribution. 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.

(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 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 pur-

pose 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) (a) "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~~ for retirement purposes shall be as defined in section 59-1302A, Idaho Code.

(b) "POST" means the Idaho peace officer standards and training council established in chapter 51, title 19, Idaho Code.

(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 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 Chapter 13, 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 59-1302A, Idaho Code, and to read as follows:

59-1302A. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS. (1) As used in this chapter, 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) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

(a) (i) The director of the department of law enforcement and the superintendent of the Idaho state police;

(ii) Commissioned and uniformed Idaho state police officers holding positions for which current POST certification is required to continue in employment in the position, POST instructors, and department training instructors;
(iii) Brand inspectors and brand inspector supervisors;
(iv) The division administrator, regional supervisors and investigators in the police services division of the department of law enforcement, and the administrator and investigators in the alcohol beverage control division of the department of law enforcement;
(v) The bureau chief, supervisor, and specialists in the bureau of criminal identification in the department of law enforcement;
(vi) Employees of the department of law enforcement serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(b) (i) County sheriffs;
(ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; deputy county sheriffs holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in county law enforcement activities pertaining to crime prevention or reduction; deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

(c) (i) City police chiefs;
(ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, the principal duties of which are active law enforcement service; city police officers holding positions which require accountability for the safety and safekeeping of persons confined in a city or county confinement facility or whose duties require active participation in city law enforcement activities pertaining to crime prevention or reduction; police officers, even though POST certified or required to be POST certified, holding positions whose principal full time duties are those of a telephone operator, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

(d) Employees of the department of fish and game serving in a

conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.

(e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;

(ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;

(iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;

(iv) Correctional peace officer training instructors;

(v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.

(f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.

(g) Magistrates of the district court, and court employees designated by court order to have primary responsibility for court security or transportation of prisoners.

(h) Paramedics and paramedic trainees.

(i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.

(4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement duties.

(a) For purposes of this section, "hazardous law enforcement duties" mean principal duties which:

(i) Will reasonably expect to increase the probability of early superannuation;

(ii) Is associated with life-threatening risk or presents a position of peril either to the member or to others, or which can place the public safety in jeopardy; and

(iii) Either compels others to observe the law, pertains to crime prevention, or pertains to crime reduction, including police, courts, prosecution, correction, or rehabilitation.

(b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.

(i) After July 1, 1985, a requirement for POST certification for classified state employees may be made only by the personnel commission.

(c) Occasional assignments to hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes.

(c) Occasional assignments to hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes.

(5) Any employer or agency that believes that any employee, not specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the criteria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the board. The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.

(6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.

(7) An active member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police officer member for purposes of retirement eligibility.

Approved March 12, 1985.

CHAPTER 85
(S.B. No. 1183)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1986; EXEMPTING CONSTRUCTION AUTHORIZED IN THIS ACT FROM THE PROVISIONS OF SECTION 67-5711, IDAHO CODE; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE DEPARTMENT OF PARKS AND RECREATION.

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

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation the following amount, from the listed accounts for the period July 1, 1985, through June 30, 1986:

FROM:

General Account	$2,057,100
Cross-Country Skiing Account	21,100
Park & Recreation Capital Improvement Account	689,200
Park & Recreation Account	723,900
Waterways Improvement Account	350,000
Park Donation Account	5,300
Lava Hot Springs Foundation Account	510,800
Off-Road Motor Vehicle Account	312,100
State Snowmobile Account	170,000
Lucky Peak Concession Account	8,000
Motorbike Recreation Account	5,400
Parks and Recreation Federal Account	5,800
Coast Guard Boat Safety Account	130,000
Federal Pass-Through Account	1,500,000
Federal Surcharge Account	326,000
Harriman State Park Account	100,700
TOTAL	$6,915,400

SECTION 2. 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.

SECTION 3. Any General Account unexpended and unencumbered balances existing on June 30, 1985, from the appropriation made by Section 2, Chapter 164, Laws of 1984, to the Department of Parks and Recreation, are hereby reappropriated to the Department of Parks and Recreation for fiscal year 1986.

Approved March 12, 1985.

CHAPTER 86
(S.B. No. 1184)

AN ACT

APPROPRIATING $76,561.05 FROM THE GENERAL ACCOUNT TO THE STATE AUDITOR FOR THE PURPOSE SPECIFIED, TO BE EXPENDED FOR THE PERIOD JULY 1, 1985, THROUGH JUNE 30, 1986.

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

SECTION 1. There is hereby appropriated $76,561.05 from the General Account to the State Auditor for payment to Ada County pursuant

to the provisions of Section 18-2507, Idaho Code, to be expended for the period from July 1, 1985, through June 30, 1986.

Approved March 12, 1985.

CHAPTER 87
(S.B. No. 1185)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE COMMISSION FOR THE BLIND, FOR FISCAL YEAR 1986.

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:					
General Account	$357,200	$ 59,000	$20,400	$215,500	$ 652,100
Blind Commission Account	297,400	112,100	3,000	143,800	556,300
Interagency Billing and Receipts Account		16,900		34,000	50,900
TOTAL	$654,600	$188,000	$23,400	$393,300	$1,259,300

Approved March 12,1985.

CHAPTER 88
(S.B. No. 1186)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 184, LAWS OF 1984; AMENDING SECTION 3, CHAPTER 249, LAWS OF 1984, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF WATER RESOURCES; 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 184, Laws of 1984, there is hereby appropriated to the Department of Water Resources the following amounts to be expended for the

named programs according to the designated expense class from the listed account for the period July 1, 1984, through June 30, 1985:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. MANAGEMENT AND SUPPORT SERVICES:			
FROM:			
Water Conservation and Development Account	$8,000	$12,000	$20,000

SECTION 2. That Section 3, Chapter 249, Laws of 1984, be, and the same is hereby amended to read as follows:

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~~
	81,900	32,300			114,200
B. ENERGY RESOURCES:					
FROM:					
General Account	$125,000	$20,000			$145,000

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 12, 1985.

CHAPTER 89
(S.B. No. 1187)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS FOR FISCAL YEAR 1986, 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 Lands not exceed the following amounts for the period July 1, 1985, through June 30, 1986:

FOR:

Personnel Costs	$ 7,670,500

Operating Expenditures	6,253,500
Capital Outlay	500,700
Trustee & Benefit Payments	303,100
TOTAL	$14,727,800
FROM:	
General Account	$ 5,480,100
Interagency Billing and Receipts Account	68,000
Scaling Practices Account	175,200
Forest & Range Conservation Account	9,800
Land Commissioners Scaling Trust Account	558,100
Forest Management Account	1,673,200
U.S. Clark-McNary Account	1,229,300
Soil Erosion Control Account	367,800
Insect Disease Control Account	292,900
Mining Bond Forfeiture Account	6,000
Clearwater Potlatch Timber Protection Association Account	1,547,800
Southern Idaho Timber Protection Association Account	363,100
10% Grazing Lease Account	193,100
10% Recreation Lease Account	45,100
10% Timber Lease Account	2,351,400
Lands Federal Account	229,700
Oil and Gas Commission Account	3,500
Site Restoration Account	133,700
TOTAL	$14,727,800

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. SUPPORTING SERVICES:					
FROM:					
General Account	$ 667,100	$ 231,400	$ 5,900		$ 904,400
Interagency Billing and Receipts Account		18,800	$ 7,200		26,000
U.S. Clark-McNary Account	196,300	21,200	8,100		225,600
Forest Management Account	47,800	11,800			59,600
Lands Federal Account		33,400			33,400
TOTAL	$ 911,200	$ 316,600	$ 21,200		$ 1,249,000
II. FOREST RESOURCES MANAGEMENT:					
FROM:					
General Account	$1,388,200	$ 212,000	$ 99,500		$ 1,699,700
Land Commissioners Scaling Trust Account	492,700	55,400	10,000		558,100

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Insect Disease Control Account	141,000	150,600	1,300		292,900
Site Restoration Account	10,000	120,700	3,000		133,700
10% Timber Lease Account	957,100	1,352,200	42,100		2,351,400
Lands Federal Account	56,700	25,200			81,900
TOTAL	$3,045,700	$1,916,100	$155,900		$ 5,117,700
III. LANDS AND RANGE RESOURCES MANAGEMENT:					
FROM:					
General Account	$ 676,300	$ 84,100	$ 53,600		$ 814,000
Interagency Billing and Receipts Account		42,000			42,000
10% Grazing Lease Account	68,700	72,800	51,600		193,100
TOTAL	$ 745,000	$ 198,900	$105,200		$ 1,049,100
IV. EARTH RESOURCES MANAGEMENT:					
FROM:					
General Account	$ 358,300	$ 40,000	$ 10,400		$ 408,700
Oil and Gas Commission Account		3,500			3,500
Mining Bond Forfeiture Account		5,200	800		6,000
10% Recreation Lease Account	11,300	33,800			45,100
TOTAL	$ 369,600	$ 82,500	$ 11,200		$ 463,300
V. FOREST & RANGE FIRE PROTECTION:					
FROM:					
General Account	$ 405,700	$ 751,300		$161,000	$ 1,318,000
Forest & Range Conservation Account	6,000	3,800			9,800
U.S. Clark-McNary Account	774,000	65,300	164,400		1,003,700
TOTAL	$1,185,700	$ 820,400	$164,400	$161,000	$ 2,331,500
VI. HAZARD MANAGEMENT & EROSION CONTROL:					
FROM:					
Forest Management Account	$ 921,500	$ 651,100	$ 41,000		$ 1,613,600
Soil Erosion Control Account	134,200	233,600			367,800
Clearwater Potlatch Timber Protection Association Account		1,547,800			1,547,800
Southern Idaho Timber Protection Association Account		363,100			363,100
TOTAL	$1,055,700	$2,795,600	$ 41,000		$ 3,892,300

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. SOILS & WATER MANAGEMENT:					
FROM:					
General Account	$ 163,900	$ 29,000	$ 300	$142,100	$ 335,300
Lands Federal Account	57,500	56,900			114,400
TOTAL	$ 221,400	$ 85,900	$ 300	$142,100	$ 449,700
VIII. SCALING PRACTICES:					
FROM:					
Log Scalers Law Account	$ 136,200	$ 37,500	$ 1,500		$ 175,200
GRAND TOTAL	$7,670,500	$6,253,500	$500,700	$303,100	$14,727,800

Approved March 12, 1985.

CHAPTER 90
(S.B. No. 1189)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$2,218,700
Operating Expenditures	520,900
Capital Outlay	58,300
Trustee and Benefit Payments	90,000
TOTAL	$2,887,900
FROM:	
General Account	$ 464,600
Electrical Board Account	1,465,200
Plumbing Board Account	442,500
Idaho Building Code Account	400,400
Interagency Billing and Receipts Account	15,200
Mine Safety Training Grant Account	100,000
TOTAL	$2,887,900

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 49,100	$ 5,800			$ 54,900
Electrical Board Account	119,200	8,200			127,400
Idaho Building Code Account	66,800	4,500			71,300
Plumbing Board Account	52,500	3,600			56,100
Interagency Billing and Receipts Account		15,200			15,200
TOTAL	$ 287,600	$ 37,300			$ 324,900
B. ELECTRICAL BUREAU:					
FROM:					
Electrical Board Account	$1,039,900	$288,600	$ 9,300		$1,337,800
C. UNIFORM BUILDING BUREAU:					
FROM:					
Idaho Building Code Account	$ 265,200	$ 45,700	$18,200		$ 329,100
D. PLUMBING BUREAU:					
FROM:					
Plumbing Board Account	$ 301,900	$ 75,400	$ 9,100		$ 386,400
E. SAFETY AND LABOR RELATIONS BUREAU:					
FROM:					
General Account	$ 319,100	$ 68,900	$21,700		$ 409,700
Mine Safety Training Grant Account	5,000	5,000		$90,000	100,000
TOTAL	$ 324,100	$ 73,900	$21,700	$90,000	$ 509,700
GRAND TOTAL	$2,218,700	$520,900	$58,300	$90,000	$2,887,900

Approved March 12, 1985.

CHAPTER 91
(S.B. No. 1190)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE GENERAL SERVICES AREA, FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. PUBLIC EMPLOYEES' RETIREMENT SYSTEM:				
FROM:				
Public Employees' Retirement System Account	$ 850,300	$ 428,200	$ 30,400	$1,308,900
II. STATE LIQUOR DISPENSARY:				
FROM:				
Liquor Account	$4,130,300	$2,319,900	$157,000	$6,607,200
III. STATE INSURANCE FUND:				
FROM:				
State Insurance Fund Account	$1,188,900	$ 388,700	$ 53,700	$1,631,300
IV. ENDOWMENT FUND INVESTMENT BOARD:				
FROM:				
General Account	$ 104,600	$ 74,300	$ 5,600	$ 184,500
Interagency Billing and Receipts Account	34,900	8,900	1,400	45,200
TOTAL	$ 139,500	$ 83,200	$ 7,000	$ 229,700

Approved March 12, 1985.

CHAPTER 92
(S.B. No. 1176)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE COLLEGE OF SOUTHERN IDAHO AND NORTH IDAHO COLLEGE FOR FISCAL YEAR 1986; APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE STATE BOARD OF EDUCATION FOR THE COLLEGE OF SOUTHERN IDAHO AND NORTH IDAHO COLLEGE FOR EDUCATIONAL IMPROVEMENTS; 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 1986.

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

SECTION 1. It is legislative intent that the appropriation for

Junior College Support not exceed the following amount for the period July 1, 1985, through June 30, 1986:

FROM:

General Account	$5,425,000

SECTION 2. There is hereby appropriated from the General Account to the State Board of Education for the designated programs the following amounts, to be expended for the period July 1, 1985, through June 30, 1986:

FOR:

College of Southern Idaho	$2,146,200
North Idaho College	2,329,700
TOTAL	$4,475,900

SECTION 3. There is hereby appropriated to the State Board of Education for the College of Southern Idaho and North Idaho College the following amount, to be expended for qualitative educational improvements as approved by the State Board of Education from the listed account for the period July 1, 1985, through June 30, 1986:

FROM:

General Account	$112,800

SECTION 4. There is hereby appropriated from the General Account for Junior College Support an amount not to exceed $836,300, for deposit in the Social Security Trust Account, to be expended according to Section 59-1115, Idaho Code, for the period July 1, 1985, through June 30, 1986.

Approved March 12, 1985.

CHAPTER 93
(S.B. No. 1175)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE IDAHO STATE SCHOOL FOR THE DEAF AND THE BLIND, FOR FISCAL YEAR 1986; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION FOR 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 amounts, to be expended according to designated expense classes from the listed accounts for the period July 1, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
General Account	$2,627,700	$457,000	$35,000	$3,119,700
State School for the Deaf and the Blind Income Account		51,200		51,200
Federal Deaf and Blind Children Account	101,400	24,900		126,300
Interagency Billing and Receipts Account		29,100		29,100
TOTAL	$2,729,100	$562,200	$35,000	$3,326,300

SECTION 2. There is hereby reappropriated to the State Board of Education for 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 279, Laws of 1984, for the period July 1, 1985, through June 30, 1986, to be used for nonrecurring expenditures only.

Approved March 12, 1985.

CHAPTER 94
(S.B. No. 1174)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF ENVIRONMENT, FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

A. AIR QUALITY:

FROM:	
General Account	$ 188,000
Cooperative Welfare Account	685,400
TOTAL	$ 873,400

B. WATER QUALITY AND HAZARDOUS MATERIALS:

FROM:	
General Account	$ 1,228,100
Cooperative Welfare Account	1,772,300
Water Pollution Control Account	8,289,300
Hazardous Waste Monitoring Account	121,800
TOTAL	$11,411,500

GRAND TOTAL	$12,284,900

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 amounts provided herein.

Approved March 12, 1985.

CHAPTER 95
(S.B. No. 1173)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE INDIRECT SUPPORT SERVICES PROGRAM FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

FROM:	
General Account	$3,586,200
Cooperative Welfare Account	2,541,500
TOTAL	$6,127,700

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 March 12, 1985.

CHAPTER 96
(S.B. No. 1172)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PERSONNEL COMMISSION FOR FISCAL YEAR 1986.

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 designated expense classes from the listed accounts for the period July 1, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Personnel Commission Account	$1,081,200	$287,800	$23,400	$1,392,400
Interagency Billing and Receipts Account		25,000		25,000
TOTAL	$1,081,200	$312,800	$23,400	$1,417,400

Approved March 12, 1985.

CHAPTER 97
(S.B. No. 1169)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 1986, DESIGNATING PROGRAM LIMITS; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION FOR THE OFFICE OF THE STATE BOARD OF 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 the Office of the State Board of Education the following amounts from the listed accounts to be expended for the designated programs for the period July 1, 1985, through June 30, 1986:

FOR:	
State Board of Education	$ 52,700
General Administration	451,500
Scholarships and Grants	541,200
TOTAL	$1,045,400
FROM:	
General Account	$ 770,800
Federal Funds - State Student Incentive Grant Account	264,000
Paul L. Fowler Scholarship Fund Account	10,600
TOTAL	$1,045,400

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 appro-

priated by Section 1, Chapter 213, Laws of 1984, to be used for non-recurring expenditures only, for fiscal year 1986.

Approved March 12, 1985.

CHAPTER 98
(S.B. No. 1168)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF COMMUNITY REHABILITATION, IN ADDITION TO THE APPROPRIATION CONTAINED IN SECTION 2, CHAPTER 271, LAWS OF 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 271, Laws of 1984, there is hereby appropriated to the Department of Health and Welfare, Division of Community Rehabilitation, 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, 1984, through June 30, 1985:

A. STATE HOSPITAL NORTH:

FOR:	
Operating Expenditures	$164,900
FROM:	
Cooperative Welfare Account	$164,900

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 March 12, 1985.

CHAPTER 99
(S.B. No. 1167)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR FISCAL YEAR 1986 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, 1985, through June 30, 1986:

FOR PROGRAMS:	
Governor's Office Administration	$ 785,500
Governor's Residence & Expense	30,100
Federal Program Administration	308,900
TOTAL	$1,124,500
FOR EXPENDITURE CLASSIFICATIONS:	
Personnel Costs	$ 572,700
Operating Expenditures	305,300
Capital Outlay	2,500
Trustee & Benefit Payments	244,000
TOTAL	$1,124,500
FROM:	
General Account	$ 712,200
Pacific Northwest Regional Commission Account	412,300
TOTAL	$1,124,500

Approved March 12, 1985.

CHAPTER 100
(S.B. No. 1166)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE AUDITOR FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$2,188,600
Operating Expenditures	1,764,100
Capital Outlay	6,600
TOTAL	$3,959,300
FROM:	
General Account	$1,847,800
Social Security Trust Account	7,800
Interagency Billing and Receipts Account	2,103,700
TOTAL	$3,959,300

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. PRE-AUDIT AND ACCOUNTING:				
FROM:				
General Account	$ 646,000	$ 125,100		$ 771,100
Interagency Billing and Receipts Account			$6,400	6,400
TOTAL	$ 646,000	$ 125,100	$6,400	$ 777,500
B. SOCIAL SECURITY:				
FROM:				
General Account	$ 123,300	$ 23,900	$ 200	$ 147,400
Social Security Trust Account		7,800		7,800
TOTAL	$ 123,300	$ 31,700	$ 200	$ 155,200
C. DATA CENTER:				
FROM:				
General Account		$ 929,300		$ 929,300
Interagency Billing and Receipts Account	$1,419,300	678,000		2,097,300
TOTAL	$1,419,300	$1,607,300		$3,026,600
GRAND TOTAL	$2,188,600	$1,764,100	$6,600	$3,959,300

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 March 12, 1985.

CHAPTER 101
(S.B. No. 1165)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO, FOR THE IDAHO GEOLOGICAL SURVEY PROGRAM FOR FISCAL YEAR 1986; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION AND THE BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO FOR THE IDAHO GEOLOGICAL SURVEY 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 amount for the Idaho Geological Survey Program from the listed account, for the period July 1, 1985, through June 30, 1986:

FROM:

General Account	$302,500

SECTION 2. Any General Account unexpended and unencumbered balances existing on June 30, 1985, from the appropriation made by Section 2, Chapter 212, Laws of 1984, and pursuant to Section 3, Chapter 212, Laws of 1984, 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 Idaho Geological Survey Program for fiscal year 1986.

Approved March 12, 1985.

CHAPTER 102
(S.B. No. 1164)

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 FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

FROM:

General Account	$10,470,000
Federal Accounts	3,978,600
Interagency Billing and Receipts Account	179,400
TOTAL	$14,628,000

SECTION 2. Any General Account unexpended and unencumbered balances existing on June 30, 1985, from the appropriation made by

Section 1, Chapter 277, Laws of 1984, 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 1986.

Approved March 12, 1985.

CHAPTER 103
(S.B. No. 1160)

AN ACT
APPROPRIATING MONEYS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1986.

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, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
Insurance Administration Account	$721,900	$671,300	$147,600	$1,540,800
Arson, Fire and Fraud Prevention Account	186,700	143,500	20,000	350,200
Title Insurance Account	2,000	10,800		12,800
TOTAL	$910,600	$825,600	$167,600	$1,903,800

Approved March 12, 1985.

CHAPTER 104
(S.B. No. 1159)

AN ACT
APPROPRIATING MONEYS TO THE INDUSTRIAL COMMISSION FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
Industrial Administration Account	$1,122,000	$246,800	$ 19,000	$1,387,800
B. REHABILITATION:				
FROM:				
Industrial Administration Account	$ 842,500	$233,000	$112,700	$1,188,200
GRAND TOTAL	$1,964,500	$479,800	$131,700	$2,576,000

Approved March 12, 1985.

CHAPTER 105
(S.B. No. 1158)

AN ACT

APPROPRIATING MONEYS TO THE LIEUTENANT GOVERNOR FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$50,800
Operating Expenditures	15,000
TOTAL	$65,800
FROM:	
General Account	$65,800

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 March 12, 1985.

CHAPTER 106
(S.B. No. 1088)

AN ACT

RELATING TO AN INCOME TAX DEDUCTION FOR DONATIONS OF TECHNOLOGICAL EQUIPMENT; AMENDING SECTION 63-3025B, IDAHO CODE, TO ALLOW A DEDUCTION FOR DONATIONS MADE TO 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. That Section 63-3025B, Idaho Code, be, and the same is hereby amended to read as follows:

63-3025B. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT. (1) For taxable years commencing on and after January 1, 1984~~4~~5, 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 or public libraries and library districts located 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 written statement from the donee in which the donee agrees to accept the technological equipment donated.

(2) For the purposes of this section, "technological equipment" means a computer, computer software, scientific equipment or apparatus to be used by the school or library directly or indirectly in the education program of the school or library and which is donated to the school or library no later than five (5) years after its manufacture has been substantially completed.

(3) For the purposes of this section, a public elementary or public secondary school means one that is located within this state and receives funding pursuant to chapter 10, title 33, Idaho Code.

(4) For the purposes of this section, a public library or library district means one that is located within this state and receives funding pursuant to chapters 26 and 27, title 33, Idaho Code.

(5) The state tax commission shall promulgate rules and regulations to administer the provisions of this ~~act~~ section. 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, 1985.

Approved March 12, 1985.

CHAPTER 107
(S.B. No. 1077)

AN ACT

RELATING TO THE DUTIES OF THE STATE BOARD OF EDUCATION, THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, AND THE STATE DEPARTMENT OF EDUCATION; AMENDING SECTION 33-120, IDAHO CODE, TO PROVIDE THAT THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL PRESCRIBE FORMS FOR THE VARIOUS FINANCIAL AND STATISTICAL REPORTS OF SCHOOL DISTRICTS; AMENDING SECTION 33-317, IDAHO CODE, TO STRIKE REFERENCE TO APPROVAL OF COOPERATIVE SERVICE AGENCY BY-LAWS BY THE BOARD OF EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, AND TO PROVIDE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL APPROVE THE FORM USED TO EMPLOY PROFESSIONAL PERSONNEL OF SCHOOL DISTRICTS AND SHALL WITHHOLD ENSUING APPORTIONMENTS UNTIL WRITTEN CONTRACTS BE ENTERED; AMENDING SECTION 33-701, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, AND TO PROVIDE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL PRESCRIBE THE FORM FOR THE ANNUAL STATEMENT OF FINANCIAL CONDITION OF SCHOOL DISTRICTS, TO PROVIDE THAT THE ANNUAL AUDITS AND REPORTS OF SCHOOL DISTRICTS BE FILED WITH THE DEPARTMENT OF EDUCATION, AND TO CORRECT A CODE REFERENCE; AMENDING SECTION 33-801, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, TO PROVIDE THAT ANNUAL BUDGETS OF SCHOOL DISTRICTS BE PREPARED IN A FORM AND A MANNER PRESCRIBED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION, AND TO CORRECT A CODE REFERENCE; AMENDING SECTION 33-1002, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, TO PROVIDE CERTIFICATION FOR EMERGENCY CLOSURES TO THE DEPARTMENT OF EDUCATION, AND TO PROVIDE DETERMINATION OF APPROVED COSTS FOR BORDER DISTRICT ALLOWANCE AND EXCEPTIONAL CHILD ALLOWANCE BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; AMENDING SECTION 33-1007, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, AND TO PROVIDE THAT THE DEPARTMENT OF EDUCATION REPORT ANNUALLY TO THE LEGISLATURE THE STATUS OF THE EXCEPTIONAL EDUCATION SUPPORT PROGRAM; AMENDING SECTION 33-1009, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, TO PROVIDE THAT THE DEPARTMENT OF EDUCATION COMPUTE THE STATE DISTRIBUTION FACTOR AND MAKE PAYMENTS, AND TO PROVIDE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL CERTIFY ADDITIONAL LEVIES TO THE BOARDS OF COUNTY COMMISSIONERS; AMENDING SECTION 33-1010, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, TO PROVIDE THAT THE DEPARTMENT OF EDUCATION SHALL DETERMINE APPORTIONMENT WHEN MINES NET PROFITS ARE CONSIDERED; AMENDING SECTION 33-1011, IDAHO CODE, TO STRIKE REFERENCE TO THE BOARD OF EDUCATION, TO PROVIDE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION DETERMINE AND CERTIFY TO BOARDS OF COUNTY COMMISSIONERS AMOUNTS REQUIRED UNDER THIS CHAPTER; AMENDING SECTION 33-1014, IDAHO CODE, TO STRIKE REFERENCES TO THE STATE BOARD OF EDUCATION, TO PROVIDE THAT THE STATE TAX COMMISSION CERTIFY ASSESSMENT RATIOS AND EQUIVALENCY DETERMINATIONS TO THE STATE; AMENDING SECTION 33-1201, IDAHO CODE,

TO STRIKE REFERENCES TO APPROVAL OF STUDENT TEACHER ASSIGNMENTS BY THE STATE BOARD OF EDUCATION; AMENDING SECTION 33-1405, IDAHO CODE, TO STRIKE REFERENCES TO THE STATE BOARD OF EDUCATION, TO PROVIDE THAT THE STATE DEPARTMENT OF EDUCATION SHALL COMPUTE TUITION RATES AND PREPARE AND ISSUE TUITION CERTIFICATES; AMENDING SECTION 33-1406, IDAHO CODE, TO STRIKE REFERENCE TO BOARD OF EDUCATION AND INSERT IN LIEU THEREOF DEPARTMENT OF EDUCATION; AMENDING SECTION 33-1509, IDAHO CODE, TO STRIKE A REFERENCE TO IDAHO, TO STRIKE REFERENCES TO THE STATE BOARD OF EDUCATION, AND TO PROVIDE THAT THE STATE DEPARTMENT OF EDUCATION SHALL SPECIFY FORMS AND REQUIRE ROUTE BOOKS AND OTHER REPORTS; AMENDING SECTION 33-1704, IDAHO CODE, TO STRIKE REFERENCES TO THE STATE BOARD OF EDUCATION, TO PROVIDE SUBMISSION TO, AND APPROVAL OF, STATE DEPARTMENT OF EDUCATION OF DRIVER TRAINING PROGRAMS; AMENDING SECTION 33-1706, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION AND TO PROVIDE FOR SUBMISSION OF DRIVER TRAINING PROGRAM REPORTS TO THE DEPARTMENT OF EDUCATION; AMENDING SECTION 33-1708, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, TO PROVIDE ADMINISTRATION OF DRIVER TRAINING FUND BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION, AND TO PROVIDE RECORD KEEPING AND REPORTING BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; AMENDING SECTION 33-2004, IDAHO CODE, TO STRIKE REFERENCES TO THE BOARD OF EDUCATION, TO PROVIDE FOR THE ADOPTION OF CONTRACT FORM FOR EDUCATION OF EXCEPTIONAL CHILDREN BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND TO PROVIDE APPROVAL OF CONTRACTS AND PAYMENTS BY THE DEPARTMENT OF EDUCATION.

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

SECTION 1. That Section 33-120, Idaho Code, be, and the same is hereby amended to read as follows:

33-120. UNIFORM REPORTING. The state ~~board~~ superintendent of public instruction shall prescribe forms for financial and statistical reports of school districts, for inventories, and for revenue estimates and preliminary budgets, to the end that there shall be uniformity in the manner of keeping of accounts by the several school districts, and uniformity in the reporting thereof.

SECTION 2. That Section 33-317, Idaho Code, be, and the same is hereby amended to read as follows:

33-317. COOPERATIVE SERVICE AGENCY -- POWERS -- DUTIES -- LIMITATIONS. Two (2) or more school districts may join together for educational purposes to form a service agency to purchase materials and/or provide services for use individually or in combination. The cooperative service agency thus formed shall be empowered to adopt by-laws, ~~subject--to-the-approval-of-the-state-board-of-education,~~ and act as a body corporate and politic with such powers as are assigned through its by-laws but limited to the powers and duties of local school districts. In its corporate capacity, this agency may sue and be sued and may acquire, hold and convey real and personal property necessary to

its existence. The employees of the service agency shall be extended the same general rights, privileges and responsibilities as comparable employees of a school district.

A properly constituted cooperative service agency may request from its member school districts funding to be furnished by up to five (5) mills tax levy for a period not to exceed ten (10) years by such member school districts. Such levy must be authorized by an election held in each of the school districts pursuant to sections 33-401--33-406, Idaho Code, and approved by a majority of the district electors voting in such election. Moneys received by the member school districts from this source shall be transferred to the cooperative service agency upon receipt by the school districts.

SECTION 3. 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,~~ superintendent of public instruction, 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~~ superintendent of public instruction 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 acknowledge receipt of the contract 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 pre-

scribe. 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 33-515, 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 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. Any certificated professional employee, except the superintendent, may be discharged during a contract term under the following procedures:

(a) The superintendent or any other duly authorized administrative officer of the school district may recommend the discharge of any 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 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 by the affected employee and the board.
(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 retained, immediately discharged, or discharged upon termination of the current contract.

SECTION 4. That Section 33-701, Idaho Code, be, and the same is hereby amended to read as follows:

33-701. FISCAL YEAR -- PAYMENT AND ACCOUNTING OF FUNDS. The fiscal year of each school district shall be a period of twelve (12) months commencing on the first day of July in each year.

The board of trustees of each school district shall have the following powers and duties:

1. To determine and order paid all lawful expenses for salaries, wages and purchases, whether or not there be money in the treasury for payment of warrants drawn against any fund of the district.

Whenever any school district other than an elementary school district with less than six (6) teachers within the district has sufficient funds on deposit so to do, it may pay any allowed claim for salaries, wages or purchases by regular bank check signed by the treasurer of the district and countersigned by the chairman, or vice-chairman, of the board of trustees.

The total amount of warrants or orders for warrants drawn on any fund, together with disbursements from such fund in any other manner made, shall not exceed ninety-five percent (95%) of the estimated income and revenue accrued or accruing to such fund for the same school year, until such income and revenue shall have been paid into the treasury to the credit of the district.

2. To invest all or part of any plant facilities reserve fund, or any fund accumulated for the payment of interest on, and the redemption of, outstanding bonds, or other obligations of the district in bonds or certificates of indebtedness of the United States of America, or in bonds or warrants of the state of Idaho, or in warrants or tax anticipation notes of any county or school district of the state of Idaho, when such investments shall be due and payable on or before the date any plant facilities reserve fund shall be required to be expended or any bonds or other obligations, or interest thereon, of the investing district shall become payable.

Whenever in the judgment of the board of trustees, the proceeds of any bond issue should be temporarily invested pending the expenditure of such proceeds for the purposes for which such bonds were issued,

the proceeds may be invested in the manner and form hereinabove prescribed. Any interest, or profits accruing from such investments shall be used for the purposes for which the bonds were issued. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district;

3. To insure any school house and other property, and the district, against any loss by fire, casualty, or liability, and the board, its officers and employees, and to preserve its property for the benefit of the district. In case of loss of any insured property, any proceeds from insurance:

(a) may be expended in constructing a temporary or permanent structure, but no sum greater than the insurance proceeds shall be so expended except upon approval of a majority of the school district electors voting in an election called for that purpose; or

(b) may be placed in and made a part of the school plant facilities reserve fund of the district, if the district has such a fund; or

(c) may be placed in a separate account in the bond interest and redemption fund of the district to repay any kind of obligation incurred by the district in replacing or restoring the property for which the insurance proceeds were received, and shall not be included in the computations of bond and bond interest levies as provided in section 33-802A, Idaho Code.

If the proceeds of any insurance received by a school district by reason of loss on real property shall be less than five thousand dollars ($5,000), such proceeds may be credited to the general fund of the district;

4. To pay from the general fund of the district the expense of any member of the board incurred while traveling on the business of the board, or attending any meeting called by the state board of education or by the state superintendent of public instruction, or attending any annual or special meetings of the state school trustees association, and to pay the membership fee of the board of trustees in said association. Whenever any member of the board of trustees resides at such distance from the meeting place of the board as to require, in the judgment of the board, such member to incur extraordinary expense in traveling from his home to and from said meeting place, the board may approve payment to such member of the extraordinary expense incurred in attending any meeting of the board.

For the purpose of this paragraph, the term "expense" or "extraordinary expense" shall include allowance for mileage or actual travel expense incurred;

5. To prepare, or cause to be prepared and published, in the manner hereinafter prescribed, within one hundred twenty (120) days from the last day of each fiscal year, an annual statement of financial condition and report of the school district as of the end of such fiscal year in a form prescribed by the state ~~board of education~~ superintendent of public instruction. Such annual statement shall include, but not be limited to the amounts of money budgeted and received and from what sources, and the amounts budgeted and expended for salaries and other expenses by category. Salaries may be reported

in gross amount. Each school district shall have available at the administrative office, upon request, a full and complete list of vendors and the amount paid to each and a list of the number of teachers paid at each of the several stated gross salary levels in effect in the district.

Nothing herein provided shall be construed as limiting any school district as to any additional or supplementary statements and reports it may elect to make for the purpose of informing the public of its financial operations, either as to form, content, method, or frequency; and if all the information required herein to be published shall have been published as provided herein at regular intervals during the fiscal year covering successive portions of the fiscal year, then such information may be omitted from the annual statement of financial condition and report for such portions of the fiscal year as already have been reported.

The annual statement of financial condition and report shall be published within the time above prescribed in one (1) issue of a newspaper printed and published within the district, or, if there be none, then in a newspaper printed and published in the county in which the school district is located, or, if more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give notice of the contents of such annual statement of financial condition and report to the residents of said district; provided, that if no newspaper is printed and published in the said district or county, then such statement of financial condition and report shall be published in a newspaper of general circulation most likely to give notice of the contents to the residents of said district.

The chairman, clerk and treasurer of each such school district shall certify said annual statement of financial condition and report to be true and correct, and the certification shall be included in each published statement.

In the event the board of trustees of any such school district shall fail to prepare or cause to be prepared or to publish the annual statement of financial condition and report as herein required, the state ~~board--of--education~~ superintendent of public instruction shall cause the same to be prepared and published, and the cost thereof shall be an obligation of such school district. One (1) copy of such annual statement of financial condition and report shall be retained in the office of the clerk of the board of school trustees, where the same shall be open at all times to examination and inspection by any person;

6. To cause to be made each year, a full and complete audit of all of the financial transactions of the district, and of the activity or student body funds, except that in elementary school districts such audit shall be made at intervals of not more than two (2) years. Any audit shall be made by and under the direction of the board of trustees by an independent auditor, in accordance with generally accepted auditing standards and procedures.

The auditor shall be employed on written contract.

One (1) copy of the report of the audit shall be filed with the legislative auditor, and one (1) copy shall be filed with the state

~~board~~ department of education, not more than ten (10) days after its acceptance by the board of trustees;

7. To file annually with the state ~~board~~ department of education such financial and statistical reports as said state ~~board--of education~~ superintendent of public instruction may require;

8. To order and have destroyed any canceled check or warrant, or any form of claim or voucher which has been paid, at any time after five (5) years from the date the same was canceled and paid.

9. To review the school district budget periodically and make appropriate budget adjustments to reflect the availability of funds and the requirements of the school district. Revenue derived from maintenance and operation levies made pursuant to section 33-802 2, Idaho Code, shall be excluded from budget adjustments as provided in this paragraph. Any person or persons proposing a budget adjustment under this section shall notify in writing each member of the board of trustees one (1) week prior to the meeting at which such proposal will be made. Prior to the final vote on such a proposal, notice shall be posted and published once, as prescribed in section 33-40~~1~~2, Idaho Code. A budget adjustment shall not be approved unless voted affirmatively by sixty percent (60%) of the members of the board of trustees. Such amended budgets shall be submitted to the state board of education.

10. To invest any money coming into the hands of the school district in investments permitted by section 67-1210, Idaho Code. Unless otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district.

SECTION 5. That Section 33-801, Idaho Code, be, and the same is hereby amended to read as follows:

33-801. SCHOOL DISTRICT BUDGET. No later than twenty-eight (28) days prior to its annual meeting, the board of trustees of each school district shall have prepared a budget, in form prescribed by the state ~~board--of--education~~ superintendent of public instruction, and shall have called and caused to be held a public hearing thereon, and at such public hearing, or at a special meeting held no later than fourteen (14) days after the public hearing, shall adopt a budget for the ensuing year. Notice of the hearing shall be posted, and published as prescribed in section 33-40~~1~~2, Idaho Code, and a record of the hearing shall be kept by the clerk of the board of trustees. At the time said notice is given and until the date of the hearing, a copy of the budget shall be available for public inspection at all reasonable times at the administrative offices of the school district, or at the office of the clerk of the district. The board of trustees of each school district shall also prepare and publish, as a part of such notice, a summary statement of the budget for the ensuing year. Such statement shall be prepared in a manner consistent with standard accounting practices and in such form as the state ~~board~~ superintendent of public instruction shall prescribe, and, among other things, said statement shall show amounts budgeted for all major classifications of income and expenditures, with total amounts budgeted for

salary and wage expenditures in each such classification shown separately. Such statement shall show amounts previously budgeted for the then current year for the same classification for purposes of comparison. The budgeted dollar amounts of revenue in those categories included within the provisions of section 33-802, Idaho Code, as approved within the adopted budget shall be the same as presented to the respective county commissioners for mill levy purposes.

SECTION 6. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

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

1. State and County Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues and any balance or deficit in the county school fund to determine the total state and county funds. From the total state and county funds subtract the amount needed for the state's share of transportation support program as provided in section 33-1006, Idaho Code, and the amount needed for the state's share of the exceptional education support program as provided in section 33-1007, Idaho Code, to secure the state and county educational support funds.

2. Local Districts' Contribution. Without including any allowance as a credit for prepaid taxes, as provided by section 63-1607, Idaho Code, the local districts' contribution shall be twenty-five hundredths percent (.25%) of the total state adjusted market value for assessment purposes for the previous year and twenty-five hundredths percent (.25%) the equivalent valuation for the previous year as defined in section 33-1014, Idaho Code.

3. Educational Support Program Distribution Funds. Add the local districts' contribution and the state and county educational support program funds together to secure the total educational support program distribution funds.

4. Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules and regulations setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. In computing the average daily attendance the entire school year shall be used except that the twenty-eight (28) weeks having the best average daily attendance, not necessarily consecutive, may be used. When a school is closed because of storm, flood, failure of the heating plant, loss or damage to the school building, quarantine or order of any city, county or state health agency, or for reason believed by the board of trustees to be in the best interests of the health, safety or welfare of the pupils, the board of trustees having certified to the state ~~board~~ department of education the cause and duration of such closure, the average daily attendance for such day or days of closure shall be considered as being the same as for the days when the school actually was in

session. For illness or accident that necessitates an absence from school for more than ten (10) consecutive school days, the school district may include homebound students in its total attendance, provided that academic instruction has been given by appropriate certified professional staff employed by the district.

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

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

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

COMPUTATION OF ELEMENTARY SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Minimum Units Allowed
300 or more ADA....	23.....	15
110 - 299.99 ADA.....	20.....	6
1 - 109.99	Units allowed as follows:	
90 - 109.99 ADA.....		6
70 - 89.99 ADA.....		5
51 - 69.99 ADA.....		4
31 - 50.99 ADA.....		3
16 - 30.99 ADA.....		2
1 - 15.99 ADA.....		1

COMPUTATION OF SECONDARY SUPPORT UNITS

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

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

28 Weeks ADA	ADA Per Unit	Units Allowed
14 or more....	14.5.....	1 or more as computed
12 - 13.99....	-.....	1
8 - 11.99....	-.....	.75
4 - 7.99....	-.....	.5
1 - 3.99....	-.....	.25

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education support units shall be applicable only for programs approved by the state department of education following the rules and regulations established by the state board of education.

6. State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations for border district approved contracts as provided in section 33-1403, Idaho Code, and exceptional child approved contracts as provided in section 33-2004(2), Idaho Code, by the total state support units to secure the state distribution factor per support unit.

7. District Share of State and County Funds for Educational Support Program. Ascertain a district's share of state and county funds for the educational support program as follows:

a. District Contribution Calculation. Without including any allowance as a credit for prepaid taxes, as provided in section 63-1607, Idaho Code, the district contribution calculation shall be twenty-five hundredths percent (.25%) of the district's adjusted market value for assessment purposes for the previous year and twenty-five hundredths percent (.25%) of the equivalent valuation for the previous year as defined in section 33-1014, Idaho Code.

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

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

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

(3) The total number of support units of the district shall be the sum of the total support units for regular students, subsection 7b(1) of this section, and the support units allowance for the approved exceptional child program, subsec-

tion 7b(2) of this section.

c. Border District Allowance. In any school district which abuts upon the border of another state, and the resident pupils of the district attend school in the other state as provided in section 33-1403, Idaho Code, the state ~~board of education~~ superintendent of public instruction shall determine the approved costs necessary to meet the educational needs of the students. The approved costs shall be allowed as a part of the district's total educational support program.

d. Exceptional Child Approved Contract Allowance. In any district where resident exceptional children are educated by contract as provided in section 33-2004 (2), Idaho Code, the state ~~board of education~~ superintendent of public instruction shall determine the approved costs. The approved costs shall be allowed as a part of the district's total educational support program.

e. Nonresident Pupil Tuition-Equivalency Allowance. Districts which educate nonresident pupils placed by Idaho court order in licensed group homes, agencies or institutions shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per pupil. This district allowance shall be in addition to support unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

f. Total District Allowance Educational Program. Multiply the district's total number of support units, rounded to the nearest whole number, by the state distribution factor per support unit and to this product add the approved amount of border district contracts and the approved amount for the exceptional child contracts to secure the district's total allowance for the educational support program.

g. District Share. To secure the district's share of state and county apportionment, subtract the amount of the local district contribution calculation, subsection 7a of this section, from the amount of the total district allowance, subsection 7e of this section. The contract salary of every noncertificated teacher shall be subtracted from the district's share ~~unless otherwise approved by the state board of education~~.

h. Exceptional Child Tuition-Equivalency Allowance. Districts which educate school age exceptional children residing in state institutions, licensed and certified intermediate care facilities, or licensed private nonprofit residential facilities shall be eligible for an allowance equivalent to the previous year's certified local annual tuition rate per child. This district allowance shall be in addition to exceptional child unit funding and included in district apportionment payments, subject to approval of district applications by the state department of education.

SECTION 7. That Section 33-1007, Idaho Code, be, and the same is hereby amended to read as follows:

33-1007. EXCEPTIONAL EDUCATION SUPPORT PROGRAM. The state board of education shall determine the allowable costs for providing

approved programs of education for exceptional students, including allowable salaries of certified and approved ancillary personnel.

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

The exceptional education support program of a school district shall be based on an amount up to and including eighty percent (80%) of the allowable salaries of certified and approved ancillary personnel, as provided in section 33-2002A, Idaho Code.

SECTION 8. 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~~ department 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~~ department 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~~ department 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~~ superintendent of public instruction 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~~ state department of education 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~~ department 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.

SECTION 9. That Section 33-1010, Idaho Code, be, and the same is hereby amended to read as follows:

33-1010. APPORTIONMENTS WHEN MINES NET PROFITS CONSIDERED. In any school district in which mines net profits are made a part of the total assessed value of taxable property, should the amount of such net profits certified as required by section 63-2803, Idaho Code, be lower in any year than for the immediately preceding year in an amount equaling five per cent (5%) or more of the total assessed value of taxable property of the district for the preceding year, then the state ~~board~~ department of education shall compute the adjusted value of taxable property in the district for the purposes of section 33-1009, Idaho Code, by subtracting from the adjusted value of property in the district for the preceding year, the total of such decrease in mines net profits tax.

The county auditor of each county in which the net profits of mines are made a part of the total assessed value of taxable property of any school district, shall annually examine the reports of mines net profits certified to the county assessor as required by section 63-2803, Idaho Code, and shall certify to the state ~~board~~ department of education not later than the fifteenth day of June of each year, the net profits of mines creditable to each school district in said county.

SECTION 10. That Section 33-1011, Idaho Code, be, and the same is hereby amended to read as follows:

33-1011. TAXES TO BE LEVIED BY COUNTY COMMISSIONERS -- DETERMINATION AND CERTIFICATION. Not later than the second Monday in September of each year the state ~~board of education~~ superintendent of public instruction shall determine and certify to the board of county commissioners the amounts of money as shall be required under the provisions of this chapter.

SECTION 11. That Section 33-1014, Idaho Code, be, and the same is hereby amended to read as follows:

33-1014. ASSESSMENT RATIOS AND EQUIVALENCY DETERMINATIONS. The state tax commission shall annually ascertain the ratio between the market value for assessment purposes of real property, as defined in

section 63-202, Idaho Code, and the assessed valuation of real property in each county, and from the ratio so ascertained compute the adjusted value of all taxable property in each county.

The state tax commission shall on or before February 15 of each year report to each county in the state all of the following data that will be used by the state tax commission in conducting such ratio study within such county:

(1) sales of real property,

(2) appraisals of real property.

The report of the state tax commission shall be made available for public inspection in the office of the county assessor.

The county assessor and the board of county commissioners shall review such data and certify such review to the tax commission on or before March 15. If the county objects to the use of such data by the state tax commission, or desires additional data to be used by the state tax commission, it must report such objections, and the basis therefor, and furnish to the commission any additional data it desires used, by March 15. The state tax commission shall advise such county whether or not its objections or additional data have been accepted for use in the ratio study. If the state tax commission fails to accept such objections or additional data by March 30 the county may appeal such action by the state tax commission to the Idaho board of tax appeals by filing such appeal with the board of tax appeals on or before April 15. The board of tax appeals shall issue a decision determining all sales of real property and all appraisals of real property to be used by the state tax commission in performing such ratio study on or before July 15. The decision of the board of tax appeals shall be binding upon the Idaho state tax commission when they calculate and certify their sales ratio findings.

The state tax commission shall compute for each school district in each county an equivalent valuation which, with a levy equal to that levy certified by such school district to the proper taxing authorities for the next preceding year, would produce an amount of money equal to that which is apportioned to said school district by the county or state revenue in lieu of direct taxation for the fiscal school year ending June 30th of the year in which such valuation is being made, and shall certify on or before the fourth Monday of August of each year such equivalent valuation to the state ~~board~~ department of education.

On or before the fourth Monday of August of each year, the executive officer of the state tax commission shall provide the county auditor of each county with a statement of the amounts of the adjusted value and the assessed value of taxable property in the county and the ratio between the same. At the same time, the state ~~board~~ department of education shall be given a statement summarizing the statements provided to the several county auditors.

SECTION 12. That Section 33-1201, Idaho Code, be, and the same is hereby amended to read as follows:

33-1201. CERTIFICATE REQUIRED. Every person who is employed to serve in any elementary or secondary school in the capacity of

teacher, supervisor, administrator, education specialist, school nurse or school librarian shall be required to have and to hold a certificate issued under authority of the state board of education, valid for the service being rendered; except that the state board of education may authorize endorsement for use in Idaho, for not more than five (5) years, certificates valid in other states when the qualifications therefor are not lower than those required for an Idaho certificate.

No certificate shall be required of a student attending any teacher-training institution, who shall serve as a practice teacher in a classroom under the supervision of a certificated teacher, and who is jointly assigned by such teacher-training institution and the governing board of a district or a public institution~~, and approved by the state board of education,~~ to perform practice teaching in a non-salaried status. Those students attending a teacher-training institution of another state and who serve as a non-salaried practice teacher in an Idaho school district shall be registered by that school district ~~and approved by the state board of education~~.

A student, while serving as a practice teacher under the supervision of a certificated teacher, shall be accorded the same liability insurance coverage by the school district being served as that accorded a certificated teacher in the same district, and shall comply with all rules and regulations of the school district or public institution while acting as such practice teacher.

SECTION 13. That Section 33-1405, Idaho Code, be, and the same is hereby amended to read as follows:

33-1405. RATES OF TUITION -- TUITION CERTIFICATES. The state ~~board of education shall adopt rules and regulations for the determination of tuition rates;~~ department of education shall prepare and distribute all necessary forms; and shall issue to each school district, annually, a tuition certificate bearing a serial number, which certificate shall authorize the receiving district to charge and to bill for the tuition of its nonresident pupils.

In determining tuition rates to be charged by any creditor school district, the state ~~board~~ department of education shall compute the sum of that district's maintenance and operation costs, depreciation on its buildings, equipment, and other property, and the interest, if any paid by it on bonded debt or registered warrants. The said state ~~board~~ department of education shall then compute what proportion of the sum of said costs, depreciation and interest is allocable to elementary schools, and what proportion is allocable to secondary schools, in the district. The proportion allocable to elementary schools shall then be divided by the average daily attendance of elementary school pupils, and the proportion allocable to secondary schools shall be divided by the average daily attendance of secondary school pupils, in the district, and the amount so determined shall be the gross per-pupil cost, elementary or secondary, as the case may be. The net per-pupil cost shall be the gross per-pupil cost less the per-pupil apportionment to the district of any foundation program funds.

Computations of tuition rates shall be made as of the school year next preceding the year for which tuition charges are determined and made.

Charges for tuition made by any creditor school district shall be its net per-pupil cost, as hereinabove defined; except that its gross per-pupil cost shall be charged where any pupil has transferred to the creditor district by transfer other than one prescribed by section ~~33-1402--or~~ 33-1403, Idaho Code, or where the home district of any pupil attending school in the creditor district is without the state of Idaho.

SECTION 14. That Section 33-1406, Idaho Code, be, and the same is hereby amended to read as follows:

33-1406. BILLS OF TUITION. Bills of tuition for nonresident pupils shall be rendered by each creditor district and for nonresident pupils attending any school of the creditor district under the provisions of sections 33-1403 or 33-1404, Idaho Code, the bill of tuition shall be submitted to the home district of such pupils. In all other cases, the creditor district may submit to the parent or guardian of any nonresident pupil attending school in its district a bill of tuition of such pupil, and such parent or guardian shall be liable for the payment of said tuition, if so billed. Tuition reimbursement for nonresident pupils who are placed by court order under provisions of the Idaho youth rehabilitation or child protective acts may be obtained by the creditor district through procedures established in section 33-1002, Idaho Code, for nonresident tuition-equivalency allowance.

Each bill of tuition submitted to a home district shall show the serial number of the tuition certificate last issued to the creditor district by the state ~~board~~ department of education and shall show also the number of pupils for whom tuition is charged, which charge shall be as shown by the said tuition certificate.

Bills of tuition, if submitted other than annually, shall be apportioned according to the number of school months for which any such bill is applicable. A fraction of a school month shall be deemed a school month.

SECTION 15. That Section 33-1509, Idaho Code, be, and the same is hereby amended to read as follows:

33-1509. CHAUFFEURS -- DEFINITION -- QUALIFICATION -- DUTIES. For the purpose of this chapter the term "chauffeur" shall mean any person who at any time is operating a school bus while transporting pupils to or from school, or to or from approved school activities.

A board of trustees shall employ chauffeurs only upon prior application in writing and the board shall require of chauffeurs employed by others who transport pupils of their district under contract, the same information required in such written application. Each application shall contain at least the minimum information specified by the state ~~board~~ department of education.

Any person employed as a chauffeur shall be over the age of

eighteen (18) years, be of good moral character and not addicted to the use of intoxicants or narcotics. Before entering upon his duties each year, each chauffeur shall file with the board a health certificate, signed not longer than three (3) months prior to such filing by a licensed physician, and in form approved by the state ~~board~~ department of education.

Each chauffeur shall at all times possess a valid ~~Idaho~~ chauffeur's license, and a school bus driver's permit issued by the board of trustees. Such permit shall be in form approved by the state ~~board~~ department of education and shall be carried on the chauffeur's person or be exhibited in full view when the holder thereof is operating any school bus with pupils therein.

The board of trustees may for cause, and after a hearing, revoke any school bus driver's permit.

Each chauffeur shall maintain such route books and other records as may be required by the state ~~board~~ department of education or by the board of trustees of the school district. He shall report any pupil whose behavior is such as may endanger the operation of the vehicle, or who damages the same or any part thereof, or whose language is obscene.

It shall be the duty of each chauffeur to report any condition on, or bordering, his route which constitutes a hazard to the safety of the pupils being transported.

SECTION 16. That Section 33-1704, Idaho Code, be, and the same is hereby amended to read as follows:

33-1704. AUTHORIZATION TO OPERATE PROGRAM. The board of trustees of any school district proposing to establish an authorized driver training program shall, as a condition of reimbursement for costs incurred in the driver training program, not less than thirty (30) days prior to the proposed commencement thereof, submit to the state ~~board~~ department of education the plan therefor. The state ~~board~~ department shall approve or disapprove such plan within ten (10) days after receipt from the district of the proposal, and shall give written notice of its decision to said board of trustees. Any school district which operates any driver training program without prior written approval from the state ~~board~~ department of education shall not be entitled to reimbursement, as provided in section 33-1707, Idaho Code, for the unapproved plan, or the unapproved portions of any plan.

SECTION 17. That Section 33-1706, Idaho Code, be, and the same is hereby amended to read as follows:

33-1706. REPORTS TO STATE ~~BOARD~~ DEPARTMENT OF EDUCATION. Each school district which has completed a course or courses in driver training, whether approved for reimbursement or not, shall submit a report to the state ~~board~~ department of education not later than forty-five (45) days after completion of the course or courses, showing (1) the number of pupils who enrolled; (2) the number of pupils who completed the course; and (3) the total cost of operation of the program, together with such other information as the state board may

require. Failure to submit reports to the state ~~board~~ department of education shall be cause for the state ~~board~~ department of education to disallow reimbursement even for prior approved driver training program.

SECTION 18. That Section 33-1708, Idaho Code, be, and the same is hereby amended to read as follows:

33-1708. ADMINISTRATION -- STATE SUPERVISOR OF DRIVER TRAINING -- EMPLOYEES -- EXPENSES. The state ~~board of education~~ superintendent of public instruction shall administer the driver training fund. The state board of education shall employ within its department of education a state supervisor of driver training, who shall be a full-time employee, and such other supervisory and clerical help as may be deemed necessary, to effectuate the provisions hereof. The ~~board~~ state superintendent of public instruction shall cause to be maintained an accurate, current, and complete record of all costs of administering and supervising the driver training program in the state. Annually, not later than the first day of September, the state ~~board--of education~~ superintendent of public instruction shall cause the supervisor of driver training to prepare a report showing the actual expenses incurred in administering and supervising the driver training program during the preceding fiscal year ending June 30.

SECTION 19. That Section 33-2004, Idaho Code, be, and the same is hereby amended to read as follows:

33-2004. CONTRACTING BY APPROVED FORM FOR EDUCATION BY ANOTHER SCHOOL DISTRICT, APPROVED REHABILITATION CENTER OR HOSPITAL, OR A CORPORATION. The trustees of a school district may contract on a form adopted by the state ~~board--of--education~~ superintendent of public instruction for the education of exceptional children by another school district or by any private or public rehabilitation center, hospital, corporation, or state agency approved by the state board of education and when the students are transferred from the school district to the institution, corporation or district, said school district shall agree to pay therefor to the institution, corporation or district contracting to educate the students, amounts computed as follows:

1. For each resident student educated by another school district, the amount of the tuition rate certified for the receiving district under the provisions of section 33-1405, Idaho Code;

When public school districts contract for the education of exceptional children residing within the several districts, one (1) district shall be designated as the educating district for the purpose herein.

2. For each resident student educated by contract by a rehabilitation center, hospital, corporation or state agency, the amount of the tuition rate certified for the sending district under the provisions of section 33-1405, Idaho Code, and sufficient state and county funds to pay the balance of the obligations of the contract as approved by the state ~~board~~ department of education. Total allowance

for an approved contract cannot be greater than the educational costs of the student.

Should any corporation provide a program of education for exceptional children, contracts and payments as herein authorized may be made to the corporation upon approval of the state ~~board~~ department of education.

When any rehabilitation center, hospital, corporation or state agency shall have contracted for the education of any exceptional children as defined in this chapter all such children shall be enrolled in the district of their residence; and the institution, hospital or corporation shall certify to the home school district the daily record of attendance of each such pupil. The home district shall be eligible for reimbursement of the state and county amounts of the approved contracts as provided in section 33-1002, Idaho Code.

Approved March 12, 1985.

CHAPTER 108
(S.B. No. 1069)

AN ACT

RELATING TO THE STATE BRAND BOARD AND BRAND INSPECTORS; AMENDING SECTION 25-1103, IDAHO CODE, TO REINSTATE THE SHERIFF AND HIS DEPUTIES AS EX OFFICIO BRAND INSPECTORS.

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

SECTION 1. That Section 25-1103, Idaho Code, be, and the same is hereby amended to read as follows:

25-1103. OFFICERS, DEPUTIES AND ASSISTANTS. The state brand inspector, with the approval of the state brand board, and within the limits of any appropriation made available for such purposes, shall appoint, fix the compensation, determine the tenure of office, and prescribe the duties and powers of such officers, deputies, and assistants as may be necessary for the performance of the duties of his office, and shall station deputies and assistants in such localities as he shall deem advisable for the performance of his duties, and the sheriff and his deputies in the counties of the state may perform the duties of ~~deputy~~ ex officio brand inspectors under the guidelines set forth by the state brand board and state law. When the sheriff or his deputies act in the capacity ~~of deputy~~ ex officio brand inspector as provided herein, they shall collect all brand inspection fees and other fees as provided by law and remit the same to the state brand inspector. Compensation for the sheriff and his deputies when acting as ~~deputy~~ ex officio brand inspectors may be fixed by contract between the state brand board and the sheriff in accordance with section 31-3101, Idaho Code.

Approved March 12, 1985.

CHAPTER 109
(S.B. No. 1034)

AN ACT

RELATING TO THE IDAHO POTATO COMMISSION; AMENDING SECTION 22-1202, IDAHO CODE, TO PROVIDE THE IDAHO POTATO COMMISSION SHALL BE COMPOSED OF NINE PRACTICAL POTATO PERSONS, TO DIVIDE DISTRICT NO. 2 INTO TWO DISTRICTS AND TO PROVIDE FOR APPOINTMENT OF A GROWER COMMISSIONER FROM EACH DISTRICT, AND TO PROVIDE THE COMMENCEMENT DATE OF COMMISSIONERS' TERMS SHALL BEGIN ON SEPTEMBER FIFTEENTH OF THE YEAR OF APPOINTMENT; AMENDING SECTION 22-1206, IDAHO CODE, TO INCREASE THE RATE OF PENALTIES AND INTEREST ON TAXES DETERMINED TO BE IN DEFAULT; AMENDING SECTION 22-1207, IDAHO CODE, TO PROVIDE LICENSE FEES FOR USE OF ANY IDAHO POTATO TRADE OR CERTIFICATION MARK FOR PERSONS WITH THEIR PRINCIPAL PLACE OF BUSINESS IN IDAHO AND FOR PERSONS WITH THEIR PRINCIPAL PLACE OF BUSINESS OUTSIDE THE STATE OF IDAHO; AMENDING SECTION 22-1211, IDAHO CODE, TO ELIMINATE REFERENCE TO VEGETABLE TAX ADVERTISING STAMPS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 22-1202, Idaho Code, be, and the same is hereby amended to read as follows:

22-1202. POTATO COMMISSION CREATED. There is hereby created and established in the department of self-governing agencies the "Idaho potato commission" to be composed of nine (9) practical potato ~~men~~ persons, resident citizens of the state of Idaho for a period of three (3) years prior to their appointment each of whom has had active experience in growing, or shipping, or processing of potatoes produced in the state of Idaho. At least five (5) members of said commission shall be growers who are actually now engaged in the production of potatoes. Two (2) of the members shall be shippers who are actually now engaged in the shipping of potatoes, and two (2) of the members shall be processors who are actually now engaged in the processing of potatoes. The qualifications for members of said commission as above required shall continue throughout their respective terms of office. Three (3) growers shall be nominated for each grower vacancy that occurs, from which the governor shall appoint one (1). Two (2) grower commissioners shall be appointed from the district known as District No. 1, consisting of the counties of Oneida, Franklin, Bear Lake, Caribou, Bannock, Power, Bingham, Bonneville, Teton, Madison, Jefferson, Fremont, Clark, Butte, Custer, and Lemhi; ~~two (2) grower commissioners shall be appointed from the district known as District No. 2, consisting of the counties of Cassia, Minidoka, Twin Falls, Jerome, Lincoln, Blaine, Gooding, Elmore, Camas, Boise, and Valley~~ one (1) grower commissioner shall be appointed from the district known as District No. 2A, consisting of the counties of Twin Falls, Jerome, Lincoln, Camas, Elmore, Boise, Valley, and Gooding; one (1) grower commissioner shall be appointed from the district known as District No.

2B, consisting of the counties of Cassia, Minidoka, Blaine, Custer and Lemhi; and one (1) grower commissioner shall be appointed from the district known as District No. 3, consisting of the counties of Owyhee, Ada, Canyon, Gem, Payette, Washington, Adams, Idaho, Lewis, Nez Perce, Clearwater, Latah, Benewah, Shoshone, Kootenai, Bonner, and Boundary. Three (3) shippers shall be nominated for each shipper vacancy that occurs from which the governor shall appoint one (1). Shipper commissioners do not necessarily need to be nominated from geographical areas. Three (3) processors shall be nominated for each processor vacancy that occurs from which the governor shall appoint one (1). Processor commissioners do not necessarily need to be nominated from geographical areas. Nominations must be made 30 days prior to appointment. All nominations must give equal consideration to all who are eligible for appointment as defined in this act. The Idaho potato commission shall hold separate meetings of the growers, shippers, or processors, as the nominations to be made shall require, in the various districts, to determine who shall be nominated for appointment. Notice of said meetings shall be given by publication in one (1) newspaper published in each county of the district or districts in which said nominations are to be made, and the notice shall be published in two (2) issues of each newspaper, the first to be approximately thirty (30) days and the second approximately ten (10) days before said meeting. The notice shall state the purpose, time and place of said meeting. All meetings held for the selection of nominees shall be held prior to March 31 of the year the appointment or appointments are to be made.

The term of office shall be three (3) years and no commissioner shall serve more than two (2) consecutive terms. The commissioners shall elect a chairman for a term of one (1) year.

~~On--July--1,--1961,-the-governor-shall-appoint-one-(1)-grower,-one-(1)-shipper-and-one-(1)-processor-member--for--a--term--of--three--(3)-years;--three--(3)-grower-members-for-a-term-of-two-(2)-years;-and-one-(1)-grower,-one-(1)-shipper-and-one-(1)-processor-member-for-a-term-of-one-(1)-year.~~ Vacancies ~~thereafter~~ shall be filled as terms expire. Each of such commissioners shall hold office until his successor has been appointed and qualified. The term of office shall commence on September 15 of the year of appointment and expire on September 14 of the last year of the term of office.

A majority of the members of said commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission. Before entering on the discharge of their duties as members of said commission, each member shall take and subscribe to the oath of office prescribed for state officers.

Each member of the commission shall be compensated as provided by section 59-509(d), Idaho Code.

SECTION 2. That Section 22-1206, Idaho Code, be, and the same is hereby amended to read as follows:

22-1206. PENALTY FOR TAX DEFAULTS. Any handler, dealer or grower who fails to make collection or file return or to pay any tax within the time required by or pursuant to this act shall thereby forfeit to

the state a penalty of ~~five~~ ten per centum (~~5~~10%) of the amount of tax determined to be due, as provided in this act, plus one and one-half per centum (1 1/2%) of such amount of tax determined to be due for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due; but the commission, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid to the Idaho potato commission and disposed of as provided with respect to moneys derived from the taxes levied and imposed by this act.

SECTION 3. That Section 22-1207, Idaho Code, be, and the same is hereby amended to read as follows:

22-1207. POWERS AND DUTIES OF COMMISSION. The powers and duties of the commission shall include the following:

1. 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 the performance of its duties under this act.

2. To contract and be contracted with.

3. To employ and at its pleasure discharge an advertising manager, agents, advertising agencies and such other help as it deems necessary and to outline their powers and duties and fix their compensation.

4. To make in the name of the commission such advertising contracts and other agreements as may be necessary.

5. To keep books, records and accounts of all its doings, which books, records and accounts shall be open to inspection and audit by the state auditor at all times.

6. To purchase or authorize the purchase of all office equipment and supplies and to incur all other reasonable and necessary expenses and obligations in connection with and required for the proper carrying out of the provisions of this act.

7. To define and describe such grade or grades of potatoes that may be advertised in accordance with the provisions of this act.

8. To define and designate the character of the brands, labels, stencils, or other distinctive marks under which said potatoes may be marketed in order to secure the greatest returns to producers and meet the requirements of their advertising campaign.

9. To devise and arrange for the application of either a seal, label, brand, package, or any other suitable device that will protect the identity of the original Idaho pack of potatoes as near to the final consumer as possible.

10. Whenever and wherever it deems it to be necessary the commission shall use its offices to prevent any substitution of other potatoes for Idaho potatoes and to prevent the misrepresentation or the misbranding of Idaho potatoes at any and all times at any and all points where they discover the same is being done.

11. To make, conduct or carry on studies and research in connection with the raising, production and marketing of potatoes, including study and research dealing with the industrial and other uses of pota-

toes and their by-products, and the extension and stabilization of markets for such commodities; to disseminate information with respect to such study and research as a part of the commission's advertising, publicity and sales promotion activities authorized by this act and to assist, aid and educate growers, dealers and handlers in the raising, production and marketing of potatoes.

12. To require all persons with their principal place of business located in the state of Idaho to pay a one hundred dollar ($100) annual license fee for use of any Idaho potato trade or certification mark and to require all persons with their principal place of business located outside of the state of Idaho to pay a three hundred dollar ($300) annual license fee for use of any Idaho potato trade or certification mark.

For the accomplishment of such ends the commission is hereby empowered to employ the necessary persons or contract for the performance of required services; to cooperate with any organization of growers in this state, whether organized by authority of law or voluntary, engaged in carrying on similar activities and to participate jointly with any such organization, by contract or otherwise, in financing such study and research or paying for the employment of persons or services required or in carrying out projects and programs as herein contemplated; provided, however, expenditures authorized by the commission for the purposes herein mentioned shall not exceed an amount equal to twelve and one-half per cent (12 1/2%) of the tax collected on potatoes levied and imposed pursuant to section 22-1211, Idaho Code.

Provided, further, that none of the powers specified in this subsection 11 shall be exercised, and no expenditure of revenue as provided in this subsection 11 shall be authorized except upon the affirmative vote of six (6) or more of the members of the commission.

SECTION 4. That Section 22-1211, Idaho Code, be, and the same is hereby amended to read as follows:

22-1211. TAX LEVY ~~----VEGETABLE--ADVERTISING--STAMPS~~. There is hereby levied and imposed a tax of four cents (4¢) per hundredweight on potatoes covered by this act, which tax shall be due on or before the time when such potatoes are first handled in the primary channels of trade and shall be paid at such time or times as the commission may by rule or regulation prescribe, but not later than the fifteenth day of the month next succeeding the month in which such potatoes were handled in the primary channels of trade. ~~For-the-purpose-of--collection-of-said-tax-the-commission-may-but-need-not,-require-stamps-to-be known--as-"Vegetable-Advertising-Stamps"-to-be-purchased-from-the-commission-and-affixed-or-attached-to-the-containers,-invoices,--shipping documents,-inspection-certificates,-releases,-or-receiving-receipts-or tickets,-or-such-other-containers-or-records-as-may-adequately-provide notice--that-such-tax-has-been-paid.-Any-such-stamps-shall-be-canceled immediately-upon-being-so-attached-or-fixed-and-the-date-of--cancellation--shall--at--said-time-be-placed-on-such-stamps.~~ The commission is authorized to make appropriate rules and regulations to implement the collection of the taxes imposed by this chapter.

In addition to the four cents (4¢) tax hereinabove provided for, there is hereby levied and imposed an additional tax of three cents (3¢) per hundredweight on potatoes covered by this act; provided, however, said additional tax of three cents (3¢), or any portion thereof, shall only be due and collectible upon a determination by at least two-thirds (2/3) of the commission members that the anticipated expenditures for the next fiscal year following the year in which the determination is made will exceed the anticipated tax revenues to be collected from the said four cents (4¢) tax. Upon such a determination, the commission shall collect the additional three cents (3¢) tax or such portion thereof as is required by such determination, which shall be collected with, and as, other taxes imposed by this act.

The person first selling or otherwise delivering potatoes into primary channels of trade shall be responsible for and make payment of all taxes imposed by this chapter. If such person is the dealer or shipper handling potatoes grown by another, he may charge against and recover from the grower of such potatoes or the person from whom he acquired them sixty per cent (60%) of the tax.

SECTION 5. This act shall be in full force and effect on and after January 1, 1985.

Approved March 12, 1985.

CHAPTER 110
(S.B. No. 1171)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF HEALTH, FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

FROM:

General Account	$ 3,924,900
Cooperative Welfare Account	15,610,500
Cancer Control Account	375,000
Central Tumor Registry Account	100,000
Alcoholism Treatment Account	1,860,800
Emergency Medical Services Account	688,800
Hazardous Waste Monitoring Account	149,000
TOTAL	$22,709,000

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, 1985 through June 30, 1986:

A. PHYSICAL HEALTH SERVICES:	
FROM:	
General Account	$ 1,971,200
Cooperative Welfare Account	14,036,300
Cancer Control Account	375,000
Central Tumor Registry Account	100,000
TOTAL	$16,482,500
B. EMERGENCY MEDICAL SERVICES:	
FROM:	
General Account	$ 355,300
Emergency Medical Services Account	688,800
Cooperative Welfare Account	190,000
TOTAL	$ 1,234,100
C. LABORATORY SERVICES:	
FROM:	
General Account	$ 1,598,400
Hazardous Waste Monitoring Account	149,000
Cooperative Welfare Account	657,500
TOTAL	$ 2,404,900
D. SUBSTANCE ABUSE SERVICES:	
FROM:	
Alcoholism Treatment Account	$ 1,860,800
Cooperative Welfare Account	726,700
TOTAL	$ 2,587,500
GRAND TOTAL	$22,709,000

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 March 13, 1985.

CHAPTER 111
(H.B. No. 240)

AN ACT

RELATING TO COUNTY REAL PROPERTY; AMENDING CHAPTER 8, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-808A, IDAHO CODE, TO PROVIDE THAT A BOARD OF COUNTY COMMISSIONERS MAY EXCHANGE COUNTY-OWNED PROPERTY WHEN IN THE COUNTY'S BEST INTEREST.

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 31-808A, Idaho Code, and to read as follows:

31-808A. EXCHANGE OF COUNTY LAND. The board of county commissioners may at its discretion, when in the county's best interest, exchange, and do all things necessary to exchange, any of the county lands now or hereafter held and owned by the county for similar lands of equal value public or private, so as to consolidate county lands or aid the county in the control and management or use of county lands.

Approved March 13, 1985.

CHAPTER 112
(H.B. No. 89)

AN ACT

RELATING TO COUNTY BOUNDARIES; AMENDING SECTION 31-115, IDAHO CODE, TO HAVE THE LEGAL DESCRIPTION FOR THE WESTERN BOUNDARY OF CAMAS COUNTY BE CONSISTENT WITH THE LEGAL DESCRIPTION FOR THE EASTERN BOUNDARY OF ELMORE COUNTY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-115, Idaho Code, be, and the same is hereby amended to read as follows:

31-115. CAMAS COUNTY. Camas county is described as follows~~:~~: beginning at the southwest corner of township two (2) south, range twelve (12) east;

Southern boundary. Thence due east along the township line between townships two (2) and three (3) south, to the southeast corner of township two (2) south, range seventeen (17) east;

Eastern boundary. Thence north along the township line between ranges seventeen (17) and eighteen (18) east, to the southeast corner of section twelve (12), township two (2) south, range seventeen (17) east; thence west one (1) mile, to the southwest corner of section twelve (12), township two (2) south, range seventeen (17) east; thence north along the section line to the intersection of said line and the center of the channel of Big Wood river; thence westerly along said Big Wood river to the junction of Big Wood river and Malad river (or Camas creek); thence westerly along the center of the channel of Malad river (or Camas creek) to the intersection of said river and the section line between sections fourteen (14) and fifteen (15), township one (1) south, range sixteen (16) east; thence north along said section line to the township line between township one (1) south, range sixteen (16) east, and township one (1) north, range sixteen

(16) east; thence east along said township line to the southeast corner of section thirty-four (34), township one (1) north, range sixteen (16) east; thence north along the section line two (2) miles to the northeast corner of section twenty-seven (27), township one (1) north, range sixteen (16) east; thence west along the section line one (1) mile to the northwest corner of section twenty-seven (27), township one (1) north, range sixteen (16) east; thence northerly along the section line to the main divide between Beaver creek on the west and Camp creek on the east; continuing thence northerly along the summit of the said mountain range or watershed between Beaver creek and Camp creek to its junction with the summit of the mountain range or watershed dividing Willow creek and its tributaries on the west and Big Wood river and its tributaries on the east; thence continuing northerly and westerly along the said last-mentioned summit across Buttercup mountain to a point which is approximately five (5) miles northwest of Buttercup mountain and two (2) miles south of the U.S.G.S. bench mark elevation 7281, on Warm Spring creek, which point is marked "Elevation 8588" on U.S.G.S. topographical map of Idaho Sawtooth quadrangle, edition of January, 1900, reprinted February, 1909; thence continuing along the summit about north thirty-five (35) degrees west to a point designated on said map of said quadrangle as "Elevation 8492"; thence westerly along said summit to a point marked "Elevation 9310" on said map; thence northerly along the summit of the Smoky mountains forming the summit of the watershed dividing the Boise river and its tributaries on the west, the Big Wood river and its tributaries on the east to its intersection with the summit of the Sawtooth mountains at a point marked "Elevation 10,000" on said map, where the said summit of the Sawtooth mountains forms a watershed dividing the Boise river and its tributaries on the west and south, the Salmon river and its tributaries on the west and north, and Big Wood river and its tributaries on the east;

Northern boundary. Thence westerly along the summit of the Sawtooth mountains, where it forms a watershed between the Boise river and its tributaries on the south, and the Salmon river and its tributaries on the north to its intersection with the eastern boundary of Elmore county at a point where the trail crosses the summit of what is known as Mattingly Creek divide;

Western boundary. Thence ~~southwesterly along the said divide to a point as far east as the range line between ranges eleven (11) and twelve (12) east, thence south~~ in a southerly direction along the main divide between the middle fork and the south fork of the Boise river to a point on the divide between Willow creek and Bear creek; thence in a southerly direction on the main divide between Willow creek and Skeleton creek to the center of the channel of the south fork of the Boise river; thence down the channel of the river to the point of intersection with the range line between ranges eleven (11) and twelve (12) east, approximately in township three (3) north; thence south along the range line between ranges eleven (11) and twelve (12) to the township line between townships two (2) and three (3) south, the point of beginning.

County seat--Fairfield.

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 13, 1985.

CHAPTER 113
(H.B. No. 279)

AN ACT

RELATING TO THE SITING OF HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES; AMENDING TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 58, TITLE 39, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO ENCOURAGE ENVIRONMENTALLY SOUND METHODS OF HAZARDOUS WASTE MANAGEMENT, TO CREATE THE STATE HAZARDOUS WASTE MANAGEMENT PLANNING COMMITTEE AND TO PROVIDE FOR MEMBERSHIP AND DUTIES OF THE COMMITTEE, TO PROVIDE FOR PROCEDURES FOR THE PREPARATION OF A STATE HAZARDOUS WASTE MANAGEMENT PLAN, TO PROVIDE FOR AMENDMENT, ADOPTION OR REJECTION OF THE PLAN BY THE LEGISLATURE, TO PROVIDE WHEN A SITING LICENSE IS REQUIRED AND TO PROVIDE EXEMPTIONS FROM THE HAZARDOUS WASTE MANAGEMENT PLAN, TO PROVIDE FOR THE ISSUANCE OF PERMITS AND LICENSES PRIOR TO THE ADOPTION OF THE HAZARDOUS WASTE MANAGEMENT PLAN, TO PROVIDE FOR ISSUANCE OF LICENSES AFTER THE ADOPTION OF THE HAZARDOUS WASTE MANAGEMENT PLAN AND TO PROVIDE EXEMPTIONS, TO PROVIDE APPLICATION OF THE SITING LICENSE REQUIREMENT TO HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITIES IN EXISTENCE ON JULY 1, 1985, TO PROVIDE FOR THE CREATION OF SITE REVIEW PANELS FOR ISSUANCE OF SITING LICENSES FOR CERTAIN HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITIES, TO PROVIDE CONTENTS OF SITING LICENSE APPLICATIONS, TO PROVIDE FOR FEES, TO PROVIDE FOR PROMULGATION OF RULES AND REGULATIONS, TO PROVIDE DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE UPON RECEIPT OF A SITING LICENSE APPLICATION, TO PROVIDE NOTICE FOR AND CREATION OF A SITE REVIEW PANEL REGARDING A SITING LICENSE APPLICATION, TO PROVIDE PROCEDURES AND DUTIES OF THE SITE REVIEW PANEL AND FURTHER DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE THAT AN ORDINANCE, PERMIT REQUIREMENT OR OTHER REQUIREMENT OF A CITY OR COUNTY SHALL NOT PROHIBIT THE CONSTRUCTION OF A HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITY IN THAT CITY OR COUNTY, TO PROVIDE COORDINATION AND INTEGRATION WITH STATE AND FEDERAL LAW, TO PROVIDE THAT INFORMATION OBTAINED BY THE DEPARTMENT PURSUANT TO THIS ACT SHALL BE A PUBLIC RECORD, WITH EXCEPTIONS, AND TO PROVIDE DUTIES OF THE BOARD OF HEALTH AND WELFARE REGARDING REQUESTS FOR DISCLOSURE OF CERTAIN INFORMATION, TO PROVIDE FOR CERTIFICATION OF CITY, COUNTY OR DISTRICT HEALTH DEPARTMENTS, AND TO PROVIDE AN ADDITIONAL REMEDY FOR DEVALUATION OF PROPERTY CAUSED BY AN APPROVED HAZARDOUS WASTE TREATMENT, STORAGE OR DISPOSAL FACILITY.

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

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 58, Title 39, Idaho Code, and to read as follows:

CHAPTER 58
HAZARDOUS WASTE FACILITY SITING

39-5801. SHORT TITLE. This chapter shall be known and may be cited as the "State Hazardous Waste Facility Siting Act."

39-5802. LEGISLATIVE INTENT. (1) The legislature of the state of Idaho hereby finds that adverse public health and environmental impacts can result from the improper land disposal of hazardous waste and that the need for establishing safe sites with adequate capacity for the disposal of hazardous waste is a matter of statewide concern, and the provisions of this chapter are therefore enacted to provide an effective method of establishing such sites.

(2) It is the intent of the legislature of the state of Idaho that generators of hazardous waste be encouraged to use on-site and off-site alternative treatment methods to reduce the amount of hazardous waste that must be discharged into the environment and to reduce associated hazards to the health and welfare of the citizens of this state. Alternative management technologies which detoxify, stabilize and reduce the amount of hazardous waste that must be buried are available. For such purpose, the provisions of this chapter are enacted to allow the development of safe alternative methods for the treatment of hazardous waste and to provide a means for the designation of hazardous waste disposal sites when such methods are unable to obviate the need for hazardous waste disposal on land. Whereas the state of Idaho may be responsible for the perpetual care of hazardous waste land disposal facilities, alternative technologies such as incineration, resource recovery, or physical, chemical or biological degradation should be implemented to the maximum extent possible.

39-5803. DEFINITIONS. As used in this chapter:

(1) "Panel" means the site review panel created in section 39-5811, Idaho Code.

(2) "Committee" means the state hazardous waste management planning committee created in section 39-5805, Idaho Code.

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

(4) "Designated facility" means a hazardous waste treatment, storage or disposal facility which has received a permit or has interim status under title II of the solid waste disposal act or has a permit from the state authorized under section 3006 of title II of the solid waste disposal act (42 U.S.C.A. section 3006).

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

(6) "Disposal" is defined in section 39-4403, Idaho Code.

(7) "Disposal facility" means a facility or a part of a facility at which managed hazardous waste, as defined by rule, is intentionally placed into or on any land or water and at which hazardous waste will remain after closure.

(8) "Generator" is defined in section 39-4403, Idaho Code.

(9) "Hazardous waste" is defined in section 39-4403, Idaho Code.

(10) "Hazardous waste management" is defined in section 39-4403, Idaho Code.

(11) "On-site" means on the same or geographically contiguous property which may be divided by a public or private right-of-way if the entrance and exit between the pieces of property are at a cross-roads intersection and access is by crossing rather than going along the right-of-way. Noncontiguous pieces of property owned by the same person but connected by a right-of-way which the owner controls and to which the public does not have access is also considered on-site property.

(12) "Operator" means the person responsible for the overall operation of a disposal, treatment or storage facility with approval of the director either by contract or permit.

(13) "Person" is defined in section 39-4403, Idaho Code.

(14) "Plan" means the state hazardous waste management plan prepared under the provisions of section 39-5806, Idaho Code.

(15) "Storage" is defined in section 39-4403, Idaho Code.

(16) "Storage facility" means a facility or part of a facility at which managed hazardous waste, as defined by rule and regulation is subject to storage.

(17) "Title II of the solid waste disposal act" means sections 1001 through 8006 of public law 89-272, 42 U.S.C. 6901, 6902 through 6910, 6912 through 6940 and 6942 through 6986.

For purposes of this chapter, words and phrases defined in section 39-4403, Idaho Code, shall carry the same meaning when used in this chapter unless the context clearly denotes otherwise.

39-5804. METHODS OF HAZARDOUS WASTE MANAGEMENT. The department and the committee in the conduct of their duties under the provisions of this chapter and under the provisions of chapter 44, title 39, Idaho Code, shall assist in encouraging, developing and implementing methods of hazardous waste management which are environmentally sound, which maximize the utilization of valuable resources and which encourage resource conservation including source separation and waste reduction.

39-5805. STATE HAZARDOUS WASTE MANAGEMENT PLANNING COMMITTEE -- CREATION -- MEMBERS. (1) The state hazardous waste management planning committee is hereby created in the department. The committee shall represent diverse geographical areas of the state. No later than September 1, 1985, the governor shall, subject to the advice and consent of the senate, appoint seventeen (17) members to the committee consisting of the following representatives:

(a) One (1) representative of city government

(b) One (1) representative of county government

(c) One (1) hazardous waste transporter

(d) One (1) hazardous waste generator
(e) One (1) hazardous waste treatment, storage, or disposal facility operator
(f) One (1) member of an environmental group
(g) One (1) member of a conservation group
(h) Two (2) members of the general public
(i) The director of the department or his designee
(j) The director of the department of water resources or his designee
(k) One (1) licensed professional engineer
(l) A faculty member of a university or college in this state well versed in geology, hydrology or other environmental matters
(m) The director of the Idaho transportation department or his designee
(n) One (1) representative of the mining industry
(o) One (1) representative of the forest products industry; and
(p) One (1) representative of the agricultural industry.

(2) A vacancy occurring on the committee shall be filled in the same manner as the original appointment.

(3) The chairman of the committee shall be elected by the members of the committee and the chairman shall be a voting member of the committee.

(4) Members of the committee who are not state employees shall be entitled to receive compensation as provided in section 59-509(b), Idaho Code.

(5) The committee by majority vote shall establish operating procedures. The operating procedures shall be made available for public review.

(6) In the conduct of its business, the committee shall solicit the advice of, and consult periodically with cities, counties and persons within the state for the purpose of receiving information or advice that may be helpful in the preparation of the plan.

(7) Employees of the department of health and welfare, department of water resources and the transportation department shall assist the committee on a priority basis.

(8) The committee shall disband after final approval of the plan by the legislature.

(9) Upon petition to the director and the director's recommendation to the governor, the governor shall appoint a committee in the same manner as the original committee to amend or revise the plan.

(10) The committee shall hold its first meeting as soon as practicable after confirmation by the senate.

39-5806. STATE HAZARDOUS WASTE SITING MANAGEMENT PLAN -- PREPARATION -- INCLUSIONS -- STUDIES -- PUBLIC HEARINGS -- SUMMARY -- AMENDMENTS -- RECOMMENDATION. (1) Not later than January 1, 1987, the committee shall prepare a state hazardous waste siting management plan.

(2) The plan shall:
(a) Provide for a reasonable geographic distribution of hazardous waste treatment, storage, or disposal facilities to meet existing and probable future needs.

(b) Be based upon location of generators, health and safety, economics of transporting, types of waste and existing hazardous waste treatment, storage, or disposal facilities.

(c) Include necessary legislative, administrative and economic mechanisms, a timetable to carry out the plan.

(3) The committee may instruct the department of health and welfare, the department of water resources and the transportation department to complete studies as considered reasonably necessary for the completion of the plan. The studies may include:

(a) An inventory and evaluation of the sources of hazardous waste generation within this state or from other states, including the types and quantities of the hazardous waste.

(b) An inventory and evaluation of current hazardous waste management practices and costs, including treatment and disposal, within this state.

(c) A projection or determination of future hazardous waste management needs based on an evaluation of existing capacities, treatment or disposal capabilities, manufacturing activity, limitations and constraints. Projection of needs shall consider the types and sizes of hazardous waste treatment, storage, or disposal facilities, general locations within the state, management control systems, and an identified need for additional privately owned or state owned treatment, storage, or disposal facilities.

(d) An investigation and analysis of methods and incentives to encourage interstate and international cooperation in the management of hazardous waste.

(e) An investigation and analysis of methods, incentives or technologies for source reduction, reuse, recycling, or recovery of potentially hazardous waste and a strategy for encouraging the utilization or reduction of hazardous waste.

(f) An investigation and analysis of alternate methods for treatment and disposal of hazardous waste.

(4) Upon completion of the plan, the committee shall publish a notice after giving twenty (20) days' notice as provided in section 60-109, Idaho Code, in a number of newspapers and shall issue a statewide news release announcing the availability of the plan for inspection by interested persons. The announcement shall indicate where and how the plan may be obtained or reviewed and shall indicate that not less than three (3) public hearings shall be conducted at varying locations in the state before formal adoption. The first public hearing shall not be held until sixty (60) days have elapsed from the date of the notice announcing the availability of the plan.

(5) After public hearings, the committee shall prepare a written summary of the comments received, provide comments on the major concerns raised, make amendments to the plan as necessary and shall formally adopt the plan, and shall submit the plan to the legislature at the first regular session of the legislature following adoption of the plan.

39-5807. AMENDMENT OR REJECTION OF PLAN. The legislature shall amend, adopt or reject the plan by passage of a concurrent resolution at the regular legislative session when it receives the plan. If the

legislature amends or rejects the plan, it shall indicate its reasons for amendment or rejection by passage of a concurrent resolution and return the plan to the committee.

39-5808. SITING LICENSE REQUIRED. No person shall construct, expand, enlarge or alter a commercial hazardous waste disposal, treatment or storage facility or any on-site land disposal facility for wastes listed pursuant to section 201(d)(2) and (e), as modified by section 209 of "The Hazardous and Solid Waste Amendments of 1984," as enacted by the U.S. congress, without a siting license from the department. The owner or operator of the facility or site rather than the builder shall be responsible for obtaining the license. Facilities exempted from permitting under the provisions of section 39-4409, Idaho Code, shall not require a license under the provisions of this chapter.

39-5809. PERMITS AND LICENSES -- ISSUANCE PRIOR TO ADOPTION OF PLAN. The director may issue permits under the provisions of chapter 44, title 39, Idaho Code, or licenses pursuant to this chapter, for existing or proposed hazardous waste treatment, storage or disposal facilities and other authorized operations before the adoption of the plan by the committee.

39-5810. LICENSES -- ISSUANCE AFTER ADOPTION OF PLAN. After the plan has been adopted by the committee, the director shall not issue a license under the provisions of this chapter for a hazardous waste treatment, storage or disposal facility until the director has made a determination that the action is consistent with the adopted hazardous waste management plan. The director may exempt classes or categories of hazardous waste treatment, storage or disposal facilities from complying with the hazardous waste management plan if the exemption is in the public interest and consistent with state and federal law. If the director exempts classes or categories of hazardous waste treatment, storage or disposal facilities from complying with the hazardous waste management plan, rules and regulations shall be promulgated in compliance with chapter 52, title 67, Idaho Code, specifically indicating the exemption.

39-5811. EXPANSION, ENLARGEMENT OR ALTERATION OF TREATMENT, STORAGE, OR DISPOSAL FACILITY -- REVIEW -- SITING LICENSES. (1) A hazardous waste treatment, storage, or disposal facility in existence on July 1, 1985, shall not require a review under the provisions of this chapter.

(2) The expansion, enlargement, or alteration of a hazardous waste treatment, storage, or disposal facility in existence on July 1, 1985, constitutes a new proposal for which a siting license is required.

39-5812. SITE REVIEW PANELS -- MEMBERS, CHAIRMAN, QUORUM, MEETINGS, STAFF. (1) Within the department, a site review panel shall be established in order to receive public input early in the permitting process and to approve, deny or add provisions to the siting license

in order to mitigate public concerns for the following types of facilities:

(a) All commercial hazardous waste disposal facilities not in existence prior to July 1, 1985;

(b) All commercial hazardous waste treatment or storage facilities not in existence prior to July 1, 1985;

(c) Any on-site disposal of wastes listed pursuant to section 201(d)(2) and (e) as modified by section 209 of "The Hazardous and Solid Waste Amendments of 1984," as enacted by the U.S. congress, for sites not in existence prior to July 1, 1985.

(d) Any significant expansion of the above-listed facilities after July 1, 1985.

A panel shall consist of ten (10) members to be appointed as provided in subsections (2) and (3) of this section.

(2) The following six (6) members shall serve on every panel established to review a siting license application:

(a) Three (3) members shall be representatives of this state, one (1) each from the department of health and welfare, the department of water resources and the Idaho transportation department. A member who is a representative of this state shall be appointed by each of the directors of the respective departments and a vacancy shall be filled as necessary by the appropriate director. A member who is a representative of the state shall be appointed to serve on site review panels for a period of two (2) years and may be appointed for additional two (2) year periods. In addition, a member who is a representative of the state may serve beyond the expiration of the member's two (2) year period of service for so long a period of time as is necessary to complete action on siting license applications pending at the expiration of the member's term.

(b) Three (3) members shall be public members appointed by the governor with the advice and consent of the senate. One (1) public member shall be a geologist or hydrologist, one (1) an engineer, and one (1) a representative of industries which generate hazardous waste. One (1) public member shall be on the faculty of an institution of higher education in this state. A vacancy shall be filled for the unexpired portion of the period in the same manner as the original appointment. A member who is a public member shall be appointed to serve on site review panels for a period of three (3) years and may be appointed for additional three (3) year periods. In addition, a member who is a public member may serve beyond the expiration of the member's three (3) year period of service.

(3) The following four (4) members shall serve on a panel which is established to consider a particular siting license application:

(a) Two (2) members shall be appointed by the city council of the city located closest to or in which the hazardous waste treatment, storage, or disposal facility is proposed to be located, at least one (1) of whom shall be a resident of the city. The members serving pursuant to this subsection shall serve until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer

subject to their review.

(b) Two (2) members shall be residents of the county where the hazardous waste treatment, storage, or disposal facility is proposed to be located and shall be appointed by the board of commissioners of the county. The members serving pursuant to this subsection shall serve until the particular siting license application subject to their review is approved, or until the application is rejected and is no longer subject to their review.

(4) The member appointed as the representative of the state from the department shall be chairman of each panel and shall notify the city council of the nearest city and the board of county commissioners of a siting license application filed with the department, and shall instruct the city and county to appoint the necessary representatives to a panel.

(5) Six (6) of the ten (10) members of the panel shall constitute a quorum for the transaction of business of the panel and the concurrence of six (6) members of the panel shall constitute a legal action of the panel. All meetings of the panel shall be conducted pursuant to the state open meeting law.

(6) The director shall make staff available to assist a panel in carrying out its responsibilites.

(7) Members of the panel who are not state employees shall be entitled to receive compensation as provided in section 59-509(b), Idaho Code.

39-5813. SITING LICENSE APPLICATION -- FEE - RULES AND REGULATIONS. An application for a siting license shall contain the name and residence of the applicant, the location of the proposed hazardous waste treatment, storage or disposal facility and other information required under the provisions of this chapter. The application shall be accompanied by a siting license fee. The director shall establish by rule, the scale for determining the siting license application fee. The fee shall not exceed seven thousand five hundred dollars ($7,500) and shall be based on the cost to the department of reviewing the siting license application. The scale shall be based on characteristics including the site size, projected waste volume, and hydrogeological characteristics surrounding the site. Fees received pursuant to this section may be expended by the director to pay the actual, reasonable and necessary costs incurred by the department in acting upon a siting license application. The director may promulgate rules and regulations in compliance with chapter 52, title 67, Idaho Code, in order to implement and administer the provisions of this section.

39-5814. DUTIES OF DIRECTOR UPON RECEIPT OF A SITING LICENSE APPLICATION -- RECOMMENDATION. (1) Upon receipt of a siting license application, the director or an authorized representative of the director shall:

(a) Immediately notify the permanent panel members, the city and/or county in which the hazardous waste treatment, storage, or disposal facility is located or proposed to be located, the state fire marshal, the director of the department of fish and game, the

director of the department of law enforcement, and each division within the department that has responsibility in land, air or water management, and other appropriate agencies. The notice shall describe the procedure and the schedule based on the complexity of the application by which the siting license may be approved or denied.

(b) Publish a twenty (20) days' notice, as provided in section 60-109, Idaho Code, in a newspaper having major circulation in the county and the immediate vicinity of the proposed hazardous waste treatment, storage, or disposal facility. The required published notice shall contain a map indicating the location of the proposed hazardous waste treatment, storage, or disposal facility and shall contain a description of the proposed action and the location where the complete application package may be reviewed and where copies may be obtained. The notice shall describe the procedure by which the siting license may be granted.

(c) Review the plans of the proposed hazardous waste treatment, storage, or disposal facility to determine if the proposed operation complies with the provisions of this chapter or chapter 44, title 39, Idaho Code, and rules and regulations promulgated pursuant to those chapters. The review shall also include, but not be limited to, air quality, water quality, waste management and hydrogeology. Documentation of the review process shall be kept by the department. If the site review, plan review and the application meet the requirements of chapter 44, title 39, Idaho Code, the provisions of this chapter and the rules and regulations promulgated pursuant to those chapters, the director shall recommend approval for a siting license which may contain stipulations specifically applicable to the site and operation. An expansion, enlargement or alteration of a hazardous waste treatment, storage, or disposal facility beyond the specified areas indicated in the siting license application constitutes a new proposal for which a new siting license is required.

(d) The director shall also coordinate and review all permits which the applicant is required to obtain from the department in order to construct the proposed hazardous waste treatment, storage, or disposal facility.

(2) The director may recommend approval or may deny a complete siting license application within one hundred twenty (120) days after the director receives an application meeting the requirements in section 39-5813, Idaho Code.

(3) If the director does not recommend approval or does not deny a complete siting license application within one hundred twenty (120) days, the complete siting license application shall be submitted to the panel for action.

(4) If the director recommends approval of a complete siting license application, the director shall immediately notify the applicant and the chairman of the panel. The recommendation shall include a notice of intent to issue the siting license required for the construction pending approval by the panel under the provisions of section 39-5815, Idaho Code.

(5) If the director gives notice of the director's intent to deny

the application within one hundred twenty (120) days of receiving the complete siting license application, the director shall return the application to the applicant and indicate in writing steps the applicant can take to make the application acceptable if a new application is made.

(6) For the purposes of this section, a siting license application shall be deemed complete when it meets the completeness requirements for permit applications in terms of the rules and regulations promulgated pursuant to chapter 44, title 39, Idaho Code.

39-5815. NOTICE FOR AND CREATION OF PANEL AFTER NONREJECTION OR APPROVAL OF SITING LICENSE APPLICATION -- TIMETABLE FOR CONSIDERATION OF PROPOSED FACILITY -- PUBLIC HEARING -- NOTICE -- COMMENT AND INPUT -- MUNICIPAL IMPACT -- CONSIDERATIONS -- ADVICE. (1) If within seventy-five (75) days after receipt of a complete siting license application, the director has not rejected the application, the director shall notify the chairman of the panel, who immediately shall notify the representatives of the state and the public members of the panel. The chairman shall notify the applicable county and city for their appointment of members of the panel as provided in subsection (3) of section 39-5812, Idaho Code. Within forty-five (45) days after the notification, the board of commissioners of the county and the city council shall select the members to serve on the panel. The panel shall be created at that time and notification of the creation of the panel shall be made to the chairman.

(2) If the director recommends approval of a complete siting license application within seventy-five (75) days after receipt of the application, the director at the time of approval, shall notify the chairman of the panel who shall immediately notify the representatives of the state to the panel and the public members. The chairman shall also notify the applicable county and city for their appointment of members as provided in subsection (3) of section 39-5812, Idaho Code. Within forty-five (45) days after the notification, the board of commissioners of the county and the city council shall select the members to serve on the panel. The panel shall be created at that time and notification shall be made to the chairman.

(3) Within twenty (20) days after creation of the panel, the panel shall meet to review and establish a timetable for the consideration of a proposed hazardous waste treatment, storage, or disposal facility.

(4) The panel shall:

(a) Set a date and arrange for publication of notice of a public hearing in a newspaper having major circulation in the vicinity of the proposed site, at its first meeting. The public notice shall:

(i) Contain a map indicating the location of the proposed hazardous waste treatment, storage, or disposal facility, a description of the proposed action, and the location where the application for a siting license may be reviewed and where copies may be obtained.

(ii) Identify the time, place and location for the public hearing held to receive public comment and input on the application for a siting license.

(b) Publish the notice not less than thirty (30) days before the date of the public hearing and the notice shall be, at a minimum, a twenty (20) days' notice as provided in section 60-109, Idaho Code.

(5) Comment and input on the proposed hazardous waste treatment, storage, or disposal facility may be presented orally or in writing at the public hearing, and shall continue to be accepted in writing by the panel for fifteen (15) days after the public hearing date.

(6) The panel shall deliberate on the impact of the proposed hazardous waste treatment, storage, or disposal facility on the city or county, or both, in which it is to be located and make a final determination on the siting license application.

(7) The panel shall consider, among other things:

(a) The risk and impact of accident during the transportation of hazardous waste.

(b) The risk and impact of contamination of ground and surface water by leaching and runoff from the proposed hazardous waste treatment, storage, or disposal facility.

(c) The risk of fires or explosions from improper treatment, storage, or disposal methods.

(d) The impact on local units of government where the proposed hazardous waste treatment, storage, or disposal facility is to be located in terms of the health, safety, cost and consistency with local planning and existing development. The panel shall also consider city and county ordinances, permits or other requirements and their potential relationship to the proposed hazardous waste treatment, storage, or disposal facility.

(e) The nature of the probable environmental impact, including the specification of predictable adverse effects on the following:

(i) The natural environment and ecology.

(ii) Public health and safety.

(iii) Scenic, historic, cultural and recreational value.

(iv) Water and air quality, and wildlife.

(v) An evaluation of measures to mitigate adverse effects.

(8) The panel's primary responsibility shall be to consider the concerns and objections submitted by the public. The panel shall facilitate efforts to provide that the concerns and objections are mitigated by establishing additional stipulations specifically applicable to the hazardous waste treatment, storage, or disposal facility and operation at that site. The panel shall also, to the fullest extent practicable, integrate by stipulations the provisions of the city or county ordinances, permits or requirements.

(9) The panel may seek the advice of any person in order to render a decision to approve or deny the siting license application.

(10) Within one hundred twenty (120) days after creation the panel shall either approve or reject the siting license application, and the director shall issue or deny the siting license accordingly. If the panel rejects a siting license application, the panel shall state its reasons in writing and indicate the necessary changes to make the application acceptable if a new application is made.

(11) An applicant denied a siting license pursuant to this chapter or any person aggrieved by a decision of the panel or the

director pursuant to this chapter may within sixty (60) days, after all remedies have been exhausted under the provisions of this chapter, seek judicial review under the procedures provided in sections 67-5215 and 67-5216, Idaho Code. For the purposes of sections 67-5215 and 67-5216, Idaho Code, a site review panel shall be construed to mean an agency.

39-5816. LOCAL RESTRICTIONS ON HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITY CONSTRUCTION. An ordinance, permit requirement or other requirement of a city or county shall not prohibit the construction of a hazardous waste treatment, storage, or disposal facility in that city or county.

39-5817. COORDINATION AND INTEGRATION WITH STATE AND FEDERAL LAW. The director shall coordinate and integrate the provisions of this chapter for purposes of administration and enforcement with appropriate state and federal law.

39-5818. INFORMATION OBTAINED — PUBLIC RECORD — CONFIDENTIALITY. (1) Except as provided in subsection (2) of this section, information obtained by the department under the provisions of this chapter shall be deemed to be a public record.

(2) A person regulated under the provisions of this chapter may designate a record, site license application, other information, or a portion of a record, site license application, or other information furnished to or obtained by the department or its agents, as being only for the confidential use of the department and the panel. The department shall notify the regulated person of a request for public records, the scope of which includes information designated as confidential. The person regulated under the provisions of this chapter shall have thirty (30) days after the receipt of the notice to demonstrate to the director that the information designated as confidential should not be disclosed because the information is a trade secret or secret process, or is production, commercial, or financial information the disclosure of which would jeopardize the competitive position of the person from whom the information was obtained, and make available information not otherwise publicly available. The director shall grant the request for the information unless the person regulated under the provisions of this chapter has made a satisfactory demonstration to the director that the information should not be disclosed. If there is a dispute between the person requesting the information, the board of health and welfare shall make the decision to grant or deny the request. When the board of health and welfare makes a decision to grant a request, the board's rationale for granting the request shall be made in writing, the decision to grant the request shall be in compliance with existing law or rules and regulations promulgated pursuant thereto, and the information shall not be released until three (3) days have elapsed after the board's written opinion has been issued.

39-5819. CERTIFICATION OF CITY, COUNTY, OR DISTRICT HEALTH DEPARTMENTS. The department may certify a city, county or health dis-

trict to administer and enforce portions of this chapter and chapter 44, title 39, Idaho Code, but only to the extent consistent with obtaining and maintaining authorization of the state's hazardous waste management program pursuant to section 3006 of title II of the solid waste disposal act. Certification procedures shall be established by the department by rule and regulations. The director may rescind certification upon the request of the certified city, county, or health district, or after reasonable notice and hearing, if the director finds that a city, county, or health district is not administering and enforcing the provisions of this chapter or chapter 44, title 39, Idaho Code, or both, as required.

39-5820. REMEDY FOR DEVALUATION OF PROPERTY CAUSED BY APPROVED FACILITY. (1) Before construction of a hazardous waste treatment, storage, or disposal facility, but in no case later than nine (9) months after approval of a site license for a hazardous waste treatment, storage, or disposal facility, any owner or user of real property adversely affected by approval may bring an action in a district court of competent jurisdiction against the owner of the proposed facility. If the court determines that the planned construction and operation of the hazardous waste treatment, storage, or disposal facility will result in the devaluation of the plaintiff's property or will otherwise interfere with the plaintiff's rights in the property, it shall order the owner to compensate the plaintiff in an amount equal to the value of the plaintiff's loss.

(2) The remedy provided in subsection (1) of this section shall be in addition to other remedies provided by law for owners or users aggrieved by the proposed construction and operation of a hazardous waste treatment, storage or disposal facility.

(3) Nothing in this chapter shall prevent an owner or user of property aggrieved by the construction and operation of a facility from seeking damages that result from a subsequent modification of the design or operation of a facility but such damages are limited to the incremental damage that results from the modification. Any action for such damages under this section shall be brought within nine (9) months after the siting license for modification of the design or operation of the facility is approved.

(4) For the purpose of assessing damages, the value of the rights affected is fixed at the date the siting license is approved and the actual value of the right at that date is the basis for the determination of the amount of damage suffered, and no improvements to the property subsequent to the date of approval of the plans shall be included in the assessment of damages. Similarly, for any subsequent modification of a facility, value is fixed at the date of approval of the siting license.

(5) The owner or operator of a proposed facility may, at any time before an award of damages, abandon the construction or operation of the facility or any modification and cause the action to be dismissed. As a condition of dismissal, however, the owner or operator shall compensate the plaintiff for any actual damage sustained as a result of construction or operation of the facility before abandonment together with court costs and a reasonable attorney's fee.

(6) Nothing in this chapter shall prevent a court from enjoining any activity at a hazardous waste treatment, storage, or disposal facility that is outside of, or not in compliance with, the terms and conditions of an approved hazardous waste operations permit pursuant to section 39-4409, Idaho Code.

Approved March 13, 1985.

CHAPTER 114
(H.B. No. 175, As Amended)

AN ACT

RELATING TO COMPUTING TAXABLE INCOME OF CORPORATIONS; PROVIDING A STATEMENT OF LEGISLATIVE INTENT; AMENDING SECTION 63-3027, IDAHO CODE, TO REQUIRE SEPARATE ACCOUNTING FOR IDAHO INCOME OF BUSINESS ACTIVITIES INVOLVING FEES PAID BY THE UNITED STATES GOVERNMENT FOR MANAGEMENT SERVICES.

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

SECTION 1. DECLARATION OF INTENT. It is not the intent of the legislature by adoption of this legislation to express any intent as to the construction of prior law or its application to issues or disputes existing pursuant to such prior law before judicial or administrative tribunals.

SECTION 2. That Section 63-3027, Idaho Code, be, and the same is hereby amended to read as follows:

63-3027. COMPUTING TAXABLE INCOME OF CORPORATIONS. The Idaho taxable income of any corporation with a business situs in this state shall be computed and taxed in accordance with the rules set forth in this section:

(a) As used in this section, unless the context otherwise requires:

(1) "Business income" means income arising from transactions and activity in the regular course of the taxpayers' trade or business and includes income from the acquisition, management, or disposition of tangible and intangible property when such acquisition, management, or disposition constitute integral or necessary parts of the taxpayers' trade or business operations. Gains or losses and dividend and interest income from stock and securities of any foreign or domestic corporation shall be presumed to be income from intangible property, the acquisition, management, or disposition of which constitute an integral part of the taxpayers' trade or business; such presumption may only be overcome by clear and convincing evidence to the contrary.

(2) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) "Nonbusiness income" means all income other than business income.

(5) "Sales" means all gross receipts of the taxpayer not allocated under subsections (d) through (h) of this section.

(6) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(b) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion such net income as provided in this section.

(c) For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:

(1) In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or

(2) tThat state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(d) Rents and royalties from real or tangible personal property, capital gains interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (e) through (h) of this section.

(e) (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in this state, or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(f) (1) Capital gains and losses from sales of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property had a situs in this state at the time of the sale, or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state, unless such gains and losses constitute business income as defined in this section.

(g) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state unless such interest or dividends constitute business income as defined in this section.

(h) (1) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the payer in this state, or

(ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patent product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(i) All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3).

(j) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(k) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(l) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the state tax commission may require the averaging of monthly values

during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(m) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(n) Compensation is paid in this state if:

(1) tThe individual's service is performed entirely within the state; or

(2) tThe individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(3) sSome of the service is performed in the state and

(i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or

(ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(o) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(p) Sales of tangible personal property are in this state if:

(1) tThe property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale, or

(2) tThe property is shipped from an office, store, warehouse, factory, or other place of storage in this state and

(i) the purchaser is the United States government or

(ii) the taxpayer is not taxable in the state of the purchaser.

(q) Sales, other than sales of tangible property, are in this state, if:

(1) tThe income-producing activity is performed in this state; or

(2) tThe income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(r) If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the state tax commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) sSeparate accounting, provided that only that portion of general expenses clearly identifiable with Idaho business operations shall be allowed as a deduction;

(2) tThe exclusion of any one or more of the factors;

(3) tThe inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(4) tThe employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(s) For purposes of this section two (2) or more corporations the voting stock of which is more than fifty percent (50%) owned directly or indirectly by a common owner or owners may, when necessary to accurately reflect income, be considered a single corporation.

(t) If compensation is paid in the form of a reasonable cash fee for the performance of management services directly for the United States government at the Idaho national engineering laboratory, separate accounting for that part of the business activity without regard to other activity of the taxpayer in the state of Idaho or elsewhere shall be required; provided that only that portion of general expenses clearly identifiable with Idaho business operations of that activity shall be allowed as a deduction.

Approved March 13, 1985.

CHAPTER 115
(H.B. No. 229)

AN ACT

RELATING TO POLLING PLACES; AMENDING SECTION 33-403, IDAHO CODE, TO PROVIDE THAT POLLING PLACES DESIGNATED FOR SCHOOL ELECTIONS CONFORM TO STANDARDS PRESCRIBED; AMENDING SECTION 34-302, IDAHO CODE, TO AUTHORIZE THE SECRETARY OF STATE TO PRESCRIBE STANDARDS FOR POLLING PLACE ACCESSIBILITY; AND AMENDING SECTION 50-408, IDAHO CODE, TO PROVIDE THAT POLLING PLACES DESIGNATED FOR MUNICIPAL ELECTIONS CONFORM TO STANDARDS PRESCRIBED.

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

SECTION 1. That Section 33-403, Idaho Code, be, and the same is hereby amended to read as follows:

33-403. CONDUCT OF ELECTIONS. In all school elections each polling place shall be presided over by a board of election. Each board shall consist of two (2) judges and a clerk, who shall be qualified school district electors of the district. Before entering upon his duties, each member of the board of election shall take an oath, which shall be administered by any qualified school district elector of the district, faithfully to perform the duties of such member.

In any election involving excision and annexation of territory, or consolidation of districts, or division of a district, the board of county commissioners of any county affected by such election shall appoint the boards of election and designate the polling places within that county; and in all other school elections, the board of trustees of the district shall appoint the board or boards of election.

Polling places designated for school election shall conform to the standards established by the secretary of state pursuant to the

authority granted in section 34-302, Idaho Code.

While the polls are open neither the board of election nor any person shall give information on the progress of the election. All elections shall be by secret and separate ballot, each ballot to be in print, type or other legible writing. The ballots in each case shall be prepared by the person responsible for signing, posting and arranging the publishing of the notice of election, and shall be in such form that an elector may express a choice in the affirmative or in the negative of any proposition to be voted on or the election of any person, by marking a cross (X). Ballots shall carry a brief but clear statement of any proposition being submitted; and

1. In the case of an election involving the creation or assumption of debt, the amount of the issue, purpose and period of the issue, or the amount to be assumed;
2. In the case of election of trustees, the names of the nominees, together with space in which an elector may write in the name or names of other qualified persons;
3. In the case of an election involving excision and annexation of territory, or the consolidation of school districts, or the division of a school district, a description of the proposed change.

In all school elections, the ballots used by the electors shall be kept in a sealed container until the polls are closed at the time specified in the notice of election.

It is intended that no informalities in the conduct of school elections shall invalidate the same if the election shall have been otherwise fairly held.

SECTION 2. That Section 34-302, Idaho Code, be, and the same is hereby amended to read as follows:

34-302. DESIGNATION OF PRECINCT POLLING PLACES. The board shall, not less than thirty (30) days before any election, designate a suitable polling place for each election precinct. Insofar as possible, the board shall designate the same polling place for the general election which it designated for the primary election. The physical arrangements of the polling place shall be sufficient to guarantee all voters the right to cast a secret ballot. ~~To the maximum extent deemed possible--by--the board, the~~ All polling places designated as provided herein, shall conform to the accessibility standards ~~prescribed--in section--39-3203,--Idaho--Code,-to-provide-accessibility-to-the-physically-handicapped~~ adopted by the secretary of state pursuant to the "Voting Accessibility for the Elderly and Handicapped Act," P.L. 98-435. The expense of providing such polling places shall be a public charge and paid out of the county treasury.

SECTION 3. That Section 50-408, Idaho Code, be, and the same is hereby amended to read as follows:

50-408. DESIGNATION OF POLLING PLACES. The city council shall, no later than September 15 in a general election year and at least forty-five (45) days before any special election, designate a suitable poll-

ing place for each election precinct. Polling places shall conform to the standards established by the secretary of state pursuant to the authority granted in section 34-302, Idaho Code. The city council shall have the authority to consolidate established precincts within the boundaries of the city. Insofar as possible the polling places shall be in the same location as those provided for county and state elections. If there is no suitable polling place within the precinct, the city council may designate a polling place outside the precinct, but as close and convenient as possible for the electors of the precinct.

Approved March 20, 1985.

CHAPTER 116
(H.B. No. 307)

AN ACT

RELATING TO THE CONSERVATION AND IMPROVEMENT OF LANDS IN THE STATE; AMENDING CHAPTER 27, TITLE 22, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 22-2728, 22-2729, 22-2730, 22-2731 AND 22-2732, IDAHO CODE, TO PROVIDE FOR INSTITUTION OF CONSERVATION IMPROVEMENTS IN THE PUBLIC INTEREST; TO PROVIDE FOR ADMINISTRATION OF CONSERVATION IMPROVEMENTS BY SOIL CONSERVATION DISTRICTS AND THE STATE SOIL CONSERVATION COMMISSION; TO ESTABLISH A RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT LOAN ACCOUNT; TO PROVIDE FOR ALLOCATION OF FUNDS FROM THE ACCOUNT; AND TO PROVIDE AN APPLICATION PROCEDURE AND REPAYMENT SCHEDULE FOR LOANS.

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

SECTION 1. That Chapter 27, Title 22, Idaho Code, be, and the same is hereby amended by the addition thereto of NEW SECTIONS, to be known and designated as Sections 22-2728, 22-2729, 22-2730, 22-2731 and 22-2732, Idaho Code, and to read as follows:

22-2728. DECLARATION OF POLICY -- DESIGNATION OF SOIL CONSERVATION DISTRICTS AND SOIL CONSERVATION COMMISSION. (a) The legislature recognizes and finds:

(1) That it is essential to the general welfare of all citizens of this state and it is in the public interest that multiple use conservation improvements should be implemented on a broader scale on both public and private lands in the state;

(2) That due to numerous economic and practical problems, relating to the improvement of individual tracts of land both public and private, insufficient attention has been given to resource conservation and improvement;

(3) That rangeland and other agricultural land improvement projects of the nature contemplated by this act would enhance the economic productivity and environmental quality of the state; and

(4) That it appears to be sound public policy for the state of Idaho to provide for a revolving account to provide loans to the end that rangelands and other agricultural lands within the state can be made to provide the greatest benefits to all concerned.

(b) The purposes of this act are to provide a means whereby funds, including federal, state, private, or other moneys, can be obtained and utilized for the accelerated development of multiple use rangeland and other agricultural land conservation improvements in the state and to provide that these improvements be planned, coordinated, and implemented through existing statutory provisions pertaining to soil conservation districts and the state soil conservation commission and through the administrative direction and supervision of the state soil conservation commission in cooperation with appropriate federal and state agencies and the owners and operators of privately-owned lands.

22-2729. ADDITIONAL POWERS. (a) In addition to the powers, functions, and duties of the soil conservation districts and state soil conservation commission previously provided for in this chapter, these districts and the commission shall have the following additional powers, functions, and duties:

(1) The districts shall conduct, in cooperation with appropriate federal and state agencies and the owners and operators of privately-owned rangelands and other agricultural lands in this state, conservation improvements on or in respect to these lands for the purposes of implementing conservation systems to conserve and improve natural resource conditions;

(2) The commission shall assist and advise the districts in implementing the conservation improvements and shall within the funds available provide loans from the resource conservation and rangeland development loan account for funding of selected conservation improvements;

(3) The commission shall determine whether funds are available before approving any conservation improvements and after having made such determination shall enter into the necessary contracts for this implementation;

(4) The Idaho soil conservation commission shall be the agency for administration of funds accruing to the resource conservation and rangeland development program loan account, and may receive up to four percent (4%) of the moneys accruing annually to the account to be appropriated annually for the purpose of administering loans authorized pursuant to this section;

(5) The commission shall promulgate such rules and regulations as are necessary to carry out the purposes of this act.

22-2730. RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT LOAN ACCOUNT CREATED. (a) There is hereby created in the agency asset an account to be known as the Idaho resource conservation and rangeland development loan account, which shall consist of all moneys which may be appropriated to it by the legislature or made available to it from federal, private, or other sources. The state treasurer is directed to invest all unobligated moneys in the account. All interest and other

income accruing from such investments shall accrue to the account. The soil conservation commission may expend from the account such sums as it shall deem necessary for any of the conservation improvements provided for under this act under such terms and conditions provided for in its rules and regulations.

22-2731. ALLOCATION OF FUND. (a) The Idaho resource conservation and rangeland development loan account shall be allocated for use:

(1) By the commission to individuals for conservation improvements which it deems to be "in the public interest" in such amounts as are necessary for the implementation of conservation measures identified in a conservation plan.

(2) By the commission to individuals for the purpose of conservation improvements on rangelands, agricultural lands, and riparian lands, which will provide environmental enhancement to soil, water, wildlife, and related resources.

22-2732. LOANS FROM ACCOUNT -- APPLICATION -- APPROVAL -- REPAYMENT. (a) Any individual may file an application with the local soil conservation district for a loan from the account for the purpose of financing conservation improvement cost. Such application shall be filed in such a manner, and shall be in such form, and be accompanied by such information as may be prescribed by the commission; provided, however, that any such application filed with the district under the provisions of this act shall:

(1) Describe the nature and purposes of the improvements.

(2) Set forth or be accompanied by a conservation plan approved by the local soil conservation district which identifies the conservation improvements, together with such engineering and economic feasibility data and estimated costs of construction as may be required by the commission.

(3) State whether money other than that for which application is made under this act will be used for improvement costs, and whether such money is available or has been sought for this purpose.

(4) Show that the applicant holds or can acquire title to all lands or has necessary easements and rights of way for the improvements.

(5) Show the proposed project is feasible from an engineering standpoint and economically justified.

(b) Within sixty (60) days of receipt of an application, the local soil conservation district shall review and evaluate, and if it deems necessary, investigate all aspects of the proposed improvements. As part of such investigation, the district shall determine whether the plan for development of the conservation improvements is satisfactory. If the district determines the plan is unsatisfactory, it shall return the application to the applicant and the district may make such recommendations to the applicant as are considered necessary to make the plan satisfactory. If the district determines the plan is satisfactory, it shall assign a priority to the application and forward the application to the commission with a recommendation for funding.

(c) The commission may approve a loan for conservation improve-

ments if after review, evaluation, and investigation if necessary, finds that:

(1) The applicant is qualified and responsible;

(2) There is reasonable assurance that the borrower can repay the loan;

(3) That money in the resource conservation and rangeland development loan account is available for the loan;

(4) That the loan will not result in a condition whereby the applicant has a loan liability in excess of fifty thousand dollars ($50,000) pursuant to this act.

(d) If the commission approves a loan, the commission and applicant shall enter into an agreement for repayment to the account of money loaned therefrom, together with interest not to exceed six percent (6%) annually as determined by the commission. The agreement shall further provide that repayment of the loan, together with interest thereon, shall commence not later than two (2) full years from the date the agreement is signed. Repayment shall be completed within the time period specified by the commission not to exceed fifteen (15) years calculated from the date the agreement is signed, except that the commission may extend the time for making repayment in event of emergency or hardship. Such agreement shall also provide for such assurance of, and security for, repayment of the loan as are considered necessary by the commission.

(e) If an applicant fails to comply with the repayment contract, the interest in the improvement may be conveyed to a successor upon approval by the commission, which may contract with the qualified successor in interest of the original obligor for repayment of the loan, together with interest thereon, and for succession to its rights and obligation in any contract with the commission.

Approved March 20, 1985.

CHAPTER 117
(H.B. No. 147, As Amended)

AN ACT

RELATING TO VEHICLE DEALERS; PROVIDING A LEGISLATIVE DECLARATION; REPEALING SECTIONS 49-118, 49-119, 49-135, 49-2406, 49-2415, 49-2416, 49-2417, 49-2418, 49-2419, 49-2420, 49-2421, 49-2422 AND 49-2423, IDAHO CODE; AMENDING SECTION 49-101, IDAHO CODE, TO STRIKE REFERENCE TO PRINCIPAL PLACE OF BUSINESS; AMENDING SECTION 49-2401, IDAHO CODE, TO PROVIDE NAME CHANGES; AMENDING SECTION 49-2402, IDAHO CODE, TO PROVIDE DEFINITIONS; AMENDING SECTION 49-2403, IDAHO CODE, TO PROVIDE FOR THE ADMINISTRATION OF THIS CHAPTER; AMENDING SECTION 49-2404, IDAHO CODE, TO INCREASE THE NUMBER OF MEMBERS ON THE ADVISORY BOARD, AND TO PROVIDE FOR APPOINTMENT OF MEMBERS; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2406, IDAHO CODE, TO PROVIDE FOR A CHANGE OF FRANCHISE STATUS; AMENDING SECTION 49-2407, IDAHO

CODE, TO PROVIDE NAME CHANGES, AND TO PROVIDE FOR LICENSING REQUIREMENTS; AMENDING SECTION 49-2408, IDAHO CODE, TO PROVIDE FOR FEES FOR LICENSING; AMENDING SECTION 49-2409, IDAHO CODE, TO PROVIDE FOR BONDING; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2410, IDAHO CODE, TO PROVIDE FOR NOTICE OF SALE OR TRANSFER; AMENDING SECTION 49-2411, IDAHO CODE, TO PROVIDE FOR AN ADDITIONAL RIGHT OF ACTION FOR LOSS BY FRAUD; AMENDING SECTION 49-2412, IDAHO CODE, TO PROVIDE NAME CHANGES; AMENDING SECTION 49-2413, IDAHO CODE, TO PROVIDE ADDITIONAL REQUIREMENTS FOR A CHANGE IN LOCATION; AMENDING SECTION 49-2414, IDAHO CODE, TO PROVIDE FOR ADDITIONAL UNLAWFUL ACTS; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2415, IDAHO CODE, TO PROVIDE FOR TERMINATION, CANCELLATION OR NONRENEWAL OF A FRANCHISE; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2416, IDAHO CODE, TO PROVIDE FOR SUCCESSION TO OWNERSHIP OF A FRANCHISE; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2417, IDAHO CODE, TO PROVIDE FOR LIMITATIONS ON ESTABLISHING OR RELOCATING DEALERS; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2418, IDAHO CODE, TO PROVIDE FOR A HEARING ON DENIAL OR REVOCATION OF A LICENSE; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2419, IDAHO CODE, TO PROVIDE FOR THE PRODUCTION OF WITNESSES AND DOCUMENTS; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2420, IDAHO CODE, TO REQUIRE A REPORT; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2421, IDAHO CODE, TO PROVIDE FOR JUDICIAL REVIEW; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2422, IDAHO CODE, TO PROVIDE A PENALTY; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2423, IDAHO CODE, TO PROVIDE FOR PRODUCT LIABILITY RESPONSIBILITY; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2424, IDAHO CODE, TO PROVIDE FOR PRODUCT LIABILITY INDEMNIFICATIONS; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2425, IDAHO CODE, TO REQUIRE DISCLOSURE OF DAMAGE; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2426, IDAHO CODE, TO PROVIDE THAT REPAIRED DAMAGE IS NOT GROUNDS FOR REVOCATION; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2427, IDAHO CODE, TO REQUIRE PAYMENT FOR DELIVERY PREPARATION AND WARRANTY SERVICE; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2428, IDAHO CODE, TO PROVIDE FOR USE AND DISPLAY OF DEALER PLATES; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2429, IDAHO CODE, TO PROVIDE FOR THE REPAIR OR REPLACEMENT OF AN ODOMETER; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2430, IDAHO CODE, TO PROHIBIT THE DISCONNECTION, RESETTING OR TURNING BACK OF AN ODOMETER; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2431, IDAHO CODE, TO PROHIBIT SELLING A VEHICLE KNOWING THE ODOMETER HAS BEEN TURNED BACK; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2432, IDAHO CODE,

TO PROHIBIT SELLING A VEHICLE KNOWING THE ODOMETER HAS BEEN REPLACED; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2433, IDAHO CODE, TO PROHIBIT SELLING OR ADVERTISING FOR SALE ANY VEHICLE WITH OTHER THAN TRUE MILEAGE ON THE ODOMETER; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2434, IDAHO CODE, TO PROVIDE FOR A PURCHASER TO RECOVER COSTS AND ATTORNEY'S FEES; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2435, IDAHO CODE, TO PROHIBIT BROKERS; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2436, IDAHO CODE, TO PROVIDE FOR THE USE AND DISPLAY OF VEHICLE DEALER LOANER PLATES; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2437, IDAHO CODE, TO PROVIDE FOR THE APPLICABILITY OF THE ACT; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2438, IDAHO CODE, TO PROVIDE SEVERABILITY; AMENDING CHAPTER 24, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-2439, IDAHO CODE, TO PROVIDE FOR LIMITATIONS ON ACTIONS; PROVIDING FOR AN EFFECTIVE DATE FOR CERTAIN CODE SECTIONS ENACTED BY THIS ACT; AND AMENDING SECTION 49-1128, IDAHO CODE, TO PROVIDE PROPER NAME CHANGES AND DEPARTMENTAL AUTHORITY.

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

SECTION 1. The Legislature finds and declares that the distribution and sale of vehicles within this state vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate vehicle manufacturers, distributors or wholesalers and factory or distributor representatives, and to regulate franchise issued by the aforementioned who are doing business in this state in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state.

SECTION 2. That Section 49-118, 49-119, 49-135, 49-2406, 49-2415, 49-2416, 49-2417, 49-2418, 49-2419, 49-2420, 49-2421, 49-2422, and 49-2423, Idaho Code, be, and the same are hereby repealed.

SECTION 3. 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~~ee. 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~~ff. 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~~gg. 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. 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~~hh. 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.

~~j~~iii. 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 semitrailers, 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 4. That Section 49-2401, Idaho Code, be, and the same is hereby amended to read as follows:

49-2401. UNLICENSED ~~MOTOR~~ VEHICLE DEALERS AND SALESMEN~~PERSON~~ PROHIBITED. It shall be unlawful for any person to act as a motor vehicle dealer, ~~used-motor-vehicle-dealer,-or--motor~~ vehicle salesman~~person, without--having--first--procured-a-license-to-be-issued-by-the-department,-and-after-June-30,-1967,-it-shall-be-unlawful-for-any-person--to act--as--a--new-motorcycle-or-motor-scooter-dealer,-used-motorcycle-or motor-scooter-dealer,-mobile-home-dealer~~ broker, wholesaler, manufacturer of motor vehicles or a manufacturer, distributor, factory branch, or distributor branch representative without first having procured a license to be issued by the department. It shall be unlawful for any person other than a licensed motor vehicle dealer ~~or-used motor-vehicle-dealer~~ to display a ~~new-or-used-motor~~ vehicle for sale unless the title is in the name of the displayer. It shall be unlawful to solicit sales of ~~new-or-used-motor~~ vehicles without a ~~motor-vehicle dealer--or-used-motor~~ vehicle dealer's license, unless the title is in the name of the seller.

SECTION 5. That Section 49-2402, Idaho Code, be, and the same is hereby amended to read as follows:

49-2402. DEFINITIONS. The following words and phrases, when used in this act, shall, for the purpose of this act, have the meaning respectively ascribed as follows:

(1) "~~Motor--v~~Vehicle" shall mean every vehicle intended primarily for use and operation on the public highways which is self-propelled; and every vehicle intended primarily for operation on the public highways which is not driven or propelled by its own power, but which is designed either to be attached to and become a part of, or to be drawn by a self-propelled vehicle; but not including farm tractors and other machines and tools used in the production, harvesting and care of farm products.

(2) "Person" shall mean every natural person, firm, co-partnership, association or corporation.

(3) "~~Motor--v~~Vehicle dealer" shall mean any person engaged in the

business of selling or exchanging ~~new-or-new-and-used-motor~~ vehicles, or who buys and sells, or exchanges three (3) or more ~~new-or-new-and used-motor~~ vehicles in any one (1) calendar year. Provided that vehicle dealers shall be classified as follows:

(a) A "new vehicle dealer" shall be a vehicle dealer that deals in new and/or used vehicles;

(b) A "used vehicle dealer" shall be a vehicle dealer that deals in used vehicles;

(c) A "new motorcycle or motorscooter dealer" shall be a dealer which deals in new and/or used motorcycles or motorscooters or similar vehicles;

(d) A "used motorcycle or motorscooter dealer" shall be a dealer which deals in used motorcycles or motorscooters or similar vehicles;

(e) A "mobile home or travel trailer dealer" shall be a vehicle dealer that deals in mobile homes or travel trailers, or both; provided this chapter shall not apply to a real estate broker, holding a current broker's license from the state of Idaho, or to a real estate salesperson, holding a current salesperson's license from the state of Idaho, associated with and licensed under a licensed real estate broker and when representing such broker, when selling or offering to sell, listing or offering to list, buying or offering to buy, negotiating or offering to negotiate, either directly or indirectly, the sale of a used mobile home in connection with the sale or lease of real property;

(f) A "motor home dealer" shall be a vehicle dealer that deals in new and/or used motor homes;

(g) A "wholesale dealer" shall be a vehicle dealer who sells used vehicles to Idaho vehicle dealers.

~~(4)--"Used-motor-vehicle-dealer"-shall-mean-any-person-engaged--in the-business-of-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.~~

No insurance company, finance company, public utility company, or other person coming into possession of any motor vehicle as an incident to its regular business who shall sell such vehicle, or who shall sell such vehicle under any contractual rights it may have with respect thereto shall be considered a motor vehicle dealer or used motor vehicle dealer under the terms and provisions of ~~subsections-(3) and-(4)-of~~ this ~~section~~ act.

(4) "New" as used in conjunction with new vehicle, new motorcycle or motorscooter, new motor home, new mobile home or travel trailer dealers shall mean a vehicle which has not been sold retail and titled and is:

(a) Completely manufactured or assembled;

(b) A motor home; or

(c) Equipment designed for ambulance, school bus, or mortuary purposes; or

(d) Equipment designed for nontransportation, contractor purposes such as cranes, backhoes, etc.

(5) "Used" as used in conjunction with used vehicle, used motorcycle or motorscooter, used motor home, used mobile home or travel

trailer dealer shall mean vehicles not meeting the definition of "new" as defined in section 49-2402, Idaho Code.

(6) "Motor vehicle" shall mean every vehicle which is self-propelled and required to be registered and titled under title 49, Idaho Code.

(5~~7~~) "Motor-vVehicle salesmanperson" shall mean any person, who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any motor vehicle dealer ~~or used motor vehicle dealer or other licensee as in this act provided~~ to sell, purchase or exchange or to negotiate for the sale, purchase or exchange of motor vehicles~~, motorcycles, motor scooters or mobile homes.~~

(a) "Full-time salesperson" shall mean any person who is employed as a vehicle salesperson on behalf of a dealer more than thirty (30) hours per week;

(b) "Part-time salesperson" shall mean any person who is employed as a vehicle dealer less than thirty (30) hours per week;

Provided that a licensed new or used vehicle dealer, manufacturer, new or used motorcycle or motorscooter dealer, mobile home or travel trailer dealer, or motor home dealer shall not be required to have a vehicle salesperson license.

(6~~8~~) "Director" shall mean the director of the Idaho transportation department.

(7~~9~~) "Department" shall mean the Idaho transportation department acting directly or through its duly authorized officers and agents.

(8~~10~~) "Principal place of business" shall mean ~~a site or location devoted mostly and mainly to the business for which the motor vehicle dealer or used motor vehicle dealer is licensed, sufficiently designated to admit of definite description with space thereon or contiguous thereto adequate to permit the display of five (5) or more new or new and used motor vehicles, adequate repair facilities and tools to properly and actually service motor vehicles at such place of business and to make repairs arising out of the conduct of the licensee's business, or in lieu of such repair facilities the licensee may enter into a contract for the provision of such service and file a copy thereof with the department and shall furnish to each buyer a written statement as to where such service will be provided, and on which there shall be located or erected permanent inclosed 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~~ an enclosed commercial structure located within the state of Idaho, easily accessible and open to the public, at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining said building, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes; zoning and other land-use regulatory ordinances and in which such building the public may contact the vehicle dealer or his vehicle salesperson at all reasonable times and at which

place of business shall be kept and maintained the books, records and files necessary to conduct the business at such place. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this act unless the entire ground floor of such hotel, apartment house, or rooming house building or such dwelling house be devoted principally to and occupied for commercial purposes and the office or offices of the dealer be located on the ground floor thereof. In no event shall premises devoted principally to the business of a gasoline service station be considered a "principal place of business" within the terms and provisions of this act.

~~(9)--"New--motorcycle--or--motor--scooter--dealer"--shall-mean-any person-who-has-a-franchise-from-a-manufacturer-of-motorcycles-or-motor scooters-who-is-engaged-in-the-business-of-selling-or--exchanging--new or-new-and-used-motorcycles-or-motor-scooters-or-who-buys-and-sells-or exchanges--three--(3)-or-more-new-or-new-and-used-motorcycles-or-motor scooters-in-any-one-(1)-calendar-year.~~

~~(10)--"Used-motorcycle-or-motor-scooter--dealer"--shall--mean--any person--engaged--in--the-business-of-selling-or-exchanging-used-motorcycles-or-motor-scooters-or-who-buys-and-sells-three-(3)-or-more--used motorcycles--or-motor-scooters-in-any-one-(1)-calendar-year.-Provided, however,-that-no-insurance-company,-bank-or--finance--company,--public utility--company,-or-other-person-coming-into-possession-of-any-motorcycle-or-motor-scooter-as-an-incident--to--its--regular--business--who shall-sell-such-vehicles-under-any-contractual-rights-it-may-have-with respect-thereto-shall-be-considered-to-be-a-new-and-used-motorcycle-or motor-scooter-dealer-under-the-terms-and-provisions-of-this-act.~~

~~(11)--"Mobile--home--dealer"--shall-mean-any-person-engaged-in-the business-of-selling-or-exchanging-new-or-new-and-used-mobile-homes,-or who-buys-or-sells-or-exchanges-three-(3)-or-more-new-or-new--and--used mobile--homes--in--any--one-(1)-calendar-year;-provided,-however,-this chapter-shall-not-apply-to-a-real-estate--broker,--holding--a--current broker's--license--from-the-state-of-Idaho,-or-to-a-real-estate-salesman,-holding-a-current-salesman's-license-from--the--state--of--Idaho, associated--with--and-licensed-under-a-licensed-real-estate-broker-and when-representing-such-broker,-when-selling-or-offering-to-sell,-listing-or-offering-to-list,-buying-or-offering--to--buy,--negotiating--or offering--to--negotiate,--either-directly-or-indirectly,-the-sale-of-a used-mobile-home-in-connection-with-the-sale-or-lease--of--real--property.~~

(11) "Wholesaler" means a person who sells used vehicles to Idaho vehicle dealers.

(12) "Manufacturer" shall mean every person engaged in the business of constructing or assembling motor vehicles, of a type subject to registration under the motor vehicle act, at an established place of business within the state. Provided, however, the term "manufacturer" shall not include mobile home manufacturer.

(13) "Distributor" shall mean any person, firm, association, cor-

poration or trust, resident or nonresident, who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles in this area, and who in whole or in part sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives.

(14) "Factory branch" shall mean a branch office maintained by a person, firm, association, corporation or trust, who manufactures or assembles motor vehicles for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives.

(15) "Distributor branch" shall mean a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(16) "Factory representative" shall mean any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a manufacturer of motor vehicles or by a factory branch for the purpose of making or promoting a sale of his, its, or their motor vehicles, or for supervising or contacting his, its, or their dealers or prospective dealers.

(17) "Distributor representative" shall mean any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of motor vehicles for the purpose of making or promoting the sale of his, its, or their motor vehicles, or for supervising or contacting his, its, or their dealers or prospective dealers.

(18) "Franchise or dealer's selling agreement" shall mean contract or agreement between a motor vehicle dealer and a manufacturer of new motor vehicles or its distributor or factory branch by which the dealer is authorized to engage in the business of selling any specified make or makes of new motor vehicles.

(19) "Supplemental lot" shall mean a physically separate location owned and maintained by a licensed vehicle dealer or manufacturer within the same or adjacent county as the principal place of business which meets all the requirements as defined in 49-2402, Idaho Code.

(20) "Broker" means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, but not resale of a new vehicle, and who is not:

(a) A dealer or a bona fide agent or employee of a dealer;

(b) A representative or a bona fide agent or employee of a representative;

(c) A distributor or bona fide agent or employee of a distributor; or

(d) At any point in the transaction the bona fide owner of the vehicle involved in the transaction.

(21) "Temporary supplemental lot" shall mean a location other than the principal place of business or supplemental lot within the same or adjacent county as the principal place of business or where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Such temporary supplemental lots shall meet

all local zoning and building codes for the type of business being conducted. The provisions of section 49-2402(10), Idaho code, shall not apply at licensed temporary supplemental lot locations.

(22) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a new motor vehicle dealer who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealer under the terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a new motor vehicle dealer, has been appointed by a court as the legal representative of the new motor vehicle dealer's property.

SECTION 6. That Section 49-2403, Idaho Code, be, and the same is hereby amended to read as follows:

49-2403. ADMINISTRATION -- POWERS AND DUTIES. The department ~~and the advisory board hereinafter defined, are~~ is hereby charged with the administration of this act. For the purpose of administering this act, the department and advisory board shall have the following powers and duties:

(1) From time to time to promulgate, amend, and repeal such reasonable rules and regulations, not inconsistent with this act and the laws of the state of Idaho, as the department ~~and advisory board~~ shall deem necessary, to carry out the purposes of this act. To define and prohibit by regulation, any practice which is found to be deceptive. The department shall cause a public hearing to be held on any proposed regulation. ~~The department, with approval of the advisory board, is further empowered:~~

(2) To employ, subject to the laws of the state of Idaho, such clerks, deputies, and assistants as it may consider necessary to discharge the duties imposed upon it by this act, and to designate the duties of such clerks, deputies and assistants.

(3) To issue~~, and, for reasonable cause shown, to refuse to issue to any applicant therefor, any license authorized by this act. The department shall not~~ or refuse to issue, for just cause shown, to any applicant therefor, other than a partnership or corporation, any license provided for herein if ~~such~~ the applicant ~~shall have~~ has not complied with the terms and provisions of this act and the rules and regulations promulgated by the department ~~pursuant to the authority herein conferred upon it relating to the conduct of the type of business for which application for a license is made~~, or unless the applicant, though never licensed under the terms and provisions of this act, has ~~been convicted in a court of record in this state of violation of~~ violated some one or more of the terms and provisions of this act or of a rule or regulation promulgated by the department ~~under the authority herein conferred upon it~~ or some one or more of the terms or provisions of chapter 4, title 49, Idaho Code, section 49-1128, Idaho Code, chapter 6, title 48, Idaho Code, or of federal motor vehicle safety standards. If the applicant for a license be a partnership or a corporation, the department may refuse to issue a license, for just cause shown, to such applicant where it determines: That one or more of the partners, if the applicant be a partnership, or one or more of

the stockholders or officers of the corporation, if a corporation be the applicant, was previously the holder of a license, issued under the authority of this act, which was revoked or suspended, which license in the case of revocation was never reissued or in the case of suspension was never reinstated, or that one or more of such partners, stockholders, or officers, ~~as the case may be,~~ though not previously the holder of a license, ~~was convicted in a court of record in the state of Idaho of a violation of~~ has violated one or more of the provisions of this act or of a rule or regulation promulgated by the department ~~under the authority herein conferred upon it; and that by reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation business it is likely that the policy of such business will be directed, controlled, or managed by individuals who, by reason of their conviction of a violation of the provisions of this act, would be ineligible for a license and that by licensing such corporation or partnership the purposes of this act would likely be defeated~~, or some one or more of the terms or provisions of chapter 4, title 49, Idaho Code, section 49-1128, Idaho Code, chapter 6, title 48, Idaho Code, or of federal motor vehicle safety standards.

(4) For just cause shown, to revoke, or to suspend on such terms and conditions and for such period of time as to the department shall appear fair and just, any license or licenses issued under and pursuant to the terms and provisions of this act. No such license shall be revoked or suspended except that it shall first be shown that the licensee has violated one or more of the terms and provisions of this act, or of a rule or regulation promulgated by the department ~~under the power and authority herein conferred upon it~~, or some one or more of the terms or provisions of chapter 4, title 49, Idaho Code, section 49-1128, Idaho Code, chapter 6, title 48, Idaho Code, or of federal motor vehicle safety standards.

(5) The department shall have the power on its own motion and it shall, upon the ~~sworn~~ complaint of any person, investigate any suspected or alleged violation by any licensee hereunder of any of the terms and provisions of this act or of any rule or regulation promulgated by the department.

(6) To prescribe the forms to be used for applications for licenses to be issued under the provisions of this act and to require of such applicants, as a condition precedent to the issuance of such license, such information touching on and concerning the applicant's fitness to be licensed hereunder as he may consider necessary. Every application for a licensee's license shall contain, in addition to such information as the department may require, a statement of the following facts:

(a) The name and residence address of the applicant and the trade name, if any, under which he intends to conduct his business; and if the applicant be a copartnership, the name and residence address of each member thereof, whether a limited or general partner, and the name under which the partnership business is to be conducted; and if the applicant be a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city with the street and number, if any, of the principal place of business and such other and additional place or places of business as shall be operated and maintained by the applicant in conjunction with the principal place of business.

(c) If the application be for a ~~motor~~ new vehicle dealer's license, ~~the name or names of~~ copies of letters of franchise for the new ~~motor~~ vehicle or vehicles that the applicant has been enfranchised to sell or exchange and the name or names and addresses of the manufacturer or distributor who has enfranchised the applicant.

(d) The names and addresses of the persons who shall act as salesmen under the authority of the license, if issued.

(e) A copy of the certificate of assumed business name, if required, shall be filed with the county recorder in the county where the vehicle dealer's principal place of business is located.

(f) For a manufacturer's license, the name or names and addresses of each and every distributor, factory branch, and factory representative.

(g) For a salesperson's license, certification by the vehicle dealer by whom the salesperson will be employed, that he has examined the background of the applicant, and to the best of the dealer's knowledge, is of good moral character.

(h) Any other information the department may reasonably require.

(7) To require that a licensee's principal place of business and such other sites or locations as may be operated and maintained by such licensees in conjunction with their principal place of business have erected or posted thereon such signs or devices providing information relating to the licensee's name, the location and address of such licensee's principal place of business, the type of license held by the licensee and the number thereof, as the department shall consider necessary to enable any person doing business with such licensee to identify him properly; and for this purpose to determine the size and shape of such signs or devices, the lettering thereon, and other details thereof, inspect, prior to licensing, the principal place of business and such other sites or locations as may be operated and maintained by the licensee; and to prescribe rules and regulations for the location thereof.

(8) To provide for regular meetings of the advisory board, to be held not less frequently than semiannually, and from time to time to call special meetings thereof; providing that notices of all regular and special meetings of the advisory board shall be mailed to all members thereof at the last known address of each by the department, not less than five (5) days prior to the date on which such meeting shall be held.

(9) To consider the advisory board's recommendations and comments regarding proposed rules and regulations promulgated for the administration of this act.

(10) To seek the dealer advisory board's recommendations and comments regarding the administration of this act.

(11) To require the attendance of not less than one or more than three (3) advisory board members at all hearings held relating to this

act.

SECTION 7. That Section 49-2404, Idaho Code, be, and the same is hereby amended to read as follows:

49-2404. ADVISORY BOARD. (1) There is hereby created an advisory board, to consist of ~~five~~ eight (~~5~~8) members; ~~three~~ five (~~3~~5) members to be appointed from licensed dealers selling ~~less than two hundred (200)~~ new motor ~~vehicles during the calendar year next prior to appointment, with the remaining two (2) members appointed from licensed dealers selling more than two hundred (200) new motor vehicles during the calendar year next prior to appointment~~, with two (2) members to be appointed from licensed used vehicle dealers, with one (1) member to be appointed from licensed mobile home dealers. The board shall act pursuant to its powers above enumerated and assist and advise the department in the administration and enforcement of this act. The governor shall appoint five (5) new vehicle members of the ~~board, with regard to the recommendations of the executive committee~~ or board of directors of Idaho Automobile Dealers Association. The term of office of each of the new vehicle members of said board shall be three (3) years~~, excepting that of the members of said board first appointed, two (2) shall be appointed to hold office until the first day of July, 1966, two (2) until the first day of July, 1967, and one (1) until the first day of July, 1968. On and after June 30, 1967, two (2) additional members to the advisory board shall be created and added for a total advisory board to consist of seven (7) members, of which two (2) additional members, one (1) shall be a licensed mobile home dealer and one (1) shall be a licensed used motor vehicle dealer.~~ The governor shall appoint ~~such~~ two (2) ~~additional~~ used vehicle dealer members of the board, with regard to the recommendations of the executive committee or board of directors of the Idaho Independent Automobile Dealers Association to serve a three (3) year term. ~~The term of office of such two (2) additional members shall be for three (3) years, excepting those members first appointed shall be appointed to hold office until the first day of July, 1968.~~ The governor shall appoint one (1) member from licensed mobile home dealers to serve a three (3) year term. Vacancies occurring on the board other than by expiration of the term, shall be filled for the unexpired term only. Each member of the board shall serve until his successor is appointed and qualified. The members of the advisory board shall be compensated as provided by section 59-509(b), Idaho Code, for the performance of their duties, all of said payments shall be paid from the state highway account of the state of Idaho as part of the expenses of administering this act. A majority of the members of the advisory board shall constitute a quorum, the presence of which at any meeting thereof duly called by the department shall have full and complete power to act upon and resolve in the name of the board any matter, thing or question referred to it by the department, or which, by reason of any provisions of this act, it has power to determine.

(2) The advisory board on the first day of each July, or as soon thereafter as is practicable, shall elect a chairman, vice-chairman, secretary and assistant secretary from among its members, who shall

hold office until their successors are elected. As soon as the board shall elect its officers, the secretary so elected shall certify the results of such election to the department. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings thereof which shall be preserved in the offices of the department. If the chairman be absent from any meeting of the advisory board, his duties shall be discharged by the vice-chairman, and if the secretary be absent therefrom, his duties shall be discharged by the assistant secretary. All members of the advisory board shall be entitled to vote on any question, matter, or thing which properly comes before it.

SECTION 8. 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 49-2406, Idaho Code, and to read as follows:

49-2406. CHANGE OF FRANCHISE STATUS. Should the vehicle dealer change to, or add another franchise for the sale of new vehicles, or cancel or, for any cause whatever, otherwise lose a franchise for the sale of new vehicles, he shall immediately so notify the department, which shall, in the case of a cancellation or loss of franchise, thereupon determine whether or not by reason thereof, such dealer shall be licensed as a used vehicle dealer, in which case the department shall take up and the vehicle dealer shall deliver unto it, such dealer's license and the department shall thereupon issue to such dealer a used vehicle dealer's license. Upon the cancellation or loss of a franchise to sell new vehicles and the relicensing of such dealer as a used vehicle dealer, such dealer may continue in the business for which a vehicle dealer is relicensed, to enable such dealer to dispose of the stock of new vehicles which he had on hand at the time of such relicensing.

SECTION 9. That Section 49-2407, Idaho Code, be, and the same is hereby amended to read as follows:

49-2407. CLASSES OF LICENSES. Licenses issued under the provisions of this act shall be the following classes:

(1) Motor New vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new and used motor vehicles or both. This form of license shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salesmanpersons.

(2) Used motor vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging used motor vehicles only. This form of license shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salesmenpersons.

(3) Motor--vehicle-salesman's Vehicle salesperson's license. This license shall permit the licensee to engage in the activities of a motor vehicle salesmanperson as defined in subsection-(5)-under-the preceding--paragraph section 49-2402 "Definitions.", Idaho Code.

Salesperson's licenses shall be nonexpiring, providing employment remains with the sponsoring dealership license issued under.

(4) New motorcycle or motor scooter dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new or used motorcycles or motor scooters or both. This form shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as new or used motor vehicle salesmenpersons.

(5) Used motorcycle or used motor scooter dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging used motorcycles or used motor scooters only. This form of license shall permit the persons named therein who shall be the owners or part owners of the business of the licensee to act as motor vehicle salesmenpersons.

(6) Mobile home or travel trailer dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new or used mobile homes, travel trailers or both. This form of license shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as motor vehicle salesmenpersons.

(7) Motor home dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new and used motor homes. This form of license shall permit the persons named therein who shall be owners or part owners of the business of the licensee to act as vehicle salespersons.

(8) Wholesale dealer's license. This license shall permit the licensee to engage in the business of wholesaling used vehicles to Idaho vehicle dealers. The holder of this license must meet all the requirements in section 49-2402(10), Idaho Code, principal place of business, except for the requirement of display area and adequate room to repair vehicles.

(~~7~~9) ~~Motor--v~~Vehicle manufacturer's license. This license shall permit the licensee to engage in the business of constructing or assembling motor vehicles, of the type subject to registration under the motor vehicle act of the state of Idaho at an established place of business ~~within this state~~.

(~~8~~10) Distributor, factory branch, distributor branch. This license shall permit the licensee to engage in the business of selling and distributing motor vehicles, parts, and accessories to their franchised dealers.

(~~9~~11) Representative (factory branch or distributor, etc.). This license shall permit the licensee to engage in the business of contacting his respective authorized dealers, for the purpose of making or promoting the sale of his, its, or their motor vehicles, parts, and accessories.

(~~10~~12) Pending the satisfaction of the department that the applicant has met the requirements under this chapter, it may issue a temporary permit to any applicant for a license. A temporary permit shall not exceed a period of ninety (90) days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to such a license. Such temporary permit shall terminate when the applicant's license has been

issued or refused.

(1~~t~~3) The department may issue a probationary vehicle salesman~~person~~'s license subject to conditions to be observed in the exercise of the privilege granted either upon application for issuance of a license or upon application for renewal of a license. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

SECTION 10. That Section 49-2408, Idaho Code, be, and the same is hereby amended to read as follows:

49-2408. FEES -- FUNDS -- EXPENSES -- EXPIRATION OF LICENSES. (1) To pay the expenses of administering and enforcing this act, the department shall collect with each application for each class of license, the following fees:

(a) ~~Motor--v~~Vehicle dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(b) Used ~~motor~~ vehicle dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(c) ~~Motor--v~~Vehicle salesman~~person~~'s license, five dollars ($5.00).

(d) New motorcycle or motor scooter dealer's license, ~~thirty-five~~ initial application, one hundred twenty-five dollars ($~~3~~125~~.00~~). Renewal a lication, one hundred dollars ($100).

(e) Used motorcycle or motor scooter dealer's license, ~~thirty-five~~ initial application, one hundred twenty-five dollars ($~~3~~125~~.00~~). Renewal application, one hundred dollars ($100).

(f) Mobile home or travel trailer dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(g) Motor home dealer's license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(h) ~~Motor--v~~Vehicle manufacturer's license, one hundred dollars ($100).

(h~~i~~) Distributor-factory branch-distributor branch license, one hundred dollars ($100).

(~~i~~j) Representative's license, twenty-five dollars ($25.00).

(k) To reissue a license, salesperson and dealer identification cards or other licensing documents at a dealer's request, not resulting from an error by the department, a fee of one dollar ($1.00) per document.

(l) Dealer plate, five dollars ($5.00).

(m) Supplemental lot license or relocated principal place of business, twenty-five dollars ($25.00).

(n) Temporary supplemental lot, twenty-five dollars ($25.00) for license issued to a single dealer. A fee of fifty dollars ($50.00)

for a license issued to a group of dealers.

(o) Loaner plate, fee provided for in section 49-126(1), Idaho Code, for a new vehicle.

(p) Wholesale dealer license, initial application, one hundred twenty-five dollars ($125). Renewal application, one hundred dollars ($100).

(2) Any renewal application postmarked or delivered to the department after January 31st shall be processed as an initial application.

(~~2~~3) All such fees shall be paid over to the state treasurer and shall be kept in the state highway account of the state of Idaho. The expenses of said department and the expenses incurred in enforcing this act shall be paid from said account.

(~~3~~4) Such licenses, if the same shall not have been suspended or revoked, as provided in this act, shall be in effect to the first day of January next following the date of issuance thereof and shall then expire. Upon the expiration of such license, unless by suspension or revocation, the same may be renewed upon the payment of the fees specified herein to accompany applications, and such renewals shall be made from year to year as a matter of right.

~~(4) A supplemental license shall be secured by any licensee for each established additional place of business maintained by such licensee which supplemental license shall be issued without payment of an additional fee.~~

(5) When an applicant or licensee is conducting more than one (1) category of business as defined in section 49-2402(3), Idaho Code, ~~subsections (3), (4), (9), (10), and (11),~~ such applicant or licensee shall be issued a license which shall include each such category and shall pay only one (1) fee in the sum of one hundred twenty-five dollars ($100~~25~~) for initial application and a fee of one hundred dollars ($100) for a renewal application.

SECTION 11. That Section 49-2409, Idaho Code, be, and the same is hereby amended to read as follows:

49-2409. ~~DEALER'S~~ LICENSE BOND. Before any motor vehicle dealer's license ~~or used motor vehicle dealer's license, or mobile home dealer's license~~ shall be issued by the department to any applicant, the said applicant shall procure and file with the department good and sufficient bond in the amount ~~of ten thousand dollars ($10,000)~~ shown for the following classes, with corporate surety thereon, duly licensed to do business within this state, approved as to form by the attorney general of the state, and conditioned that said applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this act, or rules and regulations promulgated by the department, or the provisions of chapter 4, title 49, Idaho Code, section 49-1128, Idaho Code, chapter 6, title 48, Idaho Code, or the federal motor vehicle safety standards, in the conduct of the business for which he is licensed:

(1) New vehicle dealer, twenty thousand dollars ($20,000).

(2) Used vehicle dealer, twenty thousand dollars ($20,000).

(3) New motorcycle or motor scooter dealer, ten thousand dollars

($10,000).

(4) Used motorcycle or motor scooter dealer, ten thousand dollars ($10,000).

(5) Mobile home or travel trailer dealer, twenty thousand dollars ($20,000).

(6) Motor home dealer, twenty thousand dollars ($20,000).

(7) Wholesale dealer, twenty thousand dollars ($20,000).

The bond for any vehicle dealer licensed or to be licensed under more than one (1) classification shall be in the amount of the highest bond required for any such classification.

SECTION 12. 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 49-2410, Idaho Code, and to read as follows:

49-2410. MANUFACTURER OR DEALER TO GIVE NOTICE OF SALE OR TRANSFER. Every manufacturer or dealer, upon transferring a vehicle, whether by sale, lease or otherwise, to any person other than a manufacturer or dealer, shall, within ten (10) days, give written notice of the transfer to the department or the assessor upon the official form provided by the department. Every such notice shall contain the date of transfer, the time of transfer, the names and addresses of the transferor and transferee, and a description of the vehicle as may be called for in the official form.

SECTION 13. That Section 49-2411, Idaho Code, be, and the same is hereby amended to read as follows:

49-2411. RIGHT OF ACTION FOR LOSS BY FRAUD -- PROCESS. (1) If any person shall suffer any loss or damage by reason of any fraud practiced on him or fraudulent representation made to him by a licensed dealer or one (1) of such dealer's salesmenpersons acting for the dealer, in his behalf, or within the scope of the employment of such salesmanperson, or shall suffer any loss or damage by reason of the violation by such dealer or salesmanperson of any of the provisions of this act, such person shall have a right of action against such dealer and his salesmanperson.

(2) Notwithstanding the terms, provisions or conditions of any agreement or franchise, or other terms or provisions of any novation, waiver or other written instrument, any person who is or may be injured by a violation of a provision of this act, or any party to a franchise who is so injured in his business or property by a violation of a provision of this act relating to that franchise, or any person so injured because he refuses to accede to a proposal for an arrangment which, if consummated, would be in violation of the provisions of this act, may bring an action for damages and equitable relief, including injunctive relief.

(3) A ~~licensee's~~ dealer's or salesperson's license or a renewal of said license shall not be issued to any applicant therefor unless and until such applicant shall file with the director a good and sufficient instrument in writing in which he shall appoint the director

as the true and lawful agent of said applicant upon whom all process may be served in any action or actions which may thereafter be commenced against said applicant arising out of any claim for damages suffered by any firm, person, association or corporation by reason of the violation ~~of~~ by said applicant of any of the terms and provisions of this act, or of chapter 4, title 49, Idaho Code, section 49-1128, Idaho Code, chapter 6, title 48, Idaho Code, or of federal motor vehicle safety standards. The applicant shall stipulate and agree in said appointment that any process directed to said applicant in such a case which is served upon the director, or in the event of his absence from his office, upon any employee of the state in charge of the office of such director, shall be of the same legal force and effect as if served upon said applicant personally. Said applicant shall further stipulate and agree in writing that the agency created by said appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of this act as aforesaid. The instrument appointing the director as the agent for the applicant for service of process shall be acknowledged by the applicant before an officer authorized to take and certify acknowledgments under the laws of this state. In any case wherein the licensee be served with process by service thereof upon the director, two (2) copies of said process shall be left with said director. Not later than two (2) days after the service of said process upon him, the ~~commissioner~~ director shall mail one (1) copy thereof to the licensee at his principal place of business, as the same appears of record in the office of the director, postpaid, by registered mail with request for return receipt. The remaining copy shall be retained on file with the director; provided, that where the licensee is served with process by service thereof upon the director, the licensee shall have and be allowed thirty (30) days from and after the service thereof within which to answer any complaint or other pleading which may be filed in said cause. For the purpose of venue where the licensee is served with process thereof upon the director, the service shall be deemed to have been made upon the licensee in the county in which he has or last had his principal place of business.

SECTION 14. That Section 49-2412, Idaho Code, be, and the same is hereby amended to read as follows:

49-2412. DISPLAY, FORM AND CUSTODY OF DEALER'S LICENSE. The department shall prescribe each form of the license. It shall be the duty of each dealer to display conspicuously his own license in his place of business. The director shall prepare and deliver a pocket card, which card shall certify that the person whose name appears thereon is a licensed dealer or ~~motor~~ vehicle salesman person, as the case may be, and each ~~motor~~ vehicle salesman person's card shall also contain the name and address of the dealer employing him, and each and every salesman person shall, on request, display his card.

SECTION 15. That Section 49-2413, Idaho Code, be, and the same is hereby amended to read as follows:

49-2413. NOTICE OF CHANGE OF ADDRESS ~~OR STATUS~~. ~~(1)~~ The department shall not issue a dealer's license to any applicant therefor who has not a principal place of business as is defined in this act. Should the dealer change the site or location of his principal place of business, he shall immediately upon making such change so notify the department and thereupon a new license shall be granted for the unexpired portion of the term of such license ~~at no additional fee~~, providing the new location meets all the requirements of section 49-2402(10), Idaho Code. Should a dealer, for any reason whatsoever, cease to be in possession of a principal place of business~~, as defined in subsection (8) under the preceding section 49-2402, "Definitions,"~~ from and on which he conducts the business for which he is licensed, he shall immediately so notify the department and upon demand therefor by the department shall deliver up unto that officer such dealer's license, which shall be held and retained until it shall be made to appear to the department that such licensee has again come into possession of a principal place of business, whereupon such dealer's license shall be reissued to him, without charge. Nothing contained in this act ~~contained~~ shall be construed to prevent a dealer from conducting the business for which such dealer is licensed at one ~~(1)~~ or more ~~sites~~ licensed supplemental lots or locations not contiguous to such dealer's principal place of business but operated and maintained in con~~junction~~ therewith.

~~(2) Should the motor vehicle dealer change to, or add another franchise for the sale of new motor vehicles, or cancel or, for any cause whatever, otherwise lose a franchise for the sale of new motor vehicles, he shall immediately so notify the department, which shall, in the case of a cancelation or loss of franchise, thereupon determine whether or not by reason thereof such dealer should be licensed as a used motor vehicle dealer, in which case the department shall take up and the motor vehicle dealer shall deliver unto it such dealer's license and the department shall thereupon issue to such dealer a used motor vehicle dealer's license. Upon the cancelation or loss of a franchise to sell new motor vehicles and the relicensing of such dealer as a used motor vehicle dealer, such dealer may continue in the business for which a motor vehicle dealer is licensed for a time, not exceeding six (6) months from the date of relicensing of such dealer, to enable such dealer to dispose of the stock of new motor vehicles which he had on hand at the time of such relicensing, but not otherwise.~~

SECTION 16. That Section 49-2414, Idaho Code, be, and the same is hereby amended to read as follows:

49-2414. UNLAWFUL ACTS BY LICENSEE. (1) It shall be unlawful and a violation of this act for the holder of any license issued under the terms and provisions hereof:

~~(1~~a) To intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold or furnished by a licensed dealer.

(~~2~~b) To violate any of the terms and provisions of this act or any of the rules and regulations promulgated by the ~~director~~ department under the authority herein conferred upon him.

(~~3~~c) To knowingly purchase, sell or otherwise acquire or dispose of a stolen motor vehicle.

(~~4~~d) To violate any law of the state respecting commerce in motor vehicles or any lawful rule or regulation respecting commerce in motor vehicles promulgated by any licensing or regulating authority now existing or hereafter created by the laws of the state.

(~~5~~e) ~~For any licensed dealer t~~To engage in the business for which such dealer is licensed without at all times maintaining a principal place of business as required by this act.

(~~6~~f) ~~For any licensee t~~To engage in a type of business respecting the selling or exchanging of new or new and used motor vehicles, or new or new and used motorcycles or motor scooters, or new and used mobile homes, or new and used travel trailers, or new and used motor homes for which he is not licensed.

(g) To knowingly purchase a vehicle which has an altered or removed vehicle identification number plate or to alter or remove a vehicle identification number plate, as provided in section 49-1128, Idaho Code.

(h) To violate any provision of the Idaho motor vehicle title act or any rules and regulations promulgated for chapter 4, title 49, Idaho Code, or chapter 6, title 48, Idaho Code.

(i) To violate any provision of the federal motor vehicle safety standards.

(j) To display for sale, exchange, or sell any vehicle for which the vehicle dealer does not hold title.

~~(7) It shall be unlawful and a violation of this act, for a manufacturer of motor vehicles, distributor, distributor branch or factory branch or other representative thereof to either induce or attempt to induce by means of coercion, intimidation, or discrimination any motor vehicle dealer:~~

~~(a) To accept delivery of any motor vehicle or vehicles, parts, or accessories therefor, or any other commodity or commodities, including advertised material which shall not have been ordered by said motor vehicle dealer.~~

~~(b) To order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of said motor vehicles as publicly advertised by the manufacturer thereof.~~

~~(c) To order from any person, firm, association, corporation or trust, any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.~~

~~(d) To enter into any agreement with such manufacturer, distributor, distributor branch or factory branch, or representative thereof, or to do any other act unfair to said dealer by threatening to cancel any franchise or contractual agreement existing between such manufacturer, distributor, distributor branch or factory branch and said dealer.~~

~~(e) To refuse to deliver to any motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new~~

~~and--unused--motor--vehicles--sold-or-distributed-by-said-manufacturer,-distributor,-distributor-branch-or-factory-branch,-any-such motor-vehicle,-publicly-advertised-for-immediate--delivery--within sixty-(60)-days-after-such-dealers-order-shall-have-been-received.~~

~~(f)--To-unfairly-without-due-regard-to-the-equities-of-said-dealer and--without--just--provocation,--cancel--a-franchise-of-any-motor vehicle-dealer.-The-nonrenewal-of-a-franchise-or-selling-agreement without-just-provocation-or-cause-shall-be-deemed--an--evasion--of this--paragraph--and--shall--constitute--an-unfair-cancelation.-In determining-whether-good-cause-has-been-established-for-modifying, replacing,-terminating-or-refusing-to--continue--a--franchise,--it shall--be--taken--into--consideration--the-existing-circumstances, including,-but-not-limited-to:~~

~~1.--Amount-of-business-transacted-by-the-franchisee,-as--compared-to-the-business-available-to-the-franchisee.~~

~~2.--Investment--necessarily--made-and-obligations-incurred-by the-franchisee-to-perform-its-part-of-the-franchise.~~

~~3.--Permanency-of-the-investment.~~

~~4.--Whether-it-is-injurious-or-beneficial-to-the-public--welfare--for--the--franchise--to--be-modified-or-replaced-or-the business-of-the-franchisee-disrupted.~~

~~5.--Whether-the-franchisee-has-adequate-motor--vehicle--sales and-services-facilities,-equipment,-vehicle-parts,-and-qualified-service-personnel-to-reasonably-provide-for-the-needs-of the---consumers---for—the--motor--vehicles--handled--by--the franchisee-and-has-been-and-is-rendering-adequate-services-to the-public.~~

~~6.--Whether-the-franchisee--fails--to--fulfill--the--warranty obligations---of--the--franchiser--to--be--performed--by--the franchisee.~~

~~7.--Extent-of-franchisee's-failure-to-comply-with--the--terms of-the-franchise.~~

~~(8)-(a)--No-manufacturer-of-motor-vehicles,-distributor,-distributor--branch,--or--factory--branch--or-other-representative-thereof shall-induce-or-coerce-or-attempt-to-induce-or-coerce--any--retail dealer--or-prospective-retail-dealer-in-this-state-to-sell,-assign or-transfer-any-retail-installment-sales-contract,-obtained-by-such dealer-in-connection-with-the-sale-by-him-in-this-state-of-a-vehicle-manufactured-or-sold-by-such-manufacturer-of--motor--vehicles, distributor,--distributor-branch-or-factory-branch,-to-a-specified sales-finance-company-or-class-of-such-companies,-or-to-any--other specified--person--by-any-of-the-accounts-or-means-hereinafter-set forth,-namely:~~

~~1.--By-any-statement,-suggestion,-promise-or-threat-that-such manufacturer,-distributor,-distributor-branch,-factory-branch or-representative-thereof--will--in--any--manner--benefit--or injure--such--dealer,--whether--such--statement,--suggestion, threat-or-promise-is-express-or-implied-or-made--directly--or indirectly.~~

~~2.--By-any-act-that-will-benefit-or-injure-such-dealer.~~

~~3.--By--any-contract,-or-any-express-or-implied-offer-of-contract,-made-directly-or-indirectly-to-such-dealer,--for--han-~~

~~ding--such-vehicles,-on-the-condition-that-such-dealer-sell,-assign-or-transfer-his-retail-instalment-contract-thereon,-in-this-state-to-a-specified-sales-finance-company-or--class--of-such-companies-or-to-any-other-specified-person.~~

~~(b)--Any--such--statements,--threats,-promises,-acts,-contracts-or-offers-of-contracts,-set-forth-in-paragraph-(a)-of-this-subsection-are-declared-unfair-trade-practices--and--unfair--competition--and-against--the--policies-of-this-state-and-are-unlawful-and-are-prohibited.~~

(2) It shall be a violation of the provisions of this act for any manufacturer licensed under this act to require, attempt to require, coerce, or attempt to coerce, any new vehicle dealer in this state:

(a) To order or accept delivery of any new vehicle, part or accessory thereof, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the new vehicle dealer; except that this subsection is not intended to modify or supersede any terms or provisions of the franchise requiring new vehicle dealers to market a representative line of those vehicles which the manufacturer or distributor is publicly advertising.

(b) To order or accept delivery of any new vehicle with special features, accessories or equipment not included in the list price of such vehicles as publicly advertised by the manufacturer or distributor.

(c) To participate monetarily in an advertising campaign or contest, or to purchase any promotional materials, training materials, showroom or other display decorations or materials at the expense of the new vehicle dealer.

(d) To enter into any agreement with the manufacturer or to do any other act prejudicial to the new vehicle dealer by threatening to terminate or cancel a franchise or any contractual agreement existing between the dealer and the manufacturer; except that this subsection is not intended to preclude the manufacturer or distributor from insisting on compliance with the reasonable terms or provisions of the franchise or other contractual agreement, and notice in good faith to any new vehicle dealer of the new vehicle dealer's violation of such terms or provisions shall not constitute a violation of the provisions of this act.

(e) To change the capital structure of the new vehicle dealer or the means by or through which the new vehicle dealer finances the operation of the dealership; provided that the new vehicle dealer at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria; and also provided, that no change in the capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor; said consent shall not be unreasonably withheld.

(f) To refrain from participation in the management of, investment in, or the acquisition of any other line of new vehicle or related products; provided, however, that this subsection does not apply unless the new vehicle dealer maintains a reasonable line of credit for each make or line of new vehicle, the new vehicle

dealer remains in compliance with any reasonable facilities requirements of the manufacturer, and no change is made in the principal management of the new vehicle dealer.

(g) To prospectively assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability to be imposed by this law or to require any controversy between a new vehicle dealer and a manufacturer, distributor, or representatives, to be referred to any person other than the duly constituted courts of the state or the United States, or to the director, if such referral would be binding upon the new vehicle dealer.

(h) To either establish or maintain exclusive facilities, personnel, or display space.

(i) To expand facilities without a written guarantee of a sufficient supply of new vehicles so as to justify such an expansion, in light of the market and economic conditions.

(j) To make significant modifications to an existing dealership or to construct a new vehicle dealership facility without providing a written guarantee of a sufficient supply of new vehicles so as to justify such modification or construction, in light of the market and economic conditions.

(3) It shall be a violation of the provisions of this act for any manufacturer licensed under this act:

(a) To delay, refuse, or fail to deliver new vehicles or new vehicle parts or accessories in a reasonable time, and in reasonable quantity relative to the new vehicle dealer's facilities and sales potential in the new vehicle dealer's relevant market area, after acceptance of an order from a new vehicle dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer, any new vehicle, parts or accessories to new vehicles as are covered by such franchise, if such vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. These provisions are not violated, however, if such failure is caused by acts or causes beyond the control of the manufacturer.

(b) To refuse to disclose to any new vehicle dealer handling the same line make, the manner and mode of distribution of that line make within the relevant market area.

(c) To obtain money, goods, service, or any other benefit from any other person with whom the new vehicle dealer does business, on account of, or in relation to, the transaction between the new vehicle dealer and such other person, other than for compensation for services rendered, unless such benefit is promptly accounted for, and transmitted to, the new vehicle dealer.

(d) To increase prices of new vehicles which the new vehicle dealer had ordered for consumers prior to the new vehicle dealer's receipt of the written official price increase notification. A sales contract signed by a consumer shall constitute evidence of each such order, provided that the vehicle is in fact delivered to that customer. In the event of manufacturer price reductions or cash rebates paid to the new vehicle dealer, the amount of any such reduction or rebate received by a new vehicle dealer shall be

passed on to the private retail consumer by the new vehicle dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series shall not be considered a price increase or price decrease. Price changes caused by either:

1. The addition to a vehicle of required or optional equipment; or

2. Revaluation of the United States dollar, in the case of foreign-make vehicles or components; or

3. An increase in transportation charges due to increased rates imposed by a carrier shall not be subject to the provisions of this subsection.

(e) To release to any outside party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or new vehicle dealer, any business, financial, or personal information which may be provided from time to time by the new vehicle dealer to the manufacturer without the express written consent of the new vehicle dealer.

(f) To deny any new vehicle dealer the right of free association with any other new vehicle dealer for any lawful purpose.

(g) To unfairly compete with a new vehicle dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, in the relevant market area. A manufacturer shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions.

(h) To unfairly discriminate among its new vehicle dealers with respect to warranty reimbursement.

(i) To unreasonably withhold consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a new vehicle dealer in this state.

(j) To fail to respond in writing to a request for consent as specified in subsection (i) of this section within sixty (60) days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for such purposes and containing the information required therein. Such failure to respond shall be deemed to be consent to the request.

(k) To prevent or attempt to prevent, by contract or otherwise, any new vehicle dealer from changing the executive management control of the new vehicle dealer unless the manufacturer, having the burden of proof, can show that such change of executive management will result in executive management or control by a person or persons who are not of good moral character or who do not meet reasonable, preexisting and, with consideration given to the volume of sales and service of the dealership, uniformly applied

minimum business experience standards; provided, however, that where the manufacturer rejects a proposed change in executive management control, the manufacturer shall give written notice of his reasons to the dealer within sixty (60) days of notice to the manufacturer by the dealer of the proposed change; otherwise, the change in the executive management of the new vehicle dealer shall be presumptively deemed approved.

(l) To terminate, cancel or fail to renew any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer relied in the granting of the franchise.

(m) To prevent or attempt to prevent the new vehicle dealer, by written instrument or otherwise, from either receiving the fair market value of the dealership in a sale transaction, or from transferring the new vehicle dealership to a spouse or legal heir, as specified in this act.

(n) To engage in any predatory practice or discrimination against any new vehicle dealer.

(o) To resort to or to use any false or misleading advertisement in the conducting of his business as a manufacturer or distributor in this state.

(p) To make any false or misleading statement, either directly or through any agent or employee, in order to induce any new vehicle dealer to enter into any agreement or franchise, or to take any action which is prejudicial to that new vehicle dealer or his business.

(4) It is unlawful for any manufacturer or any officer, agent or representative to coerce, or attempt to coerce, any new vehicle dealer in this state to sell, assign or transfer any retail installment sales contract, obtained by such dealer in connection with the sale by him in this state of new vehicles, manufactured or sold by such manufacturer, to a specified finance company or class of such companies, or to any other specified person, by any of the acts or means hereinafter set forth, namely:

1. By any statement, suggestion, promise or threat that such manufacturer will, in any manner, benefit or injure such new vehicle dealer, whether such statement, suggestion, threat or promise is express or implied or made directly or indirectly.

2. By any act that will benefit or injure such new vehicle dealer.

3. By any contract, or any express or implied offer of contract, made directly or indirectly to such new vehicle dealer for handling such new vehicles, on the condition that such new vehicle dealer sell, assign or transfer his retail installment sales contract thereon, in this state, to a specified finance company or class of such companies, or to any other specified person.

4. By any express or implied statement or representation made directly or indirectly that such new vehicle dealer is under any obligation whatsoever to sell, assign or transfer any of his retail sales contracts, in this state, on new vehicles manufactured or sold by such manufacturer to such

finance company or class of companies, or other specified person, because of any relationship or affiliation between such manufacturer and such finance company or companies, or such specified person or persons.

Any such statement, threats, promises, acts, contracts or offers of contracts, when the effect thereof may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition, and against the policy of this state, are unlawful and are hereby prohibited.

(5) It shall be illegal for any manufacturer or agent or employee of a manufacturer to use a written instrument, agreement, or waiver to attempt to nullify any of the provisions of this section, and such agreement, written instrument or waiver shall be null and void.

(6) It shall be unlawful, directly or indirectly, to impose unreasonable restrictions on the new vehicle dealer relative to the sale, transfer, right to renew, termination discipline, noncompetition covenants, site control (whether by sublease, collateral pledge of lease, or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights.

(7) The provisions of this act shall apply to all written franchise agreements between a manufacturer and a new vehicle dealer, including but not limited to, the franchise offering, the franchise agreement, sales of goods, services or advertising, leases or mortgages of real or personal property, promises to pay, security interests, pledges, insurance contract, advertising contract, construction or installation contract, servicing contracts and all other agreements where the manufacturer has any direct or indirect interest.

(8) As used in this section "manufacturer" shall include a manufacturer, a distributor, a factory branch, distributor branch or other representative thereof.

SECTION 17. 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 49-2415, Idaho Code, and to read as follows:

49-2415. TERMINATION, CANCELLATION OR NONRENEWAL. (1) Notwithstanding the terms, provisions or conditions of any franchise, or notwithstanding the terms or provisions of any waiver, no manufacturer shall cancel, terminate or fail to renew any franchise with a licensed licensee unless the manufacturer has:

(a) Satisfied the notice requirement of subsection (2) of this section; and

(b) Has good cause for cancellation, termination or nonrenewal.

(2) Notwithstanding the terms, provisions or conditions of any franchise prior to the termination, cancellation or nonrenewal of any franchise:

(a) The manufacturer shall furnish notification of such termination, cancellation or nonrenewal to the department and the licensee as follows:

1. In the manner described in paragraph (b) of this subsec-

tion; and

2. Not less than ninety (90) days prior to the effective date of such termination, cancellation or nonrenewal; or

3. Not less than fifteen (15) days prior to the effective date of such termination, cancellation or nonrenewal with respect to any of the following:

(i) Insolvency of the licensee, or filing of any petition by or against the licensee under any bankruptcy or receivership law;

(ii) Failure of the licensee to conduct its customary sales and service operations during its customary business hours for seven (7) consecutive business days, except for acts of God or circumstances beyond the direct control of the licensee;

(iii) Conviction of the licensee, or any owner or operator thereof, resulting in imprisonment in excess of thirty (30) days;

(iv) Revocation of any license which the licensee is required to have to operate a dealership; and

4. Not less than one hundred eighty (180) days prior to the effective date of such termination or cancellation, where the manufacturer is discontinuing the sale of the product line.

(b) Notification under this section shall be in writing; shall be by certified mail or personally delivered to the licensee; and shall contain:

1. A statement of intention to terminate, cancel or not to renew the franchise; and

2. A statement of the reasons for the termination, cancellation or nonrenewal; and

3. The date on which such termination, cancellation or nonrenewal takes effect.

(3) Notwithstanding the terms, provisions or conditions of any franchise, or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when:

(a) There is a failure by the licensee to comply with a provision of the franchise, which provision is both reasonable and of material significance to the franchise relationship, provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days prior to termination, cancellation or nonrenewal.

(b) If the failure by the licensee, defined in paragraph (a) of this subsection, relates to the performance of the licensee in sales or service, then good cause shall be defined as the failure of the licensee to comply with reasonable performance criteria established by the manufacturer if the licensee was apprised by the manufacturer in writing, of such failure; and

1. Said notification stated that notice was provided of failure of performance pursuant to this section.

2. The licensee was afforded a reasonable opportunity, for a period of not less than six (6) months, to comply with such criteria; and

3. The licensee did not demonstrate substantial compliance with the performance criteria of the manufacturer during such period.

(4) Within twenty (20) days of receiving such notice or within twenty (20) days after the end of any appeal procedure provided by the manufacturer, the dealer may file with the department to protest the termination. When such a protest is filed, the department shall inform the manufacturer that a timely protest has been filed. The manufacturer shall have twenty (20) days to respond to the protest. The manufacturer shall not terminate or nonrenew the dealer until the department has held a hearing, nor thereafter, if the department has determined that there is good cause for not permitting the termination.

(5) The department will select a hearing examiner to conduct a hearing and render proposed findings of fact. The proposed findings of fact shall be conclusive unless clearly erroneous and unsupported by the record. The hearing shall be conducted and the department shall render its final determination within one hundred twenty (120) days after the manufacturer responds to the licensee's protest. Unless waived by the parties, failure to do so shall be deemed the equivalent of a determination that good cause does exist for termination, unless such delay is caused by acts of the manufacturer.

(6) All costs of the department, including but not limited to, the cost of the hearing examiner and the cost of preparing the record, shall be borne equally by the parties. The department may, in its discretion, award costs to the prevailing party in any hearing held pursuant to this chapter.

(7) The manufacturer shall have the burden of proof under this section.

(8) Upon the termination, nonrenewal or cancellation of any franchise by the manufacturer pursuant to this section, the licensee shall be allowed fair and reasonable compensation by the manufacturer for the:

(a) New vehicle inventory which has been acquired from the manufacturer;

(b) Supplies and parts which have been acquired from the manufacturer;

(c) Equipment and furnishings, provided the licensee purchased from the manufacturer or its approved sources; and

(d) Special tools.

(9) Such fair and reasonable compensation for the above shall be paid by the manufacturer within ninety (90) days of the tender of the property, provided the licensee has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.

(10) In the event of a termination, cancellation or nonrenewal by the manufacturer under this section; except termination, cancellation or nonrenewal by the manufacturer for insolvency, license revocation, conviction of a crime or fraud by a new vehicle owner, the manufacturer shall pay:

(a) A sum equivalent to rent of the unexpired term of the lease or one (1) year rent, whichever is less, if the motor vehicle dealer is leasing its motor vehicle dealership facility from a

lessor other than manufacturers or distributors; or

(b) A sum equivalent to reasonable rental value of the dealership facility for one (1) year or the reasonable rental value of the facility until facilities are leased, whichever is less, if the motor vehicle dealer owns the motor vehicle dealer facility.

(11) The rental payment required under subsection (10) of this section is only required to the extent that the facilities were used for the sale and service of the manufacturer's or distributor's product, and only to the extent they are not leased for other purposes. Payment under subsection (10) of this section shall entitle the manufacturers or distributors to possession and use of the facility.

(12) As used in this section, "manufacturer" shall include a manufacturer, a distributor, a factory branch, distributor branch or other representative thereof.

SECTION 18. 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 49-2416, Idaho Code, and to read as follows:

49-2416. SUCCESSION TO OWNERSHIP. Notwithstanding the terms, provisions or conditions of any franchise:

(1) Any owner of a licensee may appoint by will, or any other written instrument, a designated family member to succeed in the ownership interest of the said owner in the new vehicle dealer.

(2) Unless there exists good cause for refusal to honor succession on the part of the manufacturer, any designated family member of a deceased or incapacitated owner of a new vehicle dealer may succeed to the ownership of the new vehicle under the existing franchise, provided that:

(a) The designated family member gives the manufacturer written notice of his or her intention to succeed to the ownership of the new vehicle dealer within one hundred twenty (120) days of the owner's death or incapacity; and

(b) The designated family member agrees to be bound by all the terms and conditions of the franchise.

(3) The manufacturer may request, and the designated family member shall provide, promptly upon said request, personal and financial data that is reasonably necessary to determine whether the succession should be honored.

(4) If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a new vehicle dealer by a family member of a deceased or incapacitated owner of a new vehicle dealer under the existing franchise agreement, the manufacturer may, not more than sixty (60) days following receipt of:

(a) Notice of the designated family member's intent to succeed to the ownership of the new vehicle dealer; or

(b) Any personal or financial data which it has requested, serve upon the designated family member and the department, notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with the dealer no sooner than ninety (90) days from the date such notice is served.

(5) The notice must state the specific grounds for the refusal to honor the succession and of its intent to discontinue the existing franchise with the new vehicle dealer no sooner than ninety (90) days from the date such notice is served.

(6) If notice of refusal and discontinuance is not timely served upon the family member, the franchise shall continue in effect subject to termination only as otherwise permitted under this act.

(7) Within twenty (20) days of receiving such notice after the end of any appeal procedure provided by the manufacturer the designated family member may file with the department to protest the refusal to honor the successor. When such a protest is filed, the department shall inform the manufacturer that a timely protest has been filed and the manufacturer shall have twenty (20) days to respond to the protest. The manufacturer shall not terminate or discontinue the existing franchise until the department has held a hearing, nor thereafter, if the department has determined that there is good cause for not permitting the succession.

(8) In determining whether good cause for the refusal to honor the succession exists, the manufacturer, or importer, has the burden of proving that the successor is a person who is not of good moral character or does not meet the franchisor's existing and reasonable standards and, considering the volume of sales and service of the new vehicle dealer, uniformly applied minimum business experience standards in the market area.

(9) The department shall conduct a hearing under the procedures set forth in subsections (5) and (6) of section 49-2415, Idaho Code.

(10) The manufacturer shall have the burden of proof under this section.

(11) This act does not preclude the owner of a new vehicle dealer from designating any person as his successor by written instrument filed with the manufacturer and, in the event there is a conflict between such written instrument and the provisions of this section, and that written instrument has not been revoked by the owner of the new dealer, in writing, to the manufacturer, then the written instrument shall govern.

(12) As used in this section, "manufacturer" shall include a manufacturer, a distributor, a factory branch, distributor branch or other representative thereof.

SECTION 19. 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 49-2417, Idaho Code, and to read as follows:

49-2417. LIMITATIONS ON ESTABLISHING OR RELOCATING DEALERS. (1) In the event that a manufacturer seeks to enter into a franchise establishing an additional licensee or relocating an existing licensee within a radius of ten (10) miles from where the same line make is then represented, the manufacturer shall, in writing, first notify the department and each licensee in such line make in the county of the intention to establish an additional dealer or to relocate an existing dealer within the ten (10) mile radius. Within twenty (20) days of

receiving such notice or within twenty (20) days after the end of any appeal procedure provided by the manufacturer, any such licensee may file with the department to protest the establishing or relocating of the licensee. When such a protest is filed, the department shall inform the manufacturer that a timely protest has been filed, and the manufacturer shall have twenty (20) days to respond to the protest. The manufacturer shall not establish or relocate the proposed licensee until the department has held a hearing, nor thereafter, if the department has determined that there is good cause for not permitting the addition or relocation of such licensee.

(2) This section does not apply:

(a) To the relocation of an existing dealer within that dealer's relevant market area, provided that the relocation not be at a site within seven (7) miles of a licensed licensee for the same line maker of vehicle; or

(b) If the proposed licensee is to be established at or within two (2) miles of a location at which a former licensed licensee for the same line make of new vehicle had ceased operating within the previous two (2) years.

(3) In determining whether good cause has been established for not entering into or relocating an additional licensee for the same line make, the department shall take into consideration the existing circumstances including, but not limited to:

(a) Permanency of the investment of both the existing and proposed licensees;

(b) Growth or decline in population and new car registrations in the relevant market area;

(c) Effect on the consuming public in the relevant market area;

(d) Whether it is injurious or beneficial to the public welfare for an additional licensee to be established;

(e) Whether the licensees of the same line make in that relevant market area are providing adequate competition and convenient customer care for the vehicles of the line make in the market area, which shall include the adequacy of vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;

(f) Whether the establishment of an additional licensee would increase competition and, therefore, be in the public interest.

(4) The department shall conduct a hearing under the procedures set forth in subsections (5) and (6) of section 49-2415, Idaho Code.

(5) As used in this section "manufacturer" shall include a manufacturer, a distributor, a factory branch, distributor branch or other representative thereof.

SECTION 20. 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 49-2418, Idaho Code, ~~and to read~~ as follows:

49-2418. DENIAL OR REVOCATION OF LICENSE REQUIRES HEARING. (1) Before the department shall refuse to issue to any applicant therefor any license or licenses provided for under the terms of this act, and

before revoking or suspending any license issued by it hereunder, it shall give such applicant or licensee, as the case may be, written notice of the action which the department contemplates taking with respect to such application or license, which shall provide that on or before a day certain, not less than twenty (20) days from the date on which such written notice shall be served, such applicant or licensee shall show cause, if any he has, in writing, duly verified and filed with the department, why such contemplated action should not be taken. Upon the receipt of such written showing, the department shall fix a day certain, not less than fifteen (15) days nor more than thirty (30) days from the date on which it received said written showing, when it will hear evidence and argument in support thereof, and shall give written notice of the date and place of hearing to the applicant or licensee, as hereinafter provided, not less than ten (10) days prior to the date fixed for such hearing. All hearings shall be held in Ada County, Idaho. A record or tape or other recording device of all proceedings had at the hearing shall be made and thereafter preserved, pending final disposition of the matter.

(2) The notice to the applicant or licensee that the department contemplates refusing to issue the license applied for or that it contemplates revoking or suspending a license duly issued by it, shall have attached thereto a complete statement or the facts upon which the department bases its contemplated action, duly signed. In any proceeding under this section, the department shall have the burden of proving that the applicant is not qualified, or that the licensee has violated a provision of this act or a rule or regulation of the department as the case may be.

(3) The notices herein provided to be given to an applicant for a license, or a licensee, shall be served by the department or its employees, delivering such notice to the applicant or licensee personally, or by the department mailing such notice by registered mail:

(a) To the applicant for a license at the residence address given in his application for license;

(b) To a licensed vehicle dealer or used vehicle dealer at the last known address of the principal place of business of such dealer; and

(c) To a licensed salesperson at his last known residence address. The date on which such notice shall be deemed to have been served for purposes of computing time, as provided in this act, shall be the date on which such notice is delivered to the applicant or licensee personally, if served by delivery as provided herein, or the date on which such notice is mailed, if service thereof is by mailing.

(4) The director, or his designee, shall preside at all hearings. The department shall request the attendance of the advisory board at such hearings. At the conclusion of the hearing, the hearing officer shall make written findings of fact and recommendations to the director. The findings of fact shall be conclusive unless clearly erroneous and unsupported by the record.

SECTION 21. 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 49-2419, Idaho Code, and to read as follows:

49-2419. PRODUCTION OF WITNESSES AND DOCUMENTS. In the preparation and conduct of such hearings, the department shall have the power to require the attendance and testimony of any witness and the production of any papers or books and may sign and issue subpoenas therefor and administer oaths and examine witnesses, and take any evidence it deems pertinent to the determination of the matter, and any witnesses so subpoenaed shall be entitled to the same fees and mileage as prescribed by law in judicial proceedings in the district court of this state in civil action, but the payment of such fees and mileage must be out of and kept within the limits of the funds created from such license fees. The party against whom such matter may be pending shall have the right to obtain from the department a subpoena for any witnesses which he may desire at such hearing and depositions may be taken as in civil court cases in the district court. Any information obtained from the books and records of the person complained against may not be used against the person complained against as the basis for a criminal prosecution under the laws of this state.

SECTION 22. 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 49-2420, Idaho Code, and to read as follows:

49-2420. REPORT OF FINDINGS. The director shall state in writing officially signed by him, his decision after such hearing. If the director determines that an applicant is not qualified to receive a license, no license shall be granted, and if the director shall determine that a license holder has violated any of the provisions of this act or of a rule or regulation promulgated by the department under the authority herein conferred, the director may suspend the license of such licensee on such terms and conditions and for such period of time as to the director appears fair, reasonable and just, or the director may revoke such license. The decision of the director shall be the decision of the department.

SECTION 23. 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 49-2421, Idaho Code, and to read as follows:

49-2421. JUDICIAL REVIEW. Any party to a hearing before the department, or any party to a hearing shall have the right to judicial review in the district court. Appeals may be taken from said judgment of the district court to the supreme court of the state of Idaho by either party within thirty (30) days after the entry of such judgment, and in the same manner as appeals in civil actions.

SECTION 24. 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 49-2422, Idaho Code, and to read as follows:

49-2422. PENALTY. Any person, firm or corporation who shall violate any of the provisions of this act or any rule or regulation promulgated by the department under the authority herein conferred, or who shall commit any offense in this act declared to be unlawful shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than seventy-five dollars ($75.00) nor more than three hundred dollars ($300), or by imprisonment in the county jail for a period of not to exceed six (6) months, or by both such fine and imprisonment.

SECTION 25. 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. 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 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, as between the manufacturer and the dealer; provided, however, that the provisions of this section shall not affect the obligation of new vehicle dealers to perform such warranty repair and maintenance as may be required by law or contract. As used in this section "manufacturer" shall include a manufacturer, a distributor, a factory branch, distributor branch or other representative thereof.

SECTION 26. 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 49-2424, Idaho Code, and to read as follows:

49-2424. PRODUCT LIABILITY INDEMNIFICATION. Notwithstanding the terms of any franchise agreement, it shall be a violation of this act for any new vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement for damages including, but not limited to, court costs and reasonable attorneys' fees of the new vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, warranty (express or implied), or rescission of the sale as defined in section 28-2-608, Idaho Code, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly or design of new vehicles, parts or accessories or other functions by the manufacturer, beyond the control of the dealer. As used in this section "manufacturer" shall include a manufacturer, a distributor, a factory branch,

distributor branch or other representative thereof.

SECTION 27. 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 49-2425, Idaho Code, and to read as follows:

49-2425. DISCLOSURE OF DAMAGE REQUIRED. On any new vehicle, any uncorrected damage or any corrected damage exceeding six percent (6%) of the manufacturer's suggested retail price, as measured by retail repair costs, must be disclosed in writing prior to delivery. Damage to glass, tire and bumpers is excluded from the six percent (6%) rule when replaced by identical manufacturer's original equipment.

SECTION 28. 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 49-2426, Idaho Code, and to read as follows:

49-2426. REPAIRED DAMAGE NOT GROUNDS FOR REVOCATION. Repaired damage to a customer-ordered new vehicle, not exceeding the six percent (6%) rule, shall not constitute grounds for revocation of the customer order. The customer's right of revocation ceases upon his acceptance of delivery of the vehicle, provided disclosure as required in section 49-2425, Idaho Code, is made prior to delivery.

SECTION 29. 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 49-2427, Idaho Code, and to read as follows:

49-2427. PAYMENT FOR DELIVERY PREPARATION AND WARRANTY SERVICE. (1) Each new vehicle manufacturer shall specify in writing to each of its new vehicle dealers licensed in this state, the dealer's obligations for predelivery preparation and warranty service on its products, shall compensate the new 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 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 a new vehicle manufacturer to fail to perform any warranty obligations or to fail to include in written notices of factory recalls to new 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 vehicle dealers in this state for repairs affected by recall.

(4) All claims made by new 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.

SECTION 30. 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 49-2428, Idaho Code, and to read as follows:

49-2428. USE AND DISPLAY OF DEALER PLATES. (1) It shall be unlawful for any person to carry on or conduct the business of manufacturing, buying, selling or dealing in vehicles, unless licensed as a manufacturer of or a dealer in vehicles, owning or operating any such vehicle upon any highway in lieu of registering each such vehicle may obtain from the department upon application therefor to the department upon the proper official form and payment of the fees required by the law and attach to each such vehicle one (1) number plate, as required for different classes of vehicles by section 49-114, Idaho Code, which special number plate shall bear thereon a distinctive number assigned to the manufacturer or dealer, also the name of this state, which may be abbreviated, and the year for which issued, together with the words dealer or manufacturer, which may be abbreviated or a distinguishing symbol indicating that such plate is issued to a manufacturer or a dealer, and any number plate so issued may, during the calendar year for which issued, be transferred from one (1) vehicle to another owned or operated by such manufacturer or dealer, in pursuance of his business as a manufacturer or dealer.

(a) Dealer plates shall not be used on vehicles under the following circumstances:

1. On work or service vehicles not held in stock for sale;
2. On leased or rented vehicles owned by the licensed manufacturer or dealer;
3. On a laden vehicle designed for transportation of cargo, unless the manufacturer or dealer has complied with sections 49-127, Idaho Code;
4. On vehicles which have been sold;
5. On vehicles used by the licensee for furtherance of another business;
6. On vehicles owned by a licensed wholesale dealer used for personal use;
7. On vehicles owned by a licensed wholesaler, operated by their licensed salesperson, used for personal use.

(b) Dealer plates may be used on vehicles operated by the manu-

facturer, dealer or his licensed vehicle salesperson, as defined in section 49-2402, Idaho Code, in connection with the manufacturer's or dealer's business. A dealer plate may be used on a vehicle assigned for personal use on a full-time basis to the dealer, or licensed full-time vehicle salesperson. A record of each assignment as is required by this section shall be maintained. This personal use exception applies only to the manufacturer, dealer, or licensed full-time vehicle salesperson personally, and any other persons, including members of their families, are excluded. A bona fide prospective purchaser of a vehicle may have possession of the vehicle with a dealer plate for not more than ninety-six (96) hours or may operate the vehicle when accompanied by the manufacturer, dealer or a licensed vehicle salesperson.

(c) Licensed part-time vehicle salesperson may use a dealer plate on a vehicle that is offered for sale only to demonstrate the vehicle to a bona fide purchaser, but not for other personal use. Other employees or authorized persons, not licensed as a vehicle salesperson, may use a dealer plate when testing the mechanical operation of a vehicle or for the necessary operation in pursuance of the dealer's business, including the delivery and pickup of vehicles owned or purchased by such manufacturer or dealer.

(2) Vehicle manufacturers and dealers shall keep a written record of the vehicles upon which such dealer's number plates are used for personal use by a manufacturer, vehicle dealer, or licensed full-time employee on a full-time basis, and the time during which each such plate is used, which record shall be open to inspection by any police officer or any officer or employee of the department.

(3) No manufacturer of or dealer in vehicles shall cause or permit any such vehicle owned by such person to be operated or moved upon a public highway without there being displayed upon the vehicle a number plate issued to that person, either under section 49-114, Idaho Code, or under this section, except as otherwise authorized in subdivision (c) of section 49-117, Idaho Code.

SECTION 31. 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 49-2429, Idaho Code, and to read as follows:

49-2429. REPAIR OR REPLACEMENT OF AN ODOMETER. Nothing in this chapter shall prevent the service, repair or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair or replacement. Where the odometer is incapable of registering the same mileage as before such service, repair or replacement, the odometer shall be adjusted to read zero and a notice shall be attached permanently to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced.

No person shall fail to adjust an odometer or affix a notice regarding such adjustment, as required under this section.

No person shall, with intent to defraud, remove or alter any notice affixed to a vehicle pursuant to the provisions of this section.

SECTION 32. 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 49-2430, Idaho Code, and to read as follows:

49-2430. DISCONNECTING, RESETTING OR TURNING BACK PROHIBITED. It shall be unlawful for any person to disconnect, turn back, or reset the odometer of any vehicle with the intent to reduce the number of miles indicated on the odometer gauge.

SECTION 33. 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 49-2431, Idaho Code, and to read as follows:

49-2431. SELLING VEHICLE KNOWING ODOMETER TURNED BACK UNLAWFUL. It shall be unlawful for any person to sell a vehicle in this state if such person has knowledge that the odometer on the vehicle has been turned back, and if the person fails to notify the buyer prior to the time of the sale, that the odometer has been turned back or that he has reason to believe that the odometer has been turned back.

SECTION 34. 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 49-2432, Idaho Code, and to read as follows:

49-2432. SELLING VEHICLE KNOWING ODOMETER REPLACED UNLAWFUL. It shall be unlawful for any person to sell a vehicle in this state if such person has knowledge that the odometer on the vehicle has been replaced with another odometer, and if the person fails to notify the buyer prior to the time of the sale, that the odometer has been replaced or that he believes the odometer to have been replaced.

SECTION 35. 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 49-2433, Idaho Code, and to read as follows:

49-2433. SELLING, ADVERTISING, USING OR INSTALLING DEVICE WHICH CAUSES OTHER THAN TRUE MILEAGE TO BE REGISTERED. It shall be unlawful for any person to advertise for sale, to sell, to use, or to install on any part of a vehicle or on an odometer in a vehicle, any device which causes the odometer to register any mileage other than the true mileage driven. For the purposes of this section, the true mileage driven is that driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SECTION 36. 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 49-2434, Idaho Code, and to read as follows:

49-2434. PURCHASER PLAINTIFF TO RECOVER COSTS AND ATTORNEY'S FEE. In any suit brought by the purchaser of a vehicle against the seller of such vehicle, the purchaser shall be entitled to recover his court costs and a reasonable attorney's fee fixed by the court, if: (1) the suit or claim is based substantially upon the purchaser's allegation that the odometer on the vehicle has been tampered with contrary to this act, or replaced contrary to this act, and (2) it is found in such suit that the seller of the vehicle or any of his employees or agents knew or had reason to know that the odometer on the vehicle had been tampered with or replaced, and failed to disclose that knowledge to the purchaser prior to the time of sale.

SECTION 37. 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 49-2435, Idaho Code, and to read as follows:

49-2435. BROKERS. A person may not act as, offer to act as, or hold himself out to be, a broker, as defined in section 49-2402, Idaho Code.

SECTION 38. 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 49-2436, Idaho Code, and to read as follows:

49-2436. USE AND DISPLAY OF VEHICLE DEALER LOANER PLATES. (1) A vehicle dealer classified as a new or used vehicle dealer, new or used motorcycle or motor scooter dealer, or new or used motor home dealer, owning a vehicle may, upon application to the department upon proper official form, and payment of the fees required in section 49-2408, Idaho Code, display on each such vehicle one (1) number plate. The plate shall be of the same design and numbering system as the plate issued for passenger vehicles, motorcycle or vehicle to another owned by the dealer.

(2) The department shall promulgate reasonable rules and regulations establishing procedures consistent with this section, including:

(a) A rule requiring the dealer to maintain a log showing the vehicle identification number, date, reason for use, and the name of the person authorized to use the plate.

(b) A rule requiring the displayer of a loaner plate to carry identification showing dealer name, number on plate, signature of dealer and year the card is valid for.

(3) Loaner plates shall be issued for a calendar year with a limit of ten (10) plates per licensed dealership.

(4) Loaner plates may be used:

(a) On vehicles held in stock for sale which are loaned to a cus-

tomer of a dealership while the customer vehicle is being repaired.

(b) On vehicles held in stock for sale and operated by the dealer or his family for personal use or for furtherance of dealership business.

(5) Loaner plates may not be used:

(a) On work or service vehicles not held in stock for sale;

(b) On leased or rented vehicles owned by the licensed dealer;

(c) On a laden vehicle designed for transportation of cargo, unless the dealer has complied with the provisions of section 49-127, Idaho Code;

(d) On vehicles which have been sold;

(e) On vehicles used by licensee for furtherance of another business;

(f) On vehicles used for personal use by licensed salesperson or other nonlicensed employees of the dealership;

(g) On vehicles of which the dealer does not have legal ownership;

(h) On vehicles being operated by a bona fide purchaser.

SECTION 39. 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 49-2437, Idaho Code, and to read as follows:

49-2437. APPLICABILITY OF THIS ACT. (1) Any person who engages directly or indirectly in purposeful contacts within this state in connection with the offering or advertising for sale, or has business dealings with respect to a new vehicle sale within this state, shall be subject to the provisions of this act and shall be subject to the jurisdiction of the courts of this state.

(2) The applicability of this act shall not be affected by a choice of law clause in any franchise, agreement, waiver, novation, or any other written instrument.

(3) Any provision of any agreement, franchise, waiver, novation or any other written instrument which is in violation of any section of this act shall be deemed null and void and without force and effect.

(4) It shall be unlawful for a manufacturer to use any subsidiary corporation, affiliated corporation, or any other controlled corporation, partnership, association or person to accomplish what would otherwise be illegal conduct under this act on the part of the manufacturer.

(5) Nothing in this act shall be construed to impair the obligations of a contract entered into prior to the date this act becomes effective or to prevent a manufacturer, distributor, representative or any other person, whether or not licensed under this act, from requiring performance of such prior written contract entered into with any licensee hereunder, nor shall the requirement of such performance constitute a violation of any of the provisions of this act; provided, any such contract, or the terms thereof, requiring performance, shall have been theretofore freely entered into and executed between the

contracting parties. However, this act shall apply to any amendments, novations, records or modifications of such prior contracts and to any contracts and to any contract entered into subsequent to the date this act becomes effective.

SECTION 40. 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 49-2438, Idaho Code, and to read as follows:

49-2438. SEVERABILITY. If any provision of this act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this amendatory act and the applicability thereof to persons and circumstances shall not be affected thereby.

SECTION 41. 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 49-2439, Idaho Code, and to read as follows:

49-2439. LIMITATIONS. (1) Actions arising out of any provision of this act shall be commenced within a four (4) year period of the accrual of the cause of action; provided, however, that if a person liable hereunder conceals the cause of action from the knowledge of the person entitled to bring it, the period prior to the discovery of his cause of action by the person entitled shall be excluded in determining the time limited for the commencement of the action.

(2) If a cause of action accrues during the pendency of any civil, criminal or administrative proceeding against a person brought by the United States, or any of its agencies under the antitrust laws, the federal trade commission act, or any other federal act, or the laws or to franchising, such actions may be commenced within one (1) year after the final disposition of such civil, criminal or administrative proceeding.

SECTION 42. The provisions of this act, except for sections 49-2430, 49-2431, 49-2432, 49-2433, 49-2434 and 49-2436, Idaho Code, shall be in full force and effect on and after January 1, 1986.

SECTION 43. That Section 49-1128, Idaho Code, be, and the same is hereby amended to read as follows:

49-1128. AUTHORIZING SEIZURE OF MOTOR AND OTHER VEHICLES -- PROHIBITING DEFACING, ALTERING OR OBLITERATING NUMBERS -- SALES PROHIBITED -- PENALTY. (1) Any peace officer, as defined in section 19-5101, Idaho Code, or ~~enforcement--officer--of~~ transportation department employee commissioned by the department of law enforcement, with or without a warrant, may seize and take possession of any motor vehicle, trailer, semi-trailer, vessel, vessel motor or implement of husbandry, or any part or parts thereof, which the peace officer or commissioned employee has probable cause to believe is stolen, or on which any

motor number, manufacturer's number, or identification number has been defaced, altered, removed, covered, destroyed or obliterated. Any peace officer so seizing such vehicle, vessel, equipment or parts thereof immediately shall notify the ~~motor--vehicle--division,~~ transportation department ~~of-law-enforcement~~, and shall make every reasonable effort to determine ownership of the vehicle, vessel or equipment and to notify the rightful owner that the vehicle has been seized.

(2) It shall be a misdemeanor, punishable as provided in section 18-113, Idaho Code, for any person owning, conducting, managing or operating a service station, public garage, paint shop, or other repair shop for motor vehicles, vessels, or equipment described in subsection (1) of this section, to fail to notify local law enforcement agencies or the ~~motor-vehicle-division,~~ transportation department ~~of-law-enforcement~~, of any motor vehicle, vessel, equipment or parts thereof on which any numbers described in subsection (1) of this section, have been defaced, altered, removed, covered, destroyed or obliterated.

(3) Any person who shall deface, alter, remove, cover, destroy or obliterate the motor number, manufacturer's number, or identification number of any vehicle, vessel, equipment or parts thereof described in subsection (1) of this section, or places or stamps any such serial number, engine number, or any other number upon such a vehicle, vessel, equipment or parts thereof unless such number is assigned thereto by the transportation department is guilty of a felony and is punishable as provided by section 18-112, Idaho Code.

(4) Any person or persons, who knowingly disposes of, sells or offers for sale any vehicle, engine or parts removed from a vehicle, vessel, equipment or parts thereof described in subsection (1) of this section from which the manufacturer's number, motor number, identification number or any assigned or replacement number issued by the transportation department has been defaced, altered, removed, covered, destroyed or obliterated is guilty of a felony and punishable as provided by section 18-112, Idaho Code.

Approved March 20, 1985.

CHAPTER 118
(H.B. No. 267)

AN ACT

RELATING TO THE ADJUDICATION OF WATER RIGHTS IN THE SNAKE RIVER BASIN; AMENDING SECTION 42-1406A, IDAHO CODE, AS ENACTED BY HOUSE BILL NO. 70, FIRST REGULAR SESSION, FORTY-EIGHTH IDAHO LEGISLATURE, TO PROVIDE INSTRUCTIONS TO THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES WHEN HE ADJUDICATES THE SNAKE RIVER BASIN FROM THE OREGON BORDER UPSTREAM; TO ALLOW THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO ADJUDICATE THE WATER RIGHTS OF THE MAIN STEM OF THE SNAKE RIVER WHICH FORMS THE BOUNDARY BETWEEN THE STATE OF

IDAHO AND THE STATES OF OREGON AND WASHINGTON, AND TO INCLUDE WITHIN HIS PETITION FOR ADJUDICATION ANY ADJUDICATED TRIBUTARIES; AND TO PROHIBIT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES FROM READJUDICATING ANY TRIBUTARY OF THE SNAKE RIVER DOWNSTREAM WHICH PREVIOUSLY HAS BEEN ADJUDICATED UNLESS IT IS NECESSARY TO OBTAIN THE CONSENT OF THE UNITED STATES OR OTHER NECESSARY PARTIES.

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

SECTION 1. That Section 42-1406A, Idaho Code, as enacted by House Bill No. 70, First Regular Session, Forty-eighth Idaho Legislature, be, and the same is hereby amended to read as follows:

42-1406A. SNAKE RIVER BASIN ADJUDICATION -- COMMENCEMENT. (1) Effective management in the public interest of the waters of the Snake River basin requires that a comprehensive determination of the nature, extent and priority of the rights of all users of surface and ground water from that system be determined. Therefore, the director of the department of water resources shall petition the district court to commence an adjudication within the terms of the McCarran amendment, 43 U.S.C. section 666, of the water rights of the Snake River basin either through initiation of a new proceeding or the enlargement of an ongoing adjudication proceeding. The petition shall describe:

(a) The boundaries of the system within the state to be adjudicated;

(b) Any class of water users within the system and the boundaries of any hydrologic sub-basins within the system for which the director intends to proceed separately with respect to the actions required or authorized to be taken pursuant to sections 42-1408 through 42-1414, Idaho Code; and

(c) The uses of water, if any, within the system that are recommended to be excluded from the adjudication proceeding.

(2) Upon issuance of an order by the district court which:

(a) Authorizes the director to commence an investigation and determination of the various water rights to be adjudicated within the system;

(b) Defines the boundaries of the system within the state to be adjudicated;

(c) Defines the classes of water users within the system and the boundaries of any hydrologic sub-basins within the system for which proceedings may advance separately pursuant to sections 42-1408 through 42-1414, Idaho Code; and

(d) Defines any uses of water excluded from the adjudication proceedings;

the adjudication shall proceed in the manner provided under the provisions of chapter 14, title 42, Idaho Code, with the exception of sections 42-1406 and 42-1407, Idaho Code.

(3) In exercising his authority under subsection (1) of this section, the director of the department of water resources:

(a) Shall petition the district court to commence an adjudication of the water rights of all of the Snake River basin within the

state of Idaho upstream from the point at which the Snake River leaves the state of Idaho and enters the state of Oregon in section 14, township 4 north, range 6 west, Boise Meridian;

(b) May petition the district court to commence an adjudication of the water rights of the main stem of the Snake River which forms the boundary between the state of Idaho and the states of Oregon and Washington. The director may include within his petition under this paragraph any unadjudicated tributaries. The director shall not include in the petition filed under this paragraph any adjudicated tributary unless the United States, or other parties whose consent is necessary, refuse to consent to the jurisdiction of the district court to adjudicate all federal or Indian water rights claims pursuant to the McCarran amendment, 43 U.S.C. section 666.

Approved March 20, 1985.

CHAPTER 119
(H.B. No. 268)

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-2301, IDAHO CODE, TO PROVIDE ADDITIONAL AUTHORITY TO RECONSTRUCT CANALS AND OTHER IRRIGATION DISTRICT WORKS IN ADDITION TO THE RECONSTRUCTION OF DAMS AND RELATED APPURTENANCES AND THE CONSTRUCTION OF HYDROELECTRIC FACILITIES; AND AMENDING SECTION 43-2305, IDAHO CODE, TO PROVIDE FOR ELECTIONS ON CONTRACTS FOR THE RECONSTRUCTION OF CANALS, AND OTHER IRRIGATION DISTRICT WORKS IN CONNECTION WITH HYDROELECTRIC FACILITIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 43-2301, Idaho Code, be, and the same is hereby amended to read as follows:

43-2301. RECONSTRUCTION OF DAMS, CANALS AND OTHER IRRIGATION DISTRICT WORKS AND RELATED APPURTENANCES -- HYDROELECTRIC FACILITIES -- EXECUTION OF CONTRACTS -- REVENUES -- TRUSTS. Any irrigation district organized and existing under the provisions of title 43, Idaho Code, in addition to any other powers which it might enjoy, for the purpose of preserving, restoring, protecting and maintaining rights of storage, diversion and delivery of water necessary and appurtenant to the purposes for which such district and other like similarly situated districts were organized, is hereby granted the following additional powers:

(a) To provide for or to reconstruct, rehabilitate, replace, modify or improve dams, canals and other irrigation district works, including the construction, enlargement and replacement of outlet and intake tunnels and structures, and other related structures and works

together with all necessary appurtenances related thereto, whether located within or without the boundaries of the district and whether or not legal title thereto is owned by the district, including without limitation as a part thereof the reconstruction and relocation of all roads, bridges and highways made necessary by reason of such reconstruction, rehabilitation, replacement, modification or improvement, or the construction of hydroelectric generating facilities as authorized in subsection (b) of this section, and in connection therewith the acquisition of related facilities for flood control, public recreation, and fish and wildlife mitigation and enhancement purposes made necessary in order to comply with applicable state and federal requirements;

(b) To provide for or to construct hydroelectric generating facilities, properties and related structures in connection with and as a part of the reconstruction, rehabilitation, replacement, modification or improvement of a dam, a canal or other irrigation district works pursuant to subsection (a) of this section, together with all necessary equipment and appurtenances related thereto, used in or useful for the generation of electricity, including power plants, turbine generators, penstocks, transformers, electrical equipment and other facilities related to hydroelectric production plants;

(c) To enter into all necessary agreements, contracts and other legal arrangements with the United States and its agencies, other irrigation districts organized and existing under the provisions of title 43, Idaho Code, and other public and private persons, firms, corporations and associations, and irrigation districts similar to those existing under title 43, Idaho Code, but organized and existing under the laws of another state of the United States, in order to carry out or provide for the reconstruction, rehabilitation, replacement, modification or improvement of any such dam, canal or other irrigation district works and other related structures and works and appurtenances and the construction of any such hydroelectric generating facilities, the financing thereof pursuant to the provisions of this chapter, including provisions relating to the issuance of bonds to pay the costs thereof by an irrigation district which is a party to a contract or agreement, the sale of surplus electric energy or the sale or use of rights to falling water in such manner as shall be necessary and desirable and in the best interests of the district, and the operation and maintenance of all or any part of such dam, canal or other irrigation district works so reconstructed, rehabilitated, replaced, modified and improved and of such hydroelectric generating facilities so constructed, which agreements or contracts may provide for the reconstruction, rehabilitation, replacement, modification or improvement of any such dam, canal or other irrigation district works and other related structures and works and appurtenances, the construction of hydroelectric generation facilities, the terms governing the disposition and sale of surplus electric energy or the sale or use of rights to falling water in relation to such dam, canal or other irrigation district works and generating facilities, which terms may include a provision requiring any purchaser of the surplus electric energy or falling water to purchase all the surplus energy generated or all the rights to or use of falling water associated with such dam,

canal or other irrigation district works and hydroelectric generating facilities, the conditions under which the purchaser of the surplus electric energy or rights to use of falling water shall make payments to the district issuing the bonds, the rights and remedies of the parties thereto in the event of the failure of the purchaser of the surplus electric energy or rights to or use of falling water to make the required payments thereunder and the securing of all necessary permits and licenses required in connection therewith; the creation of a committee of representatives of the parties to the agreement or contract, which committee shall have such powers not inconsistent with the provisions of this chapter;

(d) To issue bonds of the district in the manner provided in this chapter, or to consent to the issuance of such bonds by another contracting irrigation district pursuant to the provisions of subsection (c) of this section, for the purpose of paying all or part of the cost of the reconstruction, rehabilitation, replacement, modification or improvement of any such dam, canal or other irrigation district works and other related structures and works and appurtenances and the construction of hydroelectric generating facilities as further described in subsectioos (a), (b) and (c) above, and for the purpose of paying all expenses preliminary and incidental thereto, including all engineering, fiscal and legal expenses and costs of issuance, printing, advertising, establishment of necessary reserves and payment of interest during construction;

(e) To provide that any bonds issued and sold pursuant to the provisions of this chapter shall be payable solely out of a special fund ioto which the district issuing the bonds shall be obligated to deposit, as from time to time received, all or a designated portion of the proceeds from the sale of electric energy generated by hydroelectric generating facilities to be so constructed or from the sale or use of rights to falling water from the dam, canal or other irrigation district works to be so reconstructed, rehabilitated, replaced, modified or improved, all pursuant to contracts to be entered into as authorized in subsection (c) of this section; and

(f) To enter into a trust indenture securing the bonds issued pursuant to the provisions hereof with a bank or trust company doing business either within or without the state of Idaho, and to assign the rights of the district to receive the payments provided for in subsection (e) of this section to such bank or trust company as trustee for and on behalf of the bondholders.

SECTION 2. That Section 43-2305, Idaho Code, be, and the same is hereby amended to read as follows:

43-2305. ELECTION ON CONTRACTS. Whenever the board of an irrigation district shall by resolution determine that the interest of said district and the public interest or necessity demand the reconstruction, rehabilitation, replacement, modification or improvement of any dam, canal or other irrigation district works and the constructiou of hydroelectric generating facilities, properties and related structures in connection and as an improvement to such dam, canal or other irrigation district works and the entering into of a contract as

authorized in section 43-2301(c), Idaho Code, making provision therefor, said board shall be required to order the submission of the proposition of entering into a contract as provided in section 43-2301(c), Idaho Code, to the vote of the qualified electors of the district as defined in section 34-104, Idaho Code, at an election to be held for that purpose. The resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the contract is proposed to be entered into by the irrigation district; the estimated cost of the reconstruction, rehabilitation, replacement, modification or improvement of the dam, canal or other irrigation district works and/or construction of hydroelectric generating facilities as the case may be; the method of financing the reconstruction, rehabilitation, replacement, modification or improvement of the dam, canal or other irrigation district works and construction of hydroelectric generating facilities, including the maximum amount of bonds which may be issued by a contracting irrigation district pursuant to such election and pursuant to the provisions of section 43-2301(d), Idaho Code.

Any election required to be held hereunder shall be called by resolution, which resolution shall also fix the date upon which such election shall be held, the manner of holding the same and the method of voting for or against the execution of the contract. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the precincts and polling places and shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, which officers shall consist of three (3) judges, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. Description of precincts may be made by reference to any order or orders of the board of county commissioners of the county or counties in which the district or any part thereof is situated, or by reference to any previous order, or resolution of the board or by detailed description of such precincts. The resolution calling the election shall prescribe an official notice of election, which notice shall be published once a week for two (2) consecutive weeks, the last publication of which shall be at least ten (10) days prior to the date set for said election, in a newspaper of general circulation printed and published in the district, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made. The notice of election shall state that a copy or copies of the contract or contracts, in substantially the form contemplated to be entered into by the district are on file in the office of the secretary of the district for public inspection by any interested person during regular business hours.

The respective election boards shall conduct the election in their respective precincts in a manner prescribed by law for the holding of district elections to the extent the same shall apply and shall make their returns to the secretary of the district. At any regular or special meeting of the board held not earlier than five (5) days following the date of such election, the returns thereof shall be canvassed and the results thereof declared.

If it shall appear from said returns that a two-thirds (2/3)

majority of the qualified electors of the district who shall have voted on any proposition submitted hereunder at such election voted in favor of such proposition, the district shall thereupon be authorized to enter into such contracts, all for the purpose or purposes and object or objects provided for in the proposition submitted hereunder or in the resolution therefor. Submission of the proposition of entering into such contract at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent election or elections called for such purpose.

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 20, 1985.

CHAPTER 120
(H.B. No. 266)

AN ACT

RELATING TO THE RECHARGE OF GROUND WATER BASINS; AMENDING SECTION 42-4201A, IDAHO CODE, TO AUTHORIZE IRRIGATION DISTRICTS TO APPROPRIATE THE UNAPPROPRIATED WATERS OF THE STATE TO RECHARGE GROUND WATER BASINS WITHIN THE DISTRICT UPON CONDITIONS; AMENDING SECTION 43-304, IDAHO CODE, TO AUTHORIZE IRRIGATION DISTRICTS TO ACQUIRE LAND AND WATER RIGHTS NECESSARY FOR GROUND WATER RECHARGE PROJECTS; AMENDING SECTION 43-328, IDAHO CODE, TO PROVIDE A PROCEDURE TO PETITION AN IRRIGATION DISTRICT FOR GROUND WATER RECHARGE IMPROVEMENTS; AMENDING CHAPTER 3, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-343, IDAHO CODE, PROVIDING AUTHORITY TO IRRIGATION DISTRICTS TO CONSTRUCT AND OPERATE GROUND WATER RECHARGE PROJECTS.

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

SECTION 1. That Section 42-4201A, Idaho Code, be, and the same is hereby amended to read as follows:

42-4201A. RECHARGE OF ~~GROUNDWATER~~ GROUND WATER BASINS -- DIRECTOR'S AUTHORITY TO ISSUE PERMIT -- LIMITATIONS. (1) The welfare of the people of the state of Idaho is dependent upon the conservation, development, augmentation and optimum use of the water resources of this state. The legislature deems it essential therefore that every effort be made to foster and encourage water projects designed to promote these objectives. The legislature hereby acknowledges that proposed projects to recharge water basins in the state by means of the storage of unappropriated waters of the public waters of

the state in underground aquifers represents a unique and innovative endeavor to further water conservation and increase the water available for beneficial use.

(2) In view of the public betterment to be achieved by the completion of aquifer recharge projects, the legislature hereby declares that the appropriation and underground storage of water by an aquifer recharge district hereinafter created and operated pursuant to the provisions of chapter 42, title 42, Idaho Code, for purposes of groundwater ground water recharge or by an irrigation district organized and operated pursuant to title 43, Idaho Code, shall constitute a beneficial use and hereby authorizes the department of water resources to issue to the aquifer recharge district, or the irrigation district, a permit, pursuant to section 42-203, Idaho Code, for the appropriation and underground storage of the unappropriated waters of the state. The department of water resources is further authorized to issue to an aquifer recharge district, or an irrigation district, a license confirming the right to appropriate such waters for the beneficial use herein established upon compliance by the district with the requirements specified in chapter 2, title 42, Idaho Code. The rights acquired by an aquifer recharge district, or an irrigation district, pursuant to any permit and license obtained as herein authorized shall be secondary to all prior perfected water rights, including those held by any privately-owned electrical generating company to appropriate waters in the reaches downstream from a recharge district project diversion for purposes of hydroelectric power generation.

(3) The director of the department of water resources may regulate the amount of water which the an aquifer recharge district, or an irrigation district, may appropriate divert for recharge purposes and may reduce such amount, even though there is sufficient water to supply the entire amount originally authorized by permit or license. To facilitate necessary financing of an aquifer recharge project, the director may fix a term of years in the permit or license during which the amount of water authorized to be diverted shall not be reduced by the director under the provisions of this subsection.

(4) To insure that other water rights are not injured by the operations of the an aquifer recharge district project, the director of the department of water resources shall have the authority to approve, disapprove, or require alterations in the methods employed by the a district to achieve groundwater ground water recharge. In the event that the district director determines that the district's methods of operation are adversely affecting existing water rights or are creating conditions adverse to the beneficial use of water under existing water rights, the director shall order the cessation of operations until such alterations as may be ordered by the director have been accomplished or such adverse effects otherwise have been corrected.

SECTION 2. That Section 43-304, Idaho Code, be, and the same is hereby amended to read as follows:

43-304. GENERAL POWERS OF BOARD -- BY-LAWS -- RIGHT OF ENTRY -- ACQUISITION OF PROPERTY. Said board shall have the power to manage and

conduct the business and affairs of the district, make and execute all necessary contracts, employ and appoint snch agents, officers and employees as may be required and prescribe their duties, to establish equitable by-laws, rules and regulations for the distribution and use of water among the owners of such land, as may be necessary and just to secure the just and proper distribution of the same, which said by-laws, among other things, shall establish a fiscal year, and in case the by-laws do not provide for the establishment of a fiscal year, the fiscal year shall commence the first day of November and end the thirty-first day of October of each and every year. Said by-laws, rules and regulations must be printed in convenient form for distribution throughout the district.

The board and its agents and employees shall have the right to enter upon any land and to make surveys, and may locate the necessary irrigation works and the line of any canal or canals, and the necessary branches for the same on any lands which may be deemed best for such location.

Said board shall also have the right to acquire, either by purchase, condemnation or other legal means, all lands and water rights, and other property necessary for the construction, use and supply, maintenance, repair and improvement of said canal or canals and works, including canals and works constructed and being constructed by private owners, lands for reservoirs for the storage of needful waters, lands and water rights for ground water recharge projects initiated pursuant to chapter 42, title 42, Idaho Code, and all necessary appurtenances. In case of purchase, the bonds of the district hereinafter provided for may be used to their par value in payment. Said board may also construct the necessary dams, reservoirs, ground water recharge facilities and works for the collection of water for said district, and do any and every lawful act necessary to be done that sufficient water may be furnished to each landowner in said district for irrigation purposes. The use of all water required for the irrigation of the lands of any district formed under the provisions of this title, together with the rights of way for canals and ditches, sites for reservoirs, ground water recharge projects and all other property required in fully carrying out the provisions of this title, is hereby declared to be a public use, subject to the regulation and control of the state, in the manner prescribed by law.

The board of directors of an irrigation district organized under the laws of the state of Idaho may enter into contracts for a water supply to be delivered to the canals and works of the district, and do any and every lawful act necessary to be done that sufficient water may be furnished to the lands in the district for irrigation purposes.

SECTION 3. That Section 43-328, Idaho Code, be, and the same is hereby amended to read as follows:

43-328. PETITION TO CONSTRUCT IMPROVEMENTS FOR IRRIGATION — ASSENT OF PETITIONERS TO ASSESSMENT OF COST OF IMPROVEMENT. The holders of title, or evidence of title, representing a majority of the acreage of any body of land within any irrigation district, may file with the board of directors of the district a petition in writing,

praying for the construction of any improvement necessary or expedient for the efficient irrigation of the lands, including facilities for the recharge of ground water basins. The petition shall in a general way describe the proposed improvement and shall describe the tracts, or body of land, owned by the petitioners, and shall contain a description of the exterior boundaries of the land for which the proposed improvement is to be constructed, and describing therein any lands that are to be excepted from the benefit or use of the proposed improvement. The petition shall also contain an agreement on the part of the petitioners that the cost of construction of the improvement shall constitute a lien upon the lands within the exterior boundaries of the laod described in the petition, except the lands that are therein excepted from the benefit or use of the proposed improvement, and that the lands shall be assessed for and pay the cost of the improvement. The petition shall be deemed to give assent of the petitioners to construction of the improvement and shall authorize the assessment of the cost of such improvement upon and against the lands described in the petition and not specifically therein excepted. The petition shall be acknowledged in the same manner that conveyances of land are required to be acknowledged.

SECTION 4. That Chapter 3, Title 43, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 43-343, Idaho Code, and to read as follows:

43-343. AUTHORITY TO CONSTRUCT AND OPERATE GROUND WATER RECHARGE PROJECT. Any irrigation district heretofore or hereafter organized under the laws of this state, having received and affirmatively acted upon a petition to construct a ground water recharge improvement project in the manner provided by sections 43-328, 43-329 and 43-330, Idaho Code, is authorized by section 42-4201A, Idaho Code, to file an application with the department of water resources to appropriate the unappropriated waters of the state for the purpose of recharging ground water basins within the district to aid in the efficient irrigation of district lands. Upon approval of the application for permit by the director of the department of water resources, the district shall proceed in the manner provided by the irrigation district laws of the state to construct and operate the recharge project. The construction and operation of the project shall be subject to such additional conditions and limitations as shall be imposed by the director of the department of water resources pursuant to sections 42-203 and 42-4201A, Idaho Code.

Approved March 20, 1985.

CHAPTER 121
(H.B. No. 119)

AN ACT

RELATING TO THE DEFINITION OF KIDNAPING; AMENDING SECTION 18-4501, IDAHO CODE, TO PROVIDE THAT A PERSON WHO LEADS, TAKES, ENTICES AWAY OR DETAINS A CHILD UNDER THE AGE OF SIXTEEN YEARS WITH THE INTENT TO KEEP OR CONCEAL THE CHILD FROM ITS CUSTODIAL PARENT IS GUILTY OF KIDNAPING; AND DECLARING AN EMERGENCY.

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

SECTION I. That Section 18-4501, Idaho Code, be, and the same is hereby amended to read as follows:

18-4501. KIDNAPING DEFINED. Every person who wilfully:

I. Seizes, confines, inveigles or kidnaps another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within this state, or to be sent out of this state, or in any way held to service or kept or detained against his will; or,

2. Leads, takes, entices away or detains a child under the age of sixteen (16) years, with intent to keep or conceal it from its custodial parent, guardian or other person having lawful care or control thereof, or with intent to steal any article upon the person of the child; or,

3. Abducts, entices or by force or fraud unlawfully takes or carries away another at or from a place without the state, or procures, advises, aids or abets such an abduction, enticing, taking or carrying away, and afterwards sends, brings, has or keeps such person, or causes him to be kept or secreted within this state; or,

4. Seizes, confines, inveigles, leads, takes, entices away or kidnaps another against his will to extort money, property or any other thing of value or obtain money, property or reward or any other thing of value for the return or disposition of such person is guilty of kidnaping.

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 20, 1985.

CHAPTER 122
(S.B. No. 1051, As Amended)

AN ACT

RELATING TO VICTIM'S RIGHTS IN A CRIMINAL ACTION; AMENDING CHAPTER 53, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-5304,

IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE PROCEDURES FOR COURT-ORDERED RESTITUTION FOR ECONOMIC LOSS BY DEFENDANTS CONVICTED OF OFFENSES CAUSING SUCH LOSS, TO PROVIDE AN ORDER OF RESTITUTION SHALL NOT PRECLUDE THE VICTIM FROM SEEKING OTHER LEGAL REMEDIES AND TO PROVIDE CONTENTS OF PRESENTENCE REPORTS; AMENDING CHAPTER 53, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-5305, IDAHO CODE, TO PROVIDE PROCEDURES FOR A VICTIM TO COLLECT A JUDGMENT; AMENDING CHAPTER 53, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-5306, IDAHO CODE, TO PROVIDE RIGHTS OF VICTIMS DURING INVESTIGATION AND PROSECUTION OF THE CRIME, TO PROVIDE DUTIES OF PROSECUTING ATTORNEYS AND THE CLERK OF THE DISTRICT COURT, TO PROVIDE APPLICATION TO IMMEDIATE FAMILIES OF HOMICIDE VICTIMS, AND TO PROVIDE NO LIABILITY IF A STATE, COUNTY OR MUNICIPAL OFFICER OR EMPLOYEE FAILS TO CARRY OUT PRESCRIBED ACTION ; AMENDING SECTION 19-5302, IDAHO CODE, TO PROVIDE IF A DISTRICT COURT OR A MAGISTRATE'S DIVISION ORDERS A CRIMINAL DEFENDANT TO PAY RESTITUTION, THE COURT SHALL ORDER THE DEFENDANT TO PAY THE RESTITUTION TO THE PARTY OR PARTIES INJURED BY THE DEFENDANT'S ACTION; AMENDING SECTION 16-1814, IDAHO CODE, AS ENACTED BY SECTION 10, CHAPTER 81, SESSION LAWS OF 1984, TO PROVIDE IN CASES BROUGHT UNDER THE YOUTH REHABILITATION ACT, THAT UNLESS THE COURT DETERMINES THAT AN ORDER OF RESTITUTION WOULD BE INAPPROPRIATE OR UNDESIRABLE, IT SHALL ORDER THE CHILD TO PAY RESTITUTION TO ANY VICTIM WHO SUFFERS AN ECONOMIC LOSS AS A RESULT OF THE CHILD'S CONDUCT IN ACCORDANCE WITH CERTAIN STANDARDS AND REQUIREMENTS; AMENDING SECTION 20-223, IDAHO CODE, TO PROVIDE THAT THE COMMISSION FOR PARDONS AND PAROLE SHALL CONSIDER THE COMPLIANCE OF THE PRISONER WITH COURT-ORDERED RESTITUTION WHEN IT MAKES A PAROLE OR COMMUTATION DECISION AND THAT THE COMMISSION MAY MAKE COMPLIANCE WITH A RESTITUTION ORDER A CONDITION OF PROBATION; AMENDING SECTION 19-5302, IDAHO CODE, TO REDESIGNATE THE SECTION; AMENDING SECTION 19-3008, IDAHO CODE, TO PROVIDE THAT NO WITNESS SHALL RECEIVE MORE THAN ONE REIMBURSEMENT FOR MILEACE PER DAY OF ATTENDANCE IN COURT AND TO PROVIDE FOR PAYMENT OF REASONABLE LODGING EXPENSES TO THE WITNESS WHEN THEY HAVE BEEN APPROVED IN ADVANCE BY THE JUDGE BEFORE WHOM THE WITNESS APPEARS; AND PROVIDING AN EFFECTIVE DATE AND APPLICATION.

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 19-5304, Idaho Code, and to read as follows:

19-5304. RESTITUTION FOR CRIME VICTIMS -- ORDERS TO BE SEPARATE --WHEN RESTITUTION IS NOT APPROPRIATE -- OTHER REMEDIES -- EVIDENTIAHY HEARINGS -- DEFINITIONS. (1) As used in this chapter:

(a) "Economic loss" includes, but is not limited to, the value of property taken, destroyed, broken, or otherwise harmed, lost wages, and direct out-of-pocket losses or expenses, such as medical expenses resulting from the criminal conduct, but does not

include less tangible damage such as pain and suffering, wrongful death or emotional distress.

(b) "Found guilty of any crime" shall mean a finding by a court that a defendant has committed a criminal act and shall include an entry of a plea of guilty, an order withholding judgment, suspending sentence, or entry of judgment of conviction for a misdemeanor or felony.

(c) "Value" shall be as defined in section 18-2024(11), Idaho Code.

(d) "Property" shall be as defined in section 18-2402(8), Idaho Code.

(e) "Victim" shall mean a person or entity, named in the complaint, information or indictment, who suffers economic loss or injury as the result of the defendant's criminal conduct and shall also include the immediate family of a minor and the immediate family of the actual victim in homicide cases.

(2) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order a defendant found guilty of any crime which results in an economic loss to the victim to make restitution to the victim. An order of restitution shall be a separate written order in addition to any other sentence the court may impose, including incarceration, and may be complete, partial, or nominal. Restitution shall be ordered for any economic loss which the victim actually suffers. The existence of a policy of insurance covering the victim's loss shall not absolve the defendant of the obligation to pay restitution.

(3) If the court determines that restitution is inappropriate or undesirable or if only partial or nominal restitution is ordered, it shall enter an order articulating the reasons therefor on the record.

(4) An order of restitution shall be for an amount certain, to be paid at a time certain aud may provide for interest thereon at a reasonable rate to be established by the court.

(5) The court may order the defendant to pay restitutiou to the victim in any case, regardless of whether the defendant is incarcerated or placed on probation.

(6) Restitution orders shall be entered by the court at the time of sentencing or such later date as deemed necessary by the court. Economic loss shall be based upon the preponderance of evidence submitted to the court by the prosecutor, defendant, victim or presentence investigator. Each party shall have the right to present such evidence as may be relevant to the issue of restitution, and the court may consider such hearsay as may be coutained in the presentence report, victim impact statement or otherwise provided to the court.

(7) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of economic loss sustained by the victim as a result of the offense, the financial resources, needs and earning ability of the defendant, and such other factors as the court deems appropriate. The immediate inability to pay restitution by a defendant shall not be, in and of itself, a reason to not order restitution.

(8) In determining restitution, where it appears that more than one (1) person is responsible for a crime that results in economic

loss to a victim, and one or more of the suspects or defendants are not found, apprehended, charged, convicted or ordered to pay restitution, the court may require the remaining defendant or defendants, who are convicted of or plead guilty to the crime, to be joint and severally responsible for the entire economic loss to the victim.

(9) The court may, with the consent of the parties, order restitution to victims for economic loss or injury for crimes in cases or counts of criminal complaints which are not adjudicated or to victims who are not before the court.

(10) A defendant, against whom a restitution order has been entered, may, within forty-two (42) days of the entry of the order of restitution, request relief from the restitution order in accordance with the Idaho rules of civil procedure relating to relief from final orders.

(11) An order of restitution shall not preclude the victim from seeking any other legal remedy.

(12) Every presentence report shall include a full statement of economic loss suffered by the victim or victims of the defendant's crime or crimes.

SECTION 2. 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 19-5305, Idaho Code, and to read as follows:

19-5305. COLLECTION OF JUDGMENTS. After forty-two (42) days from the entry of the order of restitution or at the conclusion of a hearing to reconsider an order of restitution, whichever occurs later, an order of restitution may be recorded as a judgment and the victim may execute as provided by law for civil judgments.

SECTION 3. 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 19-5306, Idaho Code, and to read as follows:

19-5306. RIGHTS OF VICTIM DURING INVESTIGATION AND PROSECUTION OF THE CRIME. (1) Upon request, each victim of a felony offense shall be:

(a) Assured the expeditious return of any stolen or other personal property by law enforcement agencies when no longer needed as evidence;

(b) Consulted by the presentence investigator during preparation of the presentence report and have included in that report a statement of the impact which the defendant's criminal conduct has had upon the victim;

(c) Afforded the opportunity to address under oath, the court at sentencing;

(d) Informed of the disposition of the case against the defendant, including any appeal;

(e) Notified by the commission for pardons and parole of relevant parole or commutation hearings, and be afforded the opportunity to present information to the commission, either in person or in

writing;

(f) Notified whenever the defendant or suspect is released or escapes from custody. When release is ordered prior to final conviction, notice to the victim shall be given by the law enforcement authority from whose custody the defendant was released. When release is granted subsequent to a final conviction notice shall be given to the victim by the law enforcement authority from whose custody the defendant was released unless release is granted by the commission on pardons and parole in which case the commission shall notify the victim.

(2) Upon the filing of a felony complaint, the prosecuting attorney shall inform the victim of the various opportunities provided by this section. The victim may request any notice of opportunity to be heard provided by this section by giving a written request on a form provided by the prosecuting attorney to the clerk of the district court. The clerk thereafter shall notify the appropriate authorities of the victim's requests. Notice thereafter shall be given to the victim at the address provided unless the victim subsequently provides a different address. The victim's address shall be kept confidential by the court except for carrying out the provisions of this chapter.

(3) The provisions of this section shall apply equally to the immediate families of homicide victims or immediate families of victims of such youthful age or incapacity as precludes them from exercising these rights personally.

(4) Neither the failure of any state, county or municipal officer or employee to carry out the requirements of this section nor compliance with it shall subject the state or the officer or employee to liability in any civil action.

SECTION 4. That Section 19-5302, Idaho Code, be, and the same is hereby amended 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.

SECTION 5. That Section 16-1814, Idaho Code, as enacted by Section 10, Chapter 81, Session Laws of 1984, be, and the same is hereby amended to read as follows:

16-1814. DISPOSITION HEARING. (1) 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 an 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~~5. Order the proceeding expanded or altered to include consideration of the cause pursuant to chapter 16, title 16, Idaho Code;

~~7~~6. 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~~7. Order medical care or psychological examination and treatment for the child;

~~9~~8. Order such other terms, conditions, care or treatment as appears to the court will best serve the interests of the child and the community.

(2) Unless the court determines that an order of restitution would be inappropriate or undesirable, it shall order the child to pay restitution to any victim who suffers an economic loss as a result of the child's conduct in accordance with the standards and requirements of section 19-5304, Idaho Code.

SECTION 6. That Section 20-223, Idaho Code, be, and the same is

hereby amended to read as follows:

20-223. PAROLE, RULES AND REGULATIONS GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (a) The commission shall have the power to establish rules, regulations, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission; provided, however, that no person serving a life sentence or serving a term of thirty (30) or more years shall be eligible for release on parole until he has served at least ten (10) years and no person serving a lesser sentence for any of the following crimes; homicide in any degree, treason, rape by force or threat of bodily harm, incest, crime against nature, committing a lewd act upon a child, robbery of any kind, kidnapping, burglary when armed with a dangerous weapon, or with an attempt or assault with intent to commit any of said crimes, or as an habitual offender, shall be eligible for release on parole until said person has served a period of five (5) years or one-third (1/3) of the sentence, whichever is the least. The provisions of this section shall affect only those persons who are sentenced on or after the first day of July, 1980, and are not intended to repeal or amend sections 19-2513A, 19-2520 or 19-2520A, Idaho Code.

(b) No person serving a sentence for rape, incest, committing a lewd act upon a child, crime against nature, or with an intent or an assault with intent to commit any of the said crimes or whose history and conduct indicate to the commission that he is a sexually dangerous person, shall be released on parole except upon the examination and evaluation of one or more psychiatrists or psychologists to be selected by the commission and such evaluation shall be duly considered by the commission in making its parole determination. The commission may, in its discretion, likewise require a similar examination and evaluation for persons serving sentences for crimes other than those above enumerated. No psychiatrist or psychologist making such evaluation shall be held financially responsible to any person for denial of parole by the commission or for the results of the future acts of such person if he be granted parole.

(c) Before considering the parole of any prisoner, the commission shall afford the prisoner the opportunity to be interviewed. A parole shall be ordered only for the best interests of society, not as a reward of clemency and it shall not be considered to be a reduction of sentence or a pardon. A prisoner shall be placed on parole only when arrangements have been made for his employment or maintenance and care, and when the commission believes the prisoner is able and willing to fulfill the obligations of a law-abiding citizen. The commission may also by its rules, regulations, policies or procedures fix the times and conditions under which any application denied may be reconsidered.

(d) In making any parole or commutation decision with respect to a prisoner, the commission shall consider the compliance of the prisoner with any order of restitution which may have been entered accord-

ing to section 19-5304, Idaho Code. The commission may make compliance with such an order of restitution a condition of parole.

SECTION 7. That Section 19-5302, Idaho Code, be, and the same is hereby amended to read as follows:

19-5302~~3~~. 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 consrrued to require a law enforcement agency ro bear the expense of any medical treatment of the victim.

SECTION 8. That Section 19-3008, Idaho Code, be, and the same is hereby amended to read as follows:

19-3008. FEES AND MILEAGE OF WITNESSES. When a person shall attend before a grand jury, or the district court, as a witness, upon a subpoena, or pursuant to an undertaking, such person shall receive the same rate per mile as the state of Idaho pays for state employees pursuant to section 67-2008, Idaho Code, but no person can receive more than one (1) mileage under this section ~~at one (1) term of the district~~ per day of attendance in court; such person shall also receive eight dollars ($8.00) per day for each day's actual attendance as such witness and reasonable lodging expenses when approved in advance by the judge before whom the witness appears. Such mileage and per diem must be paid out of the county treasury of the county where such district court is held, upon the certificate of the clerk of said court: provided, however, that when a defendant in a criminal proceeding requires the attendance of more than five (5) witnesses in his behalf, before such witnesses shall be subpoenaed at the county's expense, or their fees and mileage be a charge against the county, such defendant must make affidavit setting forth that they are witnesses whose evidence is material to his defense, and that he can not safely go to trial without them. In such case the court, or the judge thereof, at any time application is made therefor, shall order a subpoena to issue to such of said witnesses as the court, or the judge thereof, may deem material for the defendant, and the costs incurred by the process and the fees and mileage of such witnesses shall be paid in the same manner that the costs and fees of other witnesses are paid.

SECTION 9. This act shall be in full force and effect on October 1, 1985, and shall apply to persons against whom a criminal complaint or juvenile petition is filed on or after October 1, 1985.

Approved March 20, 1985.

CHAPTER 123
(S.B. No. 1102)

AN ACT

RELATING TO SURFACE MINING PERFORMANCE BONDS; AMENDING SECTION 47-1512, IDAHO CODE, TO PROVIDE FOR A BOND IN AN AMOUNT SET BY THE BOARD TO BE THE ESTIMATED REASONABLE COSTS OF RECLAMATION PLUS TEN PERCENT OF COSTS; AND AMENDING SECTION 47-1513, IDAHO CODE, TO PROVIDE ADDITIONAL REMEDIES IN THE EVENT OF AN OPERATOR'S FAILURE TO COMPLY WITH RECLAMATION REQUIREMENTS.

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

SECTION 1. That Section 47-1512, Idaho Code, be, and the same is hereby amended to read as follows:

47-1512. PERFORMANCE BOND -- REQUISITES. (a) Prior to conducting any surface mining operations on a mine panel covered by an approved reclamation plan, an operator shall submit to the board a bond meeting the requirements of this section. The penalty of the initial bond filed prior to conducting any surface mining operations on a mine panel shall be in ~~the amount necessary to insure the performance of the duties of the operator under this act~~ an amount determined by the board to be the estimated reasonable costs of reclamation required in this chapter, in the event of failure to reclaim by an operator, of affected lands proposed to be mined during the next calendar year plus ten percent (10%) of such costs as to the acreage of affected land designated by the operator pursuant to section 47-1506(a)(1)(vi), Idaho Code, and subsection (b) of this section, but in no event shall any bond submitted pursuant to this act exceed ~~seven hundred fifty~~ eighteen hundred dollars (~~$750~~$1,800) for any given acre of such affected land. The determination of the bond amount shall constitute a final decision subject to judicial review as set forth in subsection (a) of section 47-1514, Idaho Code. In lieu of any bond required hereunder, the operator may deposit cash and governmental securities with the board, in an amount equal to that of the required bond, on the conditions as prescribed in this section.

(b) Prior to the time that lands designated to become affected lands on a mine panel, in addition to those designated pursuant to section 47-1506(a)(1)(vi), Idaho Code, become affected land, the operator shall submit to the board a bond ~~as to such lands~~ meeting the requirements of section 47-1512(c), Idaho Code, and the penalty of such bond shall be in the amount necessary to insure the performance of the duties of the operator under this act as to such affected lands~~, but~~ actually proposed to be mined within the next calendar year. If additional acreage is subsequently proposed to be mined by an operator, the penalty of such bond shall be in an amount determined by the board to be the estimated reasonable costs of reclamation required by this chapter, in the event of failure to reclaim by an operator, of affected lands proposed to be mined during the next calendar year plus ten percent (10%) of such costs. Provided that in no event shall such

~~amount--exceed--seven--hundred-fifty-dollars-($750)~~ any bond submitted pursuant to this act exceed eighteen hundred dollars ($1,800) for any given acre of such affected land.

(c) Any bond required under this act to be filed with the board shall be in such form as the board prescribes, payable to the state of Idaho, conditioned that the operator shall faithfully perform all requirements of this act and comply with all rules and regulations of the board in effect as of the date of approval of the reclamation plan approved for said lands made in accordance with the provisions of this act. An operator may at any time file a single bond in lieu of separate bonds filed or to be filed pursuant to this act, provided that the penalty of such single bond shall be equal to the total of the penalties of the separate bonds being combined into a single bond. Further, any bond provided to an entity of the federal government that also meets the requirements in this section shall be deemed to be sufficient surety for the purposes of this act.

(d) A bond filed as above prescribed shall not be canceled by the surety, except after not less than ninety (90) days' notice to the board.

(e) If the license to do business in this state of any surety, upon a bond filed with the board pursuant to this act, shall be suspended or revoked, the operator, within thirty (30) days after receiving notice thereof from the board, shall substitute for such surety a good and sufficient corporate surety licensed to do business in this state or other surety acceptable to the board. Upon failure of the operator to make substitution of surety, the board shall have the right to enjoin the operator from conducting operations upon the lands covered by such bond until such substitution has been made.

(f) When an operator shall have completed all requirements under the provisions of this act as to any affected land, he shall notify the board. Within thirty (30) days after the receipt of such notice, the board shall notify the operator as to whether or not the reclamation performed meets the requirements of the reclamation plan pertaining to the land in question. Upon the determination by the board that the requirements of the reclamation plan in question have been met as to said lands, the amount of bond in effect as to such lands shall be reduced by an amount designated by the board to reflect the reclamation done.

(g) An operator may withdraw any land previously designated as affected land within a mine panel, provided that it is not already affected land, and in such event, he shall notify the board and the amount of the bond in effect as to the lands in that mine panel shall be reduced by an amount designated by the board as the amount which would have been necessary to reclaim such lands.

SECTION 2. That Section 47-1513, Idaho Code, be, and the same is hereby amended to read as follows:

47-1513. OPERATOR'S FAILURE TO COMPLY -- FORFEITURE OF BOND -- PENALTIES -- RECLAMATION FUND. (a) Whenever the board determines that an operator has not complied with the provisions of this act, the board ~~shall~~ may notify the operator of such noncompliance, and ~~shall~~

may by private conference, conciliation, and persuasion, endeavor to remedy such violation. In the event of a violation referred to in subsections (d) and (e) of this section, the board may proceed without an administrative action, hearing or decision to exercise the remedies set forth in said subsections. Additionally, no administrative action, hearing or decision shall be required from the Idaho board of health and welfare prior to the board proceeding under subsections (d) and (e) of this section. In the event of the failure of any conference, conciliation and persuasion to remedy any alleged violation, the board ~~shall~~ may cause to have issued and served upon the operator alleged to be committing such violation, a formal complaint which shall specify the provisions of this act which the operator allegedly is violating, and a statement of the manner in and the extent to which said operator is alleged to be violating this act, and shall require the operator so complained against to answer the charges of such formal complaint at a hearing before a hearing officer appointed by the board at a time not less than thirty (30) days after the date the operator receives notice of the complaint. The board shall issue subpoenas at the request of the director of the department of lands and at the request of the charged operator, and the matter shall be otherwise handled and conducted in accordance with sections 67-5209 through 67-5213, Idaho Code. The hearing officer shall, pursuant to said hearing, enter an order in accordance with section 67-5212, Idaho Code, which, if adverse to the operator, shall designate a time period within which corrective action should be taken. The time period designated shall be long enough to allow the operator, in the exercise of reasonable diligence, to rectify any failure to comply designated in said order. In the event that the operator takes such action as is necessary to comply with the order within the time period designated in said order, no further action shall be taken by the board to compel performance under the act.

(b) Upon request of the board, the attorney general shall institute proceedings to have the bond of an operator forfeited for the violation by the operator of an order entered pursuant to this section.

(c) The forfeiture of such bond shall fully satisfy all obligations of the operator to reclaim the affected land under the provisions of this act. If the violation involves an operator that has uot furnished a bond required by this act, or an operator that is not required to furnish a bond pursuant to this act, or an operator who violates this act by performing an act not included in the original approved reclamation plan, and such departure from the plan is not subsequently approved, such operator shall be subject to a civil penalty for his failure to comply with such order in the amount determined by the board to be the anticipated cost of reasonable reclamation of affected lands.

(d) Notwithstanding any other provisions of this act, the board may~~,--by--injunctive--procedures,-without-bond-or-undertaking,-proceed against-any-operator-who-is-conducting-surface-mining--or--exploration operations--without-first-obtaining-any-bond-required-of-such-operator pursuant-to-this-act,-and-may--further--proceed--by--legal--action--to recover--from-an-operator-who-is-conducting-surface-mining-or-explora-~~

~~tion-operations;~~ commence an action without bond or undertaking, in the name of the state of Idaho to enjoin any operator who is conducting operations without an approved reclamation plan required by section 47-1506, Idaho Code, or without the bond required by this act. The court, or a judge thereof at chambers, if satisfied from the complaint or by affidavits that such acts have been or are being committed, shall issue a temporary restraining order without notice or bond, enjoining the defendant, his agents, and employees from conducting such operations without said reclamation plan or bond. Upon a showing of good cause therefor, the temporary restraining order may require the defendant to perform reclamation of the mined area in conformity with sections 47-1509 and 47-1510, Idaho Code, pending final disposition of the action. The action shall then proceed as in other cases for injunctions. If it is established at trial that the defendant has operated without an approved reclamation plan or bond, the court shall enter, in addition to any other order, a decree enjoining the defendant, his agents and employees from thereafter conducting such activities or similar actions in violation of this act. The board may, in conjunction with its injunctive procedures, proceed in the same or in a separate action to recover from an operator who is conducting surface mining or exploration operations without the required plan or bond, the cost of performing the reclamation activities required by sections 47-1509 and 47-1510, Idaho Code, from any such operator who has not filed a bond to cover the cost of the reclamation required.

(e) ~~Additionally, injunctive relief to enjoin a surface mining operation shall be available to the board when, under an existing approved reclamation plan covered by a required bond, an operator violates the terms of the plan and the bond will not be sufficient to adequately reclaim the land if forfeited.~~ Notwithstanding any other provision of this act, the board may, without bond or undertaking and without any administrative action, hearing or decision, commence an action in the name of the state of Idaho (1) to enjoin a permitted surface mining operation when, under an existing approved plan, an operator violates the terms of the plan and where immediate and irreparable injury, loss or damage may result to the state and (2) to recover the penalties and to collect civil damages provided for by law.

(f) In addition to the ~~requirement~~ procedures set forth in subsections (a), (d) and (e) of this section ~~that the board notify an operator of noncompliance~~, and in addition to the civil penalty provided in subsection (c) of this section, any operator who violates any of the provisions of this act or regulations adopted pursuant thereto, or who fails to perform the duties imposed by these provisions, or who violates any determination or order promulgated pursuant to the provisions of this act, shall be liable to a civil penalty of not less than one five hundred dollars ($~~1~~500) nor more than one two thousand five hundred dollars ($~~1,~~02,500) for each day during which such violation continues, and in addition may be enjoined from continuing such violation. Such penalties shall be recoverable in an action brought in the name of the state of Idaho by the attorney general in the district court for the county where the violation, or some part thereof, occurs, or in the district court for the county wherein the defendant

resides. All sums recovered shall be placed in the state treasury and credited to the surface mining reclamation fund, which is hereby created, to be used to reclaim affected lands and to administer this act.

(g) Any person who wilfully and knowingly falsifies any records, information, plans, specifications, or other data required by the board or wilfully fails, neglects, or refuses to comply with any of the provisions of this act shall be guilty of a misdemeanor and shall be punished 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.

(h) This act shall apply only to bonds obtained subsequent to June 30, 1985.

Approved March 21, 1985.

CHAPTER 124
(S.B. No. 1104, As Amended)

AN ACT

RELATING TO GEOTHERMAL RESOURCES; AMENDING SECTION 47-1605, IDAHO CODE, TO PROVIDE THAT ROYALTIES BE PAID IN ADDITION TO ANNUAL RENTAL.

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

SECTION 1. That Section 47-1605, Idaho Code, be, and the same is hereby amended to read as follows:

47-1605. LEASES -- RENTAL ~~OR~~ AND ROYALTY. Geothermal resources leases shall be issued at an annual rental of not less than twenty-five cents (25¢) per acre, payable in advance and~~/or~~ a royalty which shall not be less than ten per centum (10%) of the geothermal resources produced from the lands under lease or the value thereof. The rentals and~~/or~~ the royalties specified in geothermal leases shall be fixed in any manner, including but not limited to competitive bidding, or according to any formula as the state board of land commissioners finds will maximize public benefits from such leases. Royalties shall be paid in addition to rental payments, at the discretion of the board of land commissioners.

Approved March 21, 1985.

CHAPTER 125
(S.B. No. 1133, As Amended)

AN ACT

RELATING TO OIL AND GAS LEASES ON STATE AND SCHOOL LANDS; AMENDING SECTION 47-805, IDAHO CODE, TO PROVIDE THAT ROYALTIES BE PAID IN ADDITION TO ANNUAL RENTAL.

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

SECTION 1. That Section 47-805, Idaho Code, be, and the same is hereby amended to read as follows:

47-805. ANNUAL RENTAL -- AMOUNT -- MINIMUM ROYALTY. Oil and gas leases shall be issued at an annual rental of not less than twenty-five cents (25¢) per acre, payable in advance, ~~which payment for any one (1) year shall be deducted from the royalties as they accrue for that year, which~~ and royalty on oil and gas lands shall not be less than twelve and one-half per cent (12 1/2%) of oil and/or gas produced and saved from said lands under said lease. Royalties shall be paid in addition to rental payments, at the discretion of the board of land commissioners.

Approved March 21, 1985.

CHAPTER 126
(S.B. No. 1162)

AN ACT

RELATING TO INTERVENORS BEFORE THE PUBLIC UTILITIES COMMISSION; AMENDING CHAPTER 6, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-617A, IDAHO CODE, TO PROVIDE THAT THE PUBLIC UTILITIES COMMISSION MAY ORDER PAYMENT OF ALL OR A PART OF THE COSTS OF INTERVENTION WHEN THE COMMISSION FINDS THAT THE INTERVENOR HAS MATERIALLY CONTRIBUTED TO THE COMMISSION'S DECISIONS.

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

SECTION 1. That Chapter 6, 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 61-617A, Idaho Code, and to read as follows:

61-617A. AWARD OF COSTS OF INTERVENTION. (1) It is hereby declared the policy of this state to encourage participation at all stages of all proceedings before the commission so that all affected customers receive full and fair representation in those proceedings.

(2) The commission may order any regulated electric, gas, water

or telephone utility with gross Idaho intrastate annual revenues exceeding one million five hundred thousand dollars ($1,500,000) to pay all or a portion of the costs of one or more parties for legal fees, witness fees, and reproduction costs, not to exceed a total for all intervening parties combined of twenty thousand dollars ($20,000) in any proceeding before the commission. The determination of the commission with regard to the payment of these expenses shall be based on the following considerations:

(a) A finding that the participation of the intervenor has materially contributed to the decision rendered by the commission; and

(b) A finding that the costs of intervention are reasonable in amount and would be a significant financial hardship for the intervenor; and

(c) The recommendation made by the intervenor differed materially from the testimony and exhibits of the commission staff; and

(d) The testimony and participation of the intervenor addressed issues of concern to the general body of users or consumers.

(3) Expenses awarded to qualifying intervenors shall be an allowable business expense in the pending rate case or, if the proceeding is not a rate case, in the utility's next rate case. Expenses awarded shall be chargeable to the class of customers represented by the qualifying intervenors.

(4) The commission may adopt rules and regulations for the implementation of this statute.

(5) The payment of expenses of intervenors who are in direct competition with a public utility involved in proceedings before the commission is prohibited.

Approved March 21, 1985.

CHAPTER 127
(H.B. No. 230)

AN ACT

RELATING TO TRAVEL AND TOURISM; AMENDING CHAPTER 47, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-4720, IDAHO CODE, TO REQUIRE THE DESIGN AND ERECTION OF TOURIST INFORMATION SIGNS BY THE IDAHO TRAVEL AND CONVENTION INDUSTRY COMMITTEE AND THE IDAHO TRANSPORTATION DEPARTMENT, TO PROVIDE THAT THE INFORMATION SIGNS CONTAIN DIRECTIONS AND INFORMATION REGARDING SCENIC ATTRACTIONS OR HISTORIC SITES IN IDAHO, TO REQUIRE THE INFORMATION SIGNS BE DESIGNATED IN ALL PLANNING REGIONS, TO REQUIRE A STUDY, TO REQUIRE THE IDAHO TRANSPORTATION DEPARTMENT TO ASSIST IN THE STUDY AND TO CONSTRUCT AND ERECT THE INFORMATION SIGNS ON THE STATE HIGHWAY SYSTEM, TO REQUIRE THE INFORMATION SIGNS TO BE ERECTED BY A CERTAIN DATE, TO PROVIDE FUNDING; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 47, 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 67-4720, Idaho Code, and to read as follows:

67-4720. TOURIST INFORMATION SIGNS. (1) There shall be established a series of uniform tourist information signs to be erected and placed in the rights of way of the primary highway system and the interstate highway system within the state of Idaho. Notwithstanding the provisions of chapter 28, title 40, Idaho Code, the committee shall have the authority to design the uniform tourist information signs. Their placement shall be made in accordance with the provisions of this section, and the provisions of section 131, title 23, U.S.C.

(2) The tourist information signs shall be uniform in design and contain specific information regarding the location of a scenic attraction or historical site which is nationally or regionally known and of outstanding interest to the traveling public.

(3) In order to expedite the placement of the information signs, the committee shall, upon the effective date of this act, commence a study to designate which scenic attractions and historic sites to highlight with information signs, and to determine their design, the information they are to contain, and any follow-through direction signs or trailblazer signs. The study shall incorporate recommendations from each region's populace and shall seek the cooperation of city, county and special road or highway districts. The study required under this section shall be completed and all decisions regarding design, content, and placement shall be made, on or before June 30, 1986, with a preliminary report on the study being completed by December 15, 1985.

(4) Upon completion of the study, the committee shall work in cooperation with the Idaho transportation department to determine information sign design, designation and placement. The Idaho transportation department shall supply expertise, technical information, or any other assistance the committee may require, regarding the design, designation and placement and construction of the information signs.

(5) The information signs required under this section on the state highway system, shall be constructed, erected and maintained by the Idaho transportation department according to the design and placement plans agreed upon by the Idaho transportation department and the committee as stated in subsection (4). Erection of the information signs shall be completed on or before July 1, 1990.

(6) All costs for the study required in this section, including the design and designation of information sign placement costs, shall be paid by the committee from monies in the Idaho travel and convention account created by section 67-4718, Idaho Code.

(7) Costs for the construction, erection and maintenance of the information signs on the state transportation system shall be paid by the Idaho transportation department from existing funds appropriated for the construction, maintenance, repair and traffic supervision for the highways of this state. However, no sign will be constructed that

will result in the loss or forfeiture of federal-aid highway funds. Any design used for this promotion cannot be used by other entities unless approved by the committee and the Idaho transportation department.

(8) As used in this section, the term "committee" shall refer to the Idaho travel and convention industry committee created by section 67-4712, 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 March 21, 1985.

CHAPTER 128
(H.B. No. 252, As Amended, As Amended)

AN ACT

RELATING TO MEDICAID PAYMENT FOR SKILLED AND INTERMEDIATE CARE FACILITIES BY THE DEPARTMENT OF HEALTH AND WELFARE; AMENDING SECTION 56-101, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 56-104, IDAHO CODE, TO LIMIT THE APPLICATION OF THE SECTION; AMENDING CHAPTER 1, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-108, IDAHO CODE, TO PROVIDE THE METHOD OF CALCULATION OF PROPERTY REIMBURSEMENT COSTS FOR FACILITIES THAT ARE NOT HOSPITAL-BASED; AMENDING CHAPTER 1, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-109, IDAHO CODE, TO PROVIDE A SCHEDULE FOR IMPLEMENTATION OF THE PROPERTY RENTAL RATE DETERMINATION; AMENDING SECTION 56-110, IDAHO CODE, TO CLARIFY THE COSTS TO BE CONSIDERED IN DETERMINING THE MONTHLY PROSPECTIVE PAYMENT; AMENDING SECTIONS 56-111, 56-112 AND 56-113, IDAHO CODE, TO STRIKE REFERENCES TO THE INVESTMENT LIMITATION; AMENDING SECTION 56-120, IDAHO CODE, TO EXCLUDE UTILITY COSTS FROM THE BASE RATE FOR HOSPITAL-BASED FACILITIES; AND AMENDING SECTION 56-121, IDAHO CODE, TO STRIKE REFERENCES TO THE INVESTMENT LIMITATION; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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.

(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.

(4) "Director" means the director of the department of health and welfare or his designee.

(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.

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

(8) "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.

(~~8~~9) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineeriog studies.

(~~9~~10) "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.,~~ working capital loans 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~~ July 1, 1984. Said loans or leases being subject to the tests of reasonableness, relationship to patient care and necessity.

(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.~~

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

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

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

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

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

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

(16) "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~~7~~) "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.

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

(16~~9~~) "Recipient" means an individual determined eligible by the director for the services provided in the state plan for medicaid.

(~~17~~20) "Utilities" shall mean all expenses for heat, electricity, water and sewer. Utilities shall be exempt from the percentile cap.

SECTION 2. That Section 56-104, Idaho Code, be, and the same is hereby amended to read as follows:

56-104. RECAPTURE OF DEPRECIATION FOR HOSPITAL-BASED FACILITIES. (a) Where depreciable assets that were used in the medicaid program by a hospital-based facility subsequent to January 1, 1982, and for which depreciation has been reimbursed by the director, are sold for an amount in excess of their net book value, depreciation so reimbursed shall be recaptured from the buyer of the facility in an amount equal to reimbursed depreciation or gain on the sale, whichever is less. Depreciation shall be recaptured in full if a sale of a depreciated facility takes place within the first five (5) years of seller's ownership after January 1, 1982. ~~For every year the asset is held beyond the first five (5) years, the total depreciation recaptured shall be reduced by ten percent (10%) per annum of total depreciation taken.~~

(b) Depreciation shall be recaptured by the director from the buyer of the facility over a period of time not to exceed five (5) years from the date of sale, with not less than one-fifth (1/5) of the total amount being recaptured for each year after such date.

(c) Leases of facilities entered into on or after the effective date of this subsection shall be reimbursed in the same manner as an owned asset, with recapture of depreciation being effected against the buyer of the facility in the case where the facility's assets are sold by the lessor of the facility. Leases in existence prior to the effective date of this subsection shall be reimbursed at the rate established prior to such date for each such lease. Renegotiated leases shall be reimbursed at established rates, plus a reasonable annual increase.

SECTION 3. That Chapter 1, 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 56-108, Idaho Code, and to read as follows:

56-108. PROPERTY REIMBURSEMENT -- FACILITIES WILL BE PAID A PROPERTY RENTAL RATE, PROPERTY TAXES AND REASONABLE PROPERTY INSURANCE. The provisions of this section shall not apply to hospital-based facilities which are subject to the provisions of section 56-120, Idaho Code. The provisions of this section are applicable to all other facilities. The property rental rate includes compensation for major movable equipment but not for minor movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. However, reimbursement for the cost of vehicles for patient transportation for intermediate care facilities for the mentally retarded shall be excluded from the property rental rate and shall be reimbursed according to provisions of health insurance manual 15 as promulgated by the U.S. department of health and human services. Prior to final audit, the director shall determine an interim rate that approximates the property rental rate. The property rental rate shall be determined as follows:

(1) Except as determined pursuant to this section and as modified by section 56-109, Idaho Code:

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

where:

(a) "Property base" = $9.24 (Property base = $6.01 for intermediate care facilities for the mentally retarded not designed for the care of nonambulatory patients as determined by the director.)

(b) "Change in building costs" = 1.0 from the effective date of this subsection through December 31, 1985. Thereafter "Change in building costs" will be adjusted for each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as of September of the prior year, published by the Marshall Swift Valuation Service.

(c) "Age of facility" = the director shall determine the effective age, in years, of the facility by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof shall be assigned an age of more than thirty (30) years.

(i) If adequate information is not submitted by the facility to document that the facility, or portion thereof, is never than thirty (30) years, the director shall set the effective age at thirty (30) years. Adequate documentation shall include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contracts, and original notes of indebtedness. The director shall compute an appropriate age for facilities when documentation is provided to reflect expenditures for building expansion or remodeling prior to the effective date of this section. The computation shall decrease the age of a facility by an amount consistent with the expenditure and the

square footage impacted and shall be calculated as follows:

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

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

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

(ii) The director shall adjust the effective age of a facility as a result of necessary major repairs, approved in advance, initiated after the effective date of this subsection, and completed prior to December 31, 1989. Such changes shall not increase the allowable property rental rate by more than one-half (1/2) of the difference between the initial property rental rate for the facility and the "property base" shown in paragraph (a) of this subsection.

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

(2) A "grandfathered rate" for existing facilities will be determined by dividing the audited allowable annual property costs, exclusive of taxes and insurance, for assets on hand as of January 1, 1985 by the total patient days in the period July 1, 1984 through June 30, 1985. The property rental rate will be the greater of the amount determined pursuant to subsection (1) of this section, or the grandfathered rate. The director shall adjust the grandfathered rate of a facility to compensate the owner for the cost of necessary major repairs, expansion or remodeling, initiated prior to April 1, 1985, and completed after January 1, 1985, but completed no later than December 31, 1985. Such changes shall not increase the allowable property rental rate by more than one-half (1/2) of the difference between the initial property rental rate and the property base shown in subsection (1)(a) of this section.

(3) The property rental rate per day of care paid to facilities with leases signed prior to March 30, 1981, will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1985, exclusive of taxes and

insurance when paid separately, divided by total patient days in the period June 30, 1983 through July 1, 1984. Where such leases contain provisions that bind the lessee to accept an increased rate, reimbursement shall be at a rate per day of care which reflects the increase in the lease rate. Where such leases bind the lessee to the lease and allow the rate to be renegotiated, reimbursement shall be at a rate per day of care which reflects an annual increase in the lease rate not to exceed the increase in the consumer price index for renters costs. After the effective date of this subsection, if such a lease is terminated or if the lease allows the lessee the option to terminate other than by purchase of the facility, the property rental rate shall become the amount determined by the formula in subsection (1) of this section as of the date on which the lease is or could be terminated.

(4) (a) In the event of a sale, except under the conditions of paragraph (b) of this subsection, the buyer shall receive the property rental rate, not modified by section 56-109, Idaho Code, if the seller was receiving a grandfathered rate. If the seller was receiving a rate other than a grandfathered rate, the buyer shall receive the seller's rate.

(b) In the event of a forced sale of a facility where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon his incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, not modified by section 56-109, Idaho Code, whichever is higher, but not exceeding the rate that would be due the seller.

SECTION 4. That Chapter 1, 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 56-109, Idaho Code, and to read as follows:

56-109. PROPERTY RENTAL RATE IMPLEMENTATION SCHEDULE. The property rental rate as defined in section 56-108, Idaho Code, shall be phased in through December 31, 1989. Facilities with existing rates equal to or greater than the property rental rate according to provisions of section 56-108, Idaho Code, shall not be phased in. The phase-in shall be implemented so that when the grandfathered rate as defined in section 56-108, Idaho Code, is below the property rental rate, the rate paid will be determined as follows:

(1) For the period ending December 31, 1985: grandfathered rate plus twenty percent (20%) of the difference between grandfathered rate and property rental rate.

(2) For the period January 1, 1986 through December 31, 1986: grandfathered rate plus forty percent (40%) of the difference between grandfathered rate and property rental rate.

(3) For the period January 1, 1987 through December 31, 1987: grandfathered rate plus sixty percent (60%) of the difference between grandfathered rate and property rental rate.

(4) For the period January 1, 1988 through December 31, 1988:

grandfathered rate plus eighty percent (80%) of the difference between grandfathered rate and property rental rate.

(5) For the period January 1, 1989 forward: property rental rate.

SECTION 5. 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, nonutility 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 rental rate plus projected property taxes, reasonable property insurance, and utility costs per ~~patient-day~~, to be determined by dividing its total projected property taxes, reasonable property insurance, 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~~ projected 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 differeuce 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 6. 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 7. 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 8. 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 9. 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 and utility costs) from the sum of total general, ancillary and routine service costs (excluding property and utility 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 and utility 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 10. 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~~ April 1, 1985, 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~~. The base rate for the facility shall be the base rate for the free-standing class. Thereafter, such determination for such facility shall be done in accordance with section 56-120, Idaho Code.

SECTION 11. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after April 1, 1985.

Approved March 21, 1985.

CHAPTER 129
(H.B. No. 315)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE OFFICE ON AGING, FOR FISCAL YEAR 1986.

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, 1985, through June 30, 1986.

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$102,700	$ 47,200	$ 694,400	$ 844,300
Office on Aging Account	302,800	185,400	3,866,300	4,354,500
TOTAL	$405,500	$232,600	$4,560,700	$5,198,800

Approved March 21, 1985.

CHAPTER 130
(H.B. No. 296)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE, DIVISION OF COMMUNITY REHABILITATION, FOR FISCAL YEAR 1986, 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 I, 1985 through June 30, 1986:

FROM:	
General Account	$24,308,200
Cooperative Welfare Account	15,831,700
Alcoholism Treatment Account	196,300
Medical Assistance Account	5,000
State Hospital North Income Account	376,000
State Hospital South Income Account	750,000
State Youth Training Center Income Account	370,800
TOTAL	$41,838,000

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, 1985 through June 30, 1986:

A. COMMUNITY MENTAL HEALTH SERVICES:

FROM:	
General Account	$ 4,515,500
Cooperative Welfare Account	2,089,900
TOTAL	$ 6,605,400

B. INSTITUTIONAL MENTAL HEALTH SERVICES/STATE HOSPITAL NORTH:

FROM:	
General Account	$ 1,613,900
Cooperative Welfare Account	596,100
Alcoholism Treatment Account	196,300
State Hospital North Income Account	376,000
TOTAL	$ 2,782,300

C. INSTITUTIONAL MENTAL HEALTH SERVICES/STATE HOSPITAL SOUTH:

FROM:	
General Account	$ 5,560,500
Cooperative Welfare Account	1,230,800
State Hospital South Income Account	750,000
TOTAL	$ 7,541,300

D. COMMUNITY DEVELOPMENTAL DISABILITY SERVICES:

FROM:	
General Account	$ 4,877,300
Cooperative Welfare Account	3,347,600
TOTAL	$ 8,224,900

E. INSTITUTIONAL DEVELOPMENTAL DISABILITY SERVICES:

FROM:	
General Account	$ 4,335,800
Medical Assistance Account	5,000
Cooperative Welfare Account	8,367,700
TOTAL	$12,708,500

F. STATE YOUTH SERVICES CENTER:

FROM:	
General Account	$ 3,405,200
Cooperative Welfare Account	199,600
State Youth Training Center Income Account	370,800
TOTAL	$ 3,975,600
GRAND TOTAL	$41,838,000

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.

Law Without Signature.

CHAPTER 131
(H.B. No. 24, As Amended in the Senate,
As Amended in the Senate)

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO INCORPORATE AMENDMENTS MADE TO THE INTERNAL REVENUE CODE BY CONGRESS IN 1984; DECLARING AN EMERGENCY AND PROVIDING A RETROACTIVE EFFECTIVE DATE.

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, 19845, except that amendments made to the Internal Revenue Code by the 1984 Tax Reform Act (P.L. 98-369) shall be in effect in defining the term "Internal Revenue Code" on and after the effective date of the changes to the Internal Revenue Code by that 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 to January 1, 1984.

Approved March 21, 1985.

CHAPTER 132
(H.B. No. 43)

AN ACT

RELATING TO CLAIMS FOR WAGES; AMENDING SECTION 45-610, IDAHO CODE, TO PROVIDE THAT AN EMPLOYEE MAY AUTHORIZE DIRECT DEPOSIT OF WAGES DUE OR TO BECOME DUE AND PROVIDING FOR REVOCATION OF SUCH AN AUTHORIZATION.

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

SECTION 1. That Section 45-610, Idaho Code, be, and the same is hereby amended to read as follows:

45-610. PAY PERIODS. 1. Every employer shall pay all wages due to

his employees at least once during each calendar month, on regular paydays designated in advance by the employer, in lawful money of the United States or with checks on banks where suitable arrangements are made for the cashing of such checks without charge to the employee. Nothing contained herein shall prohibit an employer from depositing wages due or to become due or an advance on wages to be earned in an account in a bank, savings and loan association or credit union of the employee's choice in the state, provided that the employee has voluntarily authorized such deposit. If the employee revokes such authorization for deposit, it shall be deemed terminated and the provisions herein relating to the payment of wages shall apply.

2. The end of the pay period for which payment is made on a regular payday shall be not more than seven (7) days before such regular payday; provided that if the regular payday falls on a nonworkday payment shall be made on a preceding workday.

3. The director may, upon application showing good and sufficient reasons, permit an employer to withhold payment of wages more than the seven (7) day period as specified in subsection 2 of this section.

Approved March 21, 1985.

CHAPTER 133
(H.B. No. 56)

AN ACT

RELATING TO OBEDIENCE TO TRAFFIC DIRECTIONS; AMENDING SECTION 49-1129, IDAHO CODE, TO PROVIDE THAT NO PERSON SHALL WILLFULLY FAIL OR REFUSE TO COMPLY WITH ANY LAWFUL ORDER OR DIRECTION OF ANY POLICE OFFICER, FIREMAN OR UNIFORMED ADULT SCHOOL CROSSING GUARD INVESTED BY LAW WITH AUTHORITY TO DIRECT, CONTROL OR REGULATE TRAFFIC; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 49-1129, Idaho Code, be, and the same is hereby amended to read as follows:

49-1129. OBEDIENCE TO TRAFFIC DIRECTION. No person shall willfully fail to or refuse to comply with any lawful order or direction of any police officer, fireman or uniformed adult school crossing guard invested by law with authority to direct, control or regulate traffic.

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 21, 1985.

CHAPTER 134
(H.B. No. 58)

AN ACT

RELATING TO LIMITED PARTNERSHIPS; AMENDING SECTION 53-249, IDAHO CODE, TO REQUIRE A FOREIGN LIMITED PARTNERSHIP TO SUBMIT TO THE SECRETARY OF STATE THE NAMES OF GENERAL AND LIMITED PARTNERS AND A CERTIFICATE OF LAWFUL STATUS FROM THE STATE IN WHICH IT IS LICENSED; AND AMENDING SECTION 53-262, IDAHO CODE, TO SET A FILING FEE.

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

SECTION 1. That Section 53-249, Idaho Code, be, and the same is hereby amended to read as follows:

53-249. ADMISSION OF FOREIGN LIMITED PARTNERSHIPS. Before transacting business in this state, a foreign limited partnership shall make application to the secretary of state. In order to be admitted, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed and verified by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to be authorized to transact business in this state;

(2) The state and date of its formation;

(3) The general characcer of the business it proposes to transact in this state;

(4) The name and address of any registered agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint; the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(5) The address of the office required to be maintained in the state of ita organization by the laws of that state or, if not so reqnired, of the principal office of the foreign limited partnership; and

(6) ~~If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and business addresses of the partners, a list of the names and addresses~~ The name and address of each general partner and of each limited partner whose contribution is equal to or greater than five per cent (5%) of the total contribution of all partners.

The application will be accompanied by a ~~copy of the certificate or agreement of limited partnership certified by the official with which the original is filed in the state in which the limited partnership is organized~~ certificate certifying to the lawful existence of the limited partnership, issued by the proper officer of the jurisdiction in which the certificate of limited partnership is filed or recorded.

SECTION 2. That Section 53-262, Idaho Code, be, and the same is hereby amended to read as follows:

53-262. FILING FEES. The secretary of state shall charge and collect for:

(a) Filing a certificate of limited partnership, sixty dollars ($60.00);

(b) Filing a certificate of amendment, twenty dollars ($20.00);

(c) Filing a certificate of cancellation, twenty dollars ($20.00);

(d) Filing a judicial decree of amendment or cancellation, twenty dollars ($20.00);

(e) Filing an application for registration as a foreign limited partnership, sixty dollars ($60.00);

(f) Filing a certificate of change or correction of an application for registration or filing a certified copy of an amendment to the certificate of limited partnership of a foreign limited partnership, twenty dollars ($20.00);

(g) Filing a statement of change of registered agent of a foreign limited partnership or its address, ten dollars ($10.00);

(h) Filing an application for withdrawal of a foreign limited partnership from the state, ten dollars ($10.00);

(i) Filing an application for a name reservation, or transfer thereof, ten dollars ($10.00);

(j) Filing any other statement, ten dollars ($10.00);

(k) Filing any document relating to a limited partnership, when the filing party requires the evidence thereof to be returned within eight (8) working hours, a surcharge of ten dollars ($10.00).

Approved March 21, 1985.

CHAPTER 135
(H.B. No. 60)

AN ACT

RELATING TO THE UNIFORM COMMERCIAL CODE; REPEALING SECTIONS 28-8-102, 28-8-105, 28-8-204, 28-8-301, 28-B-308, 28-8-312, 28-8-313 AND 28-8-320, IDAHO CODE; AMENDING PARTS 1, 2, 3 AND 4, CHAPTER 8, TITLE 28, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 28-8-102, 28-8-105, 28-8-108, 28-8-204, 28-8-301, 28-8-308, 28-8-312, 28-8-313, 28-8-320, 28-8-321, 28-8-407 AND 28-8-408, IDAHO CODE, TO PROVIDE DEFINITIONS; TO PROVIDE THAT CERTIFICATED SECURITIES ARE NEGOTIABLE INSTRUMENTS, TO PROVIDE THAT STATEMENTS AND INSTRUCTIONS ARE NOT NEGOTIABLE, AND PROVIDING PRESUMPTIONS; TO PROVIDE FOR REGISTRATION OF PLEDGES AND RELEASE OF UNCERTIFICATED SECURITIES; TO PROVIDE CIRCUMSTANCES WHERE AN ISSUER'S RESTRICTIONS ON THE TRANSFER OF A SECURITY IS EFFECTIVE; TO PROVIDE RIGHTS ACQUIRED BY PURCHASER; TO PROVIDE FOR INDORSEMENTS AND

INSTRUCTIONS; TO PROVIDE THE EFFECT OF A GUARANTEEING SIGNATURE, INDORSEMENT OR INSTRUCTION; TO DESCRIBE WHEN A TRANSFER TO A PURCHASER OCCURS, TO PROVIDE WHEN A FINANCIAL INSTITUTION CAN BE A BONA FIDE PURCHASER, AND TO DEFINE A FINANCIAL INTERMEDIARY; TO PROVIDE THAT A TRANSFER OR PLEDGE MAY BE MADE WITHIN A CENTRAL DEPOSITORY SYSTEM; TO PROVIDE FOR THE ENFORCEABILITY, ATTACHMENT, PERFECTION AND TERMINATION OF SECURITY INTERESTS; TO PROVIDE FOR THE EXCHANGEABILITY OF SECURITIES; AND TO PROVIDE STATEMENTS OF UNCERTIFICATED SECURITIES; AMENDINC SECTION 28-8-103, IDAHO CODE, TO PROVIDE THE CIRCUMSTANCES WHERE AN ISSUER'S LIEN ON A SECURITY IS VALID AGAINST THE PURCHASER; AMENDING SECTION 28-B-104, IDAHO CODE, TO COMPEL THE ISSUER TO TRANSFER A CERTIFICATED SECURITY OR REGISTER THE TRANSFER OF AN UNCERTIFICATED SECURITY IF SUCH TRANSFER DOES NOT CONSTITUTE AN OVERISSUE; AMENDING SECTION 28-8-106, IDAHO CODE, TO PROVIDE THE CONTROLLING LAW AND THE TRANSACTIONS CONTROLLED BY THE LAW; AMENDING SECTION 28-8-107, IDAHO CODE, TO DELETE OBSOLETE LANGUAGE, AND TO PROVIDE FOR THE TRANSFER OF UNCERTIFICATED SECURITIES; AMENDING SECTION 28-8-201, IDAHO CODE, TO FURTHER DEFINE THE TERM "ISSUER"; AMENDING SECTION 28-8-202, IDAHO CODE, TO PROVIDE TERMS FOR UNCERTIFICATED SECURITIES, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TRANSACTION STATEMENTS AND TO PROVIDE WHEN A SECURITY IS VALID ALTHOUGH DEFECTIVE; AMENDING SECTION 28-8-203, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES; AMENDING SECTION 28-8-205, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TRANSACTION STATEMENTS; AMENDING SECTION 28-8-206, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TRANSACTION STATEMENTS, AND TO PROVIDE INSTANCES WHERE A TRANSACTION STATEMENT IS VALID EVEN IF INCOMPLETE OR ALTERED; AMENDING SECTION 28-8-207, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TO ESTABLISH THE RIGHTS AND DUTIES OF AN ISSUER WITH RESPECT TO REGISTERED PLEDGEES; AMENDING SECTION 28-8-208, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TRANSACTION STATEMENTS; AMENDING SECTION 28-8-302, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES, TO PROVIDE DEFINITIONS AND TO DESCRIBE THE TITLE OBTAINED BY A BONA FIDE PURCHASER; AMENDING SECTION 28-8-304, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TO PROVIDE WHEN A PURCHASER IS CHARGED WITH NOTICE OF ADVERSE CLAIMS; AMENDING SECTION 28-8-305, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES; AMENDING SECTION 28-8-306, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TO PROVIDE WARRANTIES OR ORIGINATORS OF INSTRUCTIONS; AMENDING SECTIONS 28-8-307, 28-8-309 AND 28-8-310, IDAHO CODE, TO PROVIDE A REFERENCE TO CERTIFICATED SECURITIES; AMENDING SECTION 28-8-311, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITY AND PLEDGEE, AND TO PROVIDE THE EFFECT OF AN UNAUTHORIZED INSTRUCTION; AMENDING SECTION 28-8-314, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED AND UNCERTIFICATED SECURITIES, TO STRIKE OBSOLETE LANGUAGE, TO PROVIDE WHEN THE DUTY TO TRANSFER IS FULFILLED, AND WHEN THE DUTY TO TRANSFER IS UNFULFILLED; AMENDING SECTION 28-8-315, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED AND UNCERTIFICATED SECURITIES, AND TO

PROVIDE REMEDIES FOR UNLAWFUL TRANSFERS; AMENDING SECTION 28-8-316, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED AND UNCERTIFICATED SECURITIES, AND TO PROVIDE THE RIGHT TO HAVE A PLEDGE OR RELEASE REGISTERED; AMENDING SECTION 28-8-317, IDAHO CODE, TO PROVIDE CREDITORS' RIGHTS; AMENDING SECTION 28-8-318, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED AND UNCERTIFICATED SECURITIES AND TO HOLD BLAMELESS AN AGENT WHO SELLS OR TRANSFERS UNCERTIFICATED SECURITIES OVER WHICH HE HAD NO CONTROL; AMENDING SECTION 28-8-319, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED AND UNCERTIFICATED SECURITIES AND TO TRANSACTION STATEMENTS AND WHEN CONTRACTS RELATING TO SUCH DOCUMENTS ARE ENFORCEABLE; AMENDING SECTION 28-8-401, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TO PROVIDE FOR AN ISSUER'S DUTY TO REGISTER A PLEDGE, RELEASE OR INSTRUCTION; AMENDING SECTION 28-8-402, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TO PROVIDE FOR ASSURANCE THAT AN INSTRUCTION IS EFFECTIVE; AMENDING SECTION 28-8-403, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TO PROVIDE FOR AN ISSUER'S DUTY AS TO ADVERSE CLAIMS WITH RESPECT TO CERTIFICATED AND UNCERTIFICATED SECURITIES; AMENDING SECTION 28-8-404, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES AND TO PROVIDE PROCEDURES WHEN THE ISSUER HAS IMPROPERLY REGISTERED A SECURITY; AMENDING SECTION 28-8-405, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED AND UNCERTIFICATED SECURITIES, AND TO PROVIDE REMEDIES TO THE ISSUER IF A SECURITY IS LOST, DESTROYED OR STOLEN; AMENDING SECTION 28-8-406, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED AND UNCERTIFICATED SECURITIES AND TO PROVIDE FOR DUTIES OF AGENTS WHO REGISTER TRANSFERS, PLEDGES AND RELEASES OF UNCERTIFICATED SECURITIES; AMENDING SECTION 28-9-103, IDAHO CODE, TO PROVIDE A REFERENCE TO UNCERTIFICATED SECURITIES, AND TO PROVIDE WHICH LAW GOVERNS THE PERFECTION OR NONPERFECTION OF UNCERTIFICATED SECURITIES; AMENDING SECTION 28-9-105, IDAHO CODE, TO PROVIDE A DEFINITION OF A CERTIFICATED SECURITY INTEREST IN A SECURITY; AMENDING SECTION 28-9-203, IDAHO CODE, TO PROVIDE A REFERENCE TO A SECURITY INTEREST IN SECURITIES; AMENDING SECTION 28-9-302, IDAHO CODE, TO EXEMPT FROM THE FILING REQUIREMENT A SECURITY INTEREST IN SECURITIES; AMENDING SECTION 28-9-304, IDAHO CODE, TO PROVIDE REFERENCES TO CERTIFICATED SECURITIES; AMENDING SECTION 28-9-305, IDAHO CODE, TO PROVIDE A REFERENCE TO CERTIFICATED SECURITIES; AMENDING SECTION 28-9-309, IDAHO CODE, TO PROVIDE PROTECTION TO PURCHASERS OF SECURITIES AND TO CORRECT A REFERENCE; AND AMENDING SECTION 28-9-312, IDAHO CODE, TO PROVIDE A PRIORITY FOR PERFECTED INTERESTS IN SECURITIES WHEN FUTURE ADVANCES ARE MADE.

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

SECTION 1. That Sections 28-8-102, 28-8-105, 28-8-204, 28-8-301, 28-8-308, 28-8-312, 28-8-313 and 28-8-320, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Part 1, Chapter 8, 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 28-8-102, Idaho Code, and to read as follows:

28-8-102. DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this chapter, unless the context otherwise requires:

(a) A "certificated security" is a share, participation, or other interest in property of or an enterprise of the issuer or an obligation of the issuer which is

(i) represented by an instrument issued in bearer or registered form;

(ii) of a type commonly dealt in on securities exchanges or markets or commonly recognized io any area in which it is issued or dealt in as a medium for investment; and

(iii) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(b) An "uncertificated security" is a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is

(i) not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) of a type commonly dealt in on securities exchanges or markets; and

(iii) either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.

(c) A "security" is either a certificated or an uncertificated security. If a security is certificated, the terms "security" and "certificated security" may mean either the intangible interest, the instrument representing that interest, or both, as the context requires. A writing that is a certificated security is governed by this chapter and not by chapter 3, even though it also meets the reqnirements of that chapter. This chapter does not apply to money. If a certificated security has been retained by or surrendered to the issuer or its transfer agent for reasons other than registration of transfer, other temporary purpose, payment, exchange, or acquisition by the issuer, that security shall be treated as an uncertificated security for purposes of this chapter.

(d) A certificated security is in "registered form" if

(i) it specifies a person entitled to the security or the rights it represents; and

(ii) its transfer may be registered upon books maintained for that purpose by or on behalf of the issner, or the security so states.

(e) A certificated security is in "bearer form" if it runs to bearer according to its terms and not by reason of any indorsement.

(2) A "subseqnent purchaser" is a person who takes other than by original issue.

(3) A "clearing corporation" is a corporation registered as a "clearing agency" under the federal securities laws or a corporation:

(a) at least ninety percent (90%) of whose capital stock is held by or for one or more organizations, none of which, other than a national securities exchange or association, holds in excess of twenty percent (20%) of the capital stock of the corporation, and each of which is

(i) subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws;

(ii) a broker or dealer or investment company registered under the federal securities laws; or

(iii) a national securities exchange or association registered under the federal securities laws; and

(b) any remaining capital stock of which is held by individuals who have purchased it at or prior to the time of their taking office as directors of the corporation and who have purchased only so much of the capital stock as is necessary to permit them to qualify as directors.

(4) A "custodian bank" is a bank or trust company that is supervised and examined by state or federal authority having supervision over banks and is acting as custodian for a clearing corporation.

(5) Other definitions applying to this chapter or to specified parts thereof and the sections in which they appear are:

"Adverse claim".	Section 28-8-302.
"Bona fide purchaser".	Section 28-8-302.
"Broker".	Section 28-8-303.
"Debtor".	Section 28-9-105.
"Financial intermediary".	Section 28-8-313.
"Guarantee of the signature".	Section 28-8-402.
"Initial transaction statement".	Section 28-8-408.
"Instruction".	Section 28-8-308.
"Intermediary bank".	Section 28-4-105.
"Issuer".	Section 28-8-201.
"Overissue".	Section 28-8-104.
"Secured party".	Section 28-9-105.
"Security agreement".	Section 28-9-105.

(6) In addition, chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 3. That Section 28-8-103, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-103. ISSUER'S LIEN. A lien upon a security in favor of an issuer thereof is valid against a purchaser only if ~~the right of the issuer to such lien is noted conspicuously on the security:~~

(a) the security is certificated and the right of the issuer to the lien is noted conspicuously thereon; or

(b) the security is uncertificated and a notation of the right of the issuer to the lien is contained in the initial transaction statement sent to the purchaser or, if his interest is transferred

to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

SECTION 4. That Section 28-8-104, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-104. EFFECT OF OVERISSUE -- "OVERISSUE." (1) The provisions of this chapter which validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue; but if:

(a) ~~if~~ an identical security which does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase ~~and deliver such a~~ the security for him and either to deliver a certificated security or to register the transfer of an uncertificated security to him, against surrender of the any certificated security~~, if any, which~~ he holds; or

(b) ~~if~~ a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand.

(2) "Overissue" means the issue of securities in excess of the amount ~~which~~ the issuer has corporate power to issue.

SECTION 5. That Part 1, Chapter 8, 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 28-8-105, Idaho Code, and to read as follows:

28-8-105. CERTIFICATED SECURITIES NEGOTIABLE -- STATEMENTS AND INSTRUCTIONS NOT NEGOTIABLE -- PRESUMPTIONS. (1) Certificated securities governed by this chapter are negotiable instruments.

(2) Statements (Section 28-8-408), notices, or the like, sent by the issuer of uncertificated securities and instructions (Section 28-8-308), are neither negotiable instruments nor certificated securities.

(3) In any action on a security:

(a) unless specifically denied in the pleadings, each signature on a certificated security, in a necessary indorsement, on an initial transaction statement, or on an instruction, is admitted;

(b) if the effectiveness of a signature is put in issue, the burden of establishing it is on the party claiming under the signature, but the signature is presumed to be genuine or authorized;

(c) if signatures on a certificated security are admitted or established, production of the security entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security;

(d) if signatures on an initial transaction statement are admitted or established, the facts stated in the statement are presumed to be true as of the time of its issuance; and

(e) after it is shown that a defense or defect exists, the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defense or defect is ineffective.

SECTION 6. That Section 28-8-106, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-106. APPLICABILITY. ~~The--validity--of--a--security--and--the rights-and-duties-of-the-issuer-with-respect-to-registration-of-transfer-are-governed-by-t~~The law (including the conflict of laws rules) of the jurisdiction of organization of the issuer governs the validity of a security, the effectiveness of registration by the issuer, and the rights and duties of the issuer with respect to:

(a) registration of transfer of a certificated security;

(b) registration of transfer, pledge, or release of an uncertificated security; and

(c) sending of statements of uncertificated securities.

SECTION 7. That Section 28-8-107, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-107. SECURITIES ~~DELIVERABLE~~ TRANSFERABLE -- ACTION FOR PRICE. (1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to ~~deliver~~ transfer securities may ~~deliver~~ transfer any certificated security of the specified issue in bearer form or registered in the name of the transferee, or indorsed to him or in blank, or he may transfer an equivalent uncertificated security to the transferee or a person designated by the transferee.

~~(2)~~ When If the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price of:

(a) ~~of~~ certificated securities accepted by the buyer; ~~and~~

(b) uncertificated securities that have been transferred to the buyer or a person designated by the buyer; and

(c) ~~of~~ other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

SECTION 8. That Part 1, Chapter 8, 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 28-8-108, Idaho Code, and to read as follows:

28-8-108. REGISTRATION OF PLEDGE AND RELEASE OF UNCERTIFICATED SECURITIES. A security interest in an uncertificated security may be evidenced by the registration of pledge to the secured party or a person designated by him. There can be no more than one (1) registered pledge of an uncertificated security at any time. The registered owner of an uncertificated security is the person in whose name the security is registered, even if the security is subject to a registered pledge. The rights of a registered pledgee of an uncertificated

security under this chapter are terminated by the registration of release.

SECTION 9. That Section 28-8-201, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-201. "ISSUER." (1) With respect to obligations on or defenses to a security "issuer" includes a person who:

(a) places or authorizes the placing of his name on a certificated security (otherwise than as authenticating trustee, registrar, transfer agent or the like) to evidence that it represents a share, participation, or other interest in his property or in an enterprise, or to evidence his duty to perform an obligation ~~evidenced~~ represented by the certificated security; or

(b) creates shares, participations, or other interests in his property or in an enterprise or undertakes obligations, which shares, participations, interests, or obligations are uncertificated securities;

(c) directly or indirectly creates fractional interests in his ~~rights~~ or property which fractional interests are ~~evidenced~~ represented by certificated securities; or

(~~c~~d) becomes responsible for or in place of any other person described as an issuer in this section.

(2) With respect to obligations on or defenses to a security, a guarantor is an issuer to the extent of his guaranty, whether or not his obligation is noted on the a certificated security or on statements of uncertificated securities sent pursuant to section 28-8-408.

(3) With respect to registration of transfer, pledge or release (Part 4 of this chapter), "issuer" means a person on whose behalf transfer books are maintained.

SECTION 10. That Section 28-8-202, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-202. ISSUER'S RESPONSIBILITY AND DEFENSES -- NOTICE OF DEFECT OR DEFENSE. (1) Even against a purchaser for value and without notice, the terms of a security include:

(a) if the security is certificated, those stated on the security;

(b) if the security is uncertificated, those contained in the initial transaction statement sent to such purchaser or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or registered pledgee; and

(c) those made part of the security by reference, on the certificated security or in the initial transaction statement, to another instrument, indenture or document or to a constitution, statute, ordinance, rule, regulation, order or the like, to the extent that the terms so referred to do not conflict with the ~~stated~~ terms stated on the certificated security or contained in the statement. ~~Such--a~~ A reference under this section does not of itself charge a purchaser for value with notice of a defect going to the validity

of the security, even though the certificated security or statement expressly states that a person accepting it admits such notice.

(2) ~~(a)~~ A certificated security ~~other--than--one--issued--by-a government-or-governmental-agency-or-unit-even-though--issued--with--a defect--going-to-its-validity-is-valid~~ in the hands of a purchaser for value ~~and~~ or an uncertificated security as to which an initial transaction statement has been sent to a purchaser for value, other than a security issued by a government or governmental agency or unit, even though issued with a defect going to its validity, is valid with respect to the purchaser if he is without notice of the particular defect unless the defect involves a violation of constitutional provisions in which case the security is valid ~~in-the-hands-of~~ with respect to a subsequent purchaser for value and without notice of the defect.

~~(b)--The-rule-of-subparagraph--(a)~~ This section applies to an issuer ~~which~~ that is a government or governmental agency or unit only if either there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(3) Except as otherwise provided in the case of certain unauthorized signatures ~~on-issue~~ (section 28-8-205), lack of genuineness of a certificated security or an initial transaction statement is a complete defense, even against a purchaser for value and without notice.

(4) All other defenses of the issuer of a certificated or uncertificated security, including nondelivery and conditional delivery of ~~the~~ a certificated security, are ineffective against a purchaser for value who has taken without notice of the particular defense.

(5) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security ~~which~~ that is the subject of the contract or in the plan or arrangement pursuant to which such the security is to be issued or distributed.

SECTION 11. That Section 28-8-203, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-203. STALENESS AS NOTICE OF DEFECTS OR DEFENSES. (1) After an act or event ~~which-creates~~ creating a right to immediate performance of the principal obligation ~~evidenced~~ represented by ~~the~~ a certificated security or ~~which~~ that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer if:

(a) ~~if~~ the act or event is one requiring the payment of money, or the delivery of certificated securities ~~or-both~~, the registration of transfer of uncertificated securities, or any of these on presentation or surrender of the certificated security ~~and-such~~, the funds or securities are available on the date set for payment or

exchange, and he takes the security more than one (1) year after that date; and

(b) ~~if~~ the act or event is not covered by paragraph (a) and he takes the security more than two (2) years after the date set for surrender or presentation or the date on which such performance became due.

(2) A call which has been revoked is not within subsection (1).

SECTION 12. That Part 2, Chapter 8, 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 28-8-204, Idaho Code, and to read as follows:

28-8-204. EFFECT OF ISSUER'S RESTRICTIONS ON TRANSFER. A restriction on transfer of a security imposed by the issuer, even if otherwise lawful, is ineffective against any person without actual knowledge of it unless:

(a) the security is certificated and the restriction is noted conspicuously thereon; or

(b) the security is uncertificated and a notation of the restriction is contained in the initial transaction statement sent to the person or, if his interest is transferred to him other than by registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

SECTION 13. That Section 28-8-205, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-205. EFFECT OF UNAUTHORIZED SIGNATURE ON ~~ISSUE~~ CERTIFICATED SECURITY OR INITIAL TRANSACTION STATEMENT. An unauthorized signature placed on a certificated security prior to or in the course of issue or placed on an initial transaction statement is ineffective except ~~that~~, but the signature is effective in favor of a purchaser for valne ~~and~~ of the certificated secnrity or a pnrchaser for valne of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the lack of authority ~~if~~ and the signing has been done by:

(a) an authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security, ~~or~~ of aimilar securities, or ~~their~~ of initial transaction statements or the immediate preparation for signing of any of them; or

(b) an employee of the issuer, or of any of the foregoing, entrusted with responsible handling of the security or initial transaction statement.

SECTION 14. That Section 28-8-206, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-206. COMPLETION OR ALTERATION OF ~~INSTRUMENT~~ CERTIFICATED SECURITY OR INITIAL TRANSACTION STATEMENT. (1) ~~Where~~ If a certificated

security contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

(a) any person may complete it by filling in the blanks as authorized; and

(b) even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness.

(2) A complete certificated security which that has been improperly altered, even though fraudulently, remains enforceable, but only according to its original terms.

(3) If an initial transaction statement contains the signatures necessary to its validity, but is incomplete in any other respect:

(a) any person may complete it by filling in the blanks as authorized; and

(b) even though the blanks are incorrectly filled in, the statement as completed is effective in favor of the person to whom it is sent if he purchased the security referred to therein for value and without notice of the incorrectness.

(4) A complete initial transaction statement that has been improperly altered, even though fraudulently, is effective in favor of a purchaser to whom it has been sent, but only according to its original terms.

SECTION 15. That Section 28-8-207, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-207. RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO REGISTERED OWNERS AND REGISTERED PLEDGEES. (1) Prior to due presentment for registration of transfer of a certificated security in registered form, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(2) Subject to the provisions of subsections (3), (4), and (6), the issuer or indenture trustee may treat the registered owner of an uncertificated security as the person exclusively entitled to vote, to receive notifications, and otherwise to exercise all the rights and powers of an owner.

(3) The registered owner of an uncertificated security that is subject to a registered pledge is not entitled to registration of transfer prior to the due presentment to the issuer of a release instruction. The exercise of conversion rights with respect to a convertible uncertificated security is a transfer within the meaning of this section.

(4) Upon due presentment of a transfer instruction from the registered pledgee of an uncertificated security, the issuer shall:

(a) register the transfer of the security to the new owner free of pledge, if the instruction specifies a new owner (who may be the registered pledgee) and does not specify a pledgee;

(b) register the transfer of the security to the new owner subject to the interest of the existing pledgee, if the instruction specifies a new owner and the existing pledgee; or

(c) register the release of the security from the existing pledge

and register the pledge of the security to the other pledgee, if the instruction specifies the existing owner and another pledgee.

(5) Continuity of perfection of a security interest is not broken by registration of transfer under subsection (4)(b) or by registration of release and pledge under subsection (4)(c), if the security interest is assigned.

(6) If an uncertificated security is subject to a registered pledge:

(a) any uncertificated securities issued in exchange for or distributed with respect to the pledged security shall be registered subject to the pledge;

(b) any certificated securities issued in exchange for or distributed with respect to the pledged security shall be delivered to the registered pledgee; and

(c) any money paid in exchange for or in redemption of part or all of the security shall be paid to the registered pledgee.

(~~2~~7) Nothing in this chapter shall be construed to affect the liability of the registered owner of a security for calls, assessments, or the like.

SECTION 16. That Section 28-8-208, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-208. EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE, REGISTRAR OR TRANSFER AGENT. (1) A person placing his signature upon a certificated security or an initial transaction statement as authenticating trustee, registrar, transfer agent, or the like, warrants to a purchaser for value of the certificated security or a purchaser for valne of an uncertificated security to whom the initial transaction statement has been sent, if the purchaser is without notice of the particular defect that:

(a) the certificated security or initial transaction statement is genuine; and

(b) his own participation in the issue or registration of the transfer, pledge or release of the security is within his capacity and within the scope of the ~~authorization~~ authority received by him from the issuer; and

(c) he has reasonable grounds to believe that the security is in the form and within the amount of the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility fnr the validity of the security in other respects.

SECTION 17. That Part 3, Chapter 8, 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 28-8-301, Idaho Code, and to read as follows:

28-8-301. RIGHTS ACQUIRED BY PURCHASER. (1) Upon transfer of a security to a purchaser (section 28-8-313), the purchaser acquires the rights in the security which his transferor had or had actual author-

ity to convey unless the purchaser's rights are limited by section 28-8-302(4).

(2) A transferee of a limited interest acquires rights only to the extent of the interest transferred. The creation or release of a security interest in a security is the transfer of a limited interest in that security.

SECTION 18. That Section 28-8-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-302. "BONA FIDE PURCHASER" -- "ADVERSE CLAIM" -- TITLE ACQUIRED BY BONA FIDE PURCHASER. (1) A "bona fide purchaser" is a purchaser for value in good faith and without notice of any adverse claim:

(a) who takes delivery of a certificated security in bearer form or ~~of one~~ in registered form, issued ~~to him~~ or indorsed to him or in blank;

(b) to whom the transfer, pledge, or release of an uncertificated security is registered on the books of the issuer; or

(c) to whom a security is transferred under the provisions of paragraph (c), (d)(i), or (g) of section 28-8-313(1).

(2) "Adverse claim" includes a claim that a transfer was or would be wrongful or that a particular adverse person is the owner of or has an interest in the security.

(3) A bona fide purchaser in addition to acquiring the rights of a purchaser (section 28-8-301) also acquires his interest in the security free of any adverse claim.

(4) Notwithstanding section 28-8-301(1), the transferee of a particular certificated security who has been a party to any fraud or illegality affecting the security, or who as a prior holder of that certificated security had notice of an adverse claim, cannot improve his position by taking from a bona fide purchaser.

SECTION 19. That Section 28-8-304, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-304. NOTICE TO PURCHASER OF ADVERSE CLAIMS. (1) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) of a certificated security is charged with notice of adverse claims if:

(a) the security, whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(b) the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor. The mere writing of a name on a security is not such a statement.

(2) A purchaser (including a broker for the seller or buyer, but excluding an intermediary bank) to whom the transfer, pledge, or release of an uncertificated security is registered is charged with notice of adverse claims as to which the issuer has a duty under section 28-8-403(4) at the time of registration and which are noted in

the initial transaction statement sent to the purchaser or, if his interest is transferred to him other than by a registration of transfer, pledge, or release, the initial transaction statement sent to the registered owner or the registered pledgee.

(3) The fact that the purchaser (including a broker for the seller or buyer) of a certificated or uncertificated security has notice that the security is held for a third person or is registered in the name of or indorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute constructive notice of adverse claims. ~~If,~~ ~~h~~However, if the purchaser (excluding an intermediary bank) has knowledge that the proceeds are being used or that the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

SECTION 20. That Section 28-8-305, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-305. STALENESS AS NOTICE OF ADVERSE CLAIMS. An act or event ~~which~~ that creates a right to immediate performance of the principal obligation ~~evidenced~~ represented by ~~the~~ a certificated security or ~~which~~ sets a date on or after which ~~the~~ a certificated security is to be presented or surrendered for redemption or exchange does not of itself constitute any notice of adverse claims except in the case of a ~~purchase~~ transfer:

(a) after one (1) year from any date set for ~~such~~ presentment or surrender for redemption or exchange; or

(b) after six (6) months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date.

SECTION 21. That Section 28-8-306, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-306. WARRANTIES ON PRESENTMENT AND TRANSFER OF CERTIFICATED SECURITIES -- WARRANTIES OF ORIGINATORS OF INSTRUCTIONS. (1) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment, or exchange. But, a purchaser for value without notice of adverse claims who receives a new, reissued, or re-registered certificated security on registration of transfer or receives an initial transaction statement confirming the registration of transfer of an equivalent uncertificated security to him warrants only that he has no knowledge of any unauthorized signature (section 28-8-311) in a necessary indorsement.

(2) A person by transferring a certificated security to a purchaser for value warrants only that:

(a) his transfer is effective and rightful; and

(b) the security is genuine and has not been materially altered; and

(c) he knows no fact which might impair the validity of the security.

(3) Where If a certificated security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against such delivery, the intermediary by such delivery warrants only his own good faith and authority, even though he has purchased or made advances against the claim to be collected against the delivery.

(4) A pledgee or other holder for security who redelivers the a certificated security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subsection (3).

(5) A person who originates an instruction warrants to the issuer that:

(a) he is an appropriate person to originate the instruction; and

(b) at the time the instruction is presented to the issuer he will be entitled to the registration of transfer, pledge, or release.

(6) A person who originates an instruction warrants to any person specially guaranteeing his signature (subsection 28-8-31 2(3)) that:

(a) he is an appropriate person to originate the instruction; and

(b) at the time the instruction is presented to the issuer

(i) he will be entitled to the registration of transfer, pledge, or release; and

(ii) the transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(7) A person who originates an instruction warrants to a purchaser for value and to any person guaranteeing the instruction (section 28-8-31 2(6)) that:

(a) he is an appropriate person to originate the instruction;

(b) the uncertificated security referred to therein is valid; and

(c) at the time the instruction is presented to the issuer

(i) the transferor will be entitled to the registration of transfer, pledge, or release;

(ii) the transfer, pledge, or release requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction; and

(iii) the requested transfer, pledge, or release will be rightful.

(8) If a secured party is the registered pledgee or the registered owner of an uncertificated security, a person who originates an instruction of release or transfer to the debtor or, after payment and on order of the debtor, a transfer instruction to a third person, warrants to the debtor or the third person only that he is an appropriate person to originate the instruction and, at the time the instruction is presented to the issuer, the transferor will be entitled to the registration of release or transfer. If a transfer instruction to a third person who is a purchaser for value is originated on order of the debtor, the debtor makes to the purchaser the warranties of paragraphs (b), (c)(ii) and (c)(iii) of subsection (7).

(9) A person who transfers an uncertificated security to a pur-

chaser for value and does not originate an instruction in connection with the transfer warrants only that:

(a) his transfer is effective and rightful; and

(b) the uncertificated security is valid.

(5~~10~~) A broker gives to his customer and to the issuer and a purchaser the applicable warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker, acting as an agent are in addition to applicable warranties given by and in favor of his customer.

SECTION 22. That Section 28-8-307, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-307. EFFECT OF DELIVERY WITHOUT INDORSEMENT -- RIGHT TO COMPEL INDORSEMENT. Where If a certificated security in registered form has been delivered to a purchaser without a necessary indorsement he may become a bona fide purchaser only as of the time the indorsement is supplied~~,~~; but against the transferor, the transfer is complete upon delivery aod the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

SECTION 23. That Part 3, Chapter 8, 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 28-8-308, Idaho Code, and to read as follows:

28-8-308. INDORSEMENTS -- INSTRUCTIONS. (1) An indorsement of a certificated security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or his signature is written without more upon the back of the security.

(2) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies to whom the security is to be transferred, or who has power to transfer it. A holder may convert a blank indorsement into a special indorsement.

(3) An indorsement purporting to be only of part of a certificated security representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(4) An "instruction" is an order to the issuer of an uncertificated security requesting that the transfer, pledge, or release from pledge of the uncertificated security specified therein be registered.

(5) An instruction originated by an appropriate person is:

(a) a writing signed by an appropriate person; or

(b) a communication to the issuer in any form agreed upon in a writing signed by the issuer and an appropriate person.

If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed even though it has been completed incorrectly.

(6) "An appropriate persoo" in subsection (1) means the person

specified by the certificated security or by special indorsement to be entitled to the security.

(7) "An appropriate person" in subsection (5) means:

(a) for an instruction to transfer or pledge an uncertificated security which is then not subject to a registered pledge, the registered owner; or

(b) for an instruction to transfer or release an uncertificated security which is then subject to a registered pledge, the registered pledgee.

(8) In addition to the persons designated in subsections (6) and (7), "an appropriate person" in subsections (1) and (5) includes:

(a) if the person designated is described as a fiduciary but is no longer serving in the described capacity, either that person or his successor;

(b) if the persons designated are described as more than one (1) person as fiduciaries and one or more are no longer serving in the described capacity, the remaining fiduciary or fiduciaries, whether or not a successor has been appointed or qualified;

(c) if the person designated is an individual and is without capacity to act by virtue of death, incompetence, infancy, or otherwise, his executor, administrator, guardian, or like fiduciary;

(d) if the persons designated are described as more than one person as tenants by the entirety or with right of survivorship and by reason of death all cannot sign, the survivor or survivors;

(e) a person having power to sign under applicable law or controlling instrument; and

(f) to the extent that the person designated or any of the foregoing persons may act through an agent, his authorized agent.

(9) Unless otherwise agreed, the indorser of a certificated security by his indorsement or the originator of an instruction by his origination assumes no obligation that the security will be honored by the issuer but only the obligations provided in section 28-8-306.

(10) Whether the person signing is appropriate is determined as of the date of signing and an indorsement made by or an instruction originated by him does not become unauthorized for the purposes of this chapter by virtue of any subsequent change of circumstances.

(11) Failure of a fiduciary to comply with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, pledge, or release, does not render his indorsement or an instruction originated by him unauthorized for the purposes of this chapter.

SECTION 24. That Section 28-8-309, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-309. EFFECT OF INDORSEMENT WITHOUT DELIVERY. An indorsement of a <u>certificated</u> security, whether special or in blank, does not constitute a transfer until delivery of the <u>certificated</u> security on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the <u>certificated</u> security.

SECTION 25. That Section 28-8-310, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-310. INDORSEMENT OF CERTIFICATED SECURITY IN BEARER FORM. An indorsement of a certificated security in bearer form may give notice of adverse claims (section 28-8-304) but does not otherwise affect any right to registration the holder may possesses.

SECTION 26. That Section 28-8-311, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-311. EFFECT OF UNAUTHORIZED INDORSEMENT OR INSTRUCTION. Unless the owner or pledgee has ratified an unauthorized indorsement or instruction or is otherwise precluded from asserting its ineffectiveness:

(a) he may assert its ineffectiveness against the issuer or any purchaser, other than a purchaser for value and without notice of adverse claims, who has in good faith received a new, reissued, or re-registered certificated security on registration of transfer or received an initial transaction statement confirming the registration of transfer, pledge, or release of an equivalent uncertificated security to him; and

(b) an issuer who registers the transfer of a certificated security upon the unauthorized indorsement or who registers the transfer, pledge, or release of an uncertificated security upon the unauthorized instruction is subject to liability for improper registration (section 28-8-404).

SECTION 27. That Part 3, Chapter 8, 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 28-8-312, Idaho Code, and to read as follows:

28-8-312. EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT OR INSTRUCTION. (1) Any person guaranteeing a signature of an indorser of a certificated security warrants that at the time of signing:

(a) the signature was genuine;

(b) the signer was an appropriate person to indorse (section 28-8-308); and

(c) the signer had legal capacity to sign.

(2) Any person guaranteeing a signature of the originator of an instruction warrants that at the time of signing:

(a) the signature was genuine;

(b) the signer was an appropriate person to originate the instruction (section 28-8-308) if the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security was, in fact, the registered owner or registered pledgee of the security, as to which fact the signature guarantor makes no warranty;

(c) the signer had legal capacity to sign; and

(d) the taxpayer identification number, if any, appearing on the

instruction as that of the registered owner or registered pledgee was the taxpayer identification number of the signer or of the owner or pledgee for whom the signer was acting.

(3) Any person specially guaranteeing the signature of the originator of an instruction makes not only the warranties of a signature guarantor (subsection (2)) but also warrants that at the time the instruction is presented to the issuer:

(a) the person specified in the instruction as the registered owner or registered pledgee of the uncertificated security will be the registered owner or registered pledgee; and

(b) the transfer, pledge, or release of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(4) The guarantor under subsections (1) and (2) or the special guarantor under subsection (3) does not otherwise warrant the rightfulness of the particular transfer, pledge, or release.

(5) Any person guaranteeing an indorsement of a certificated security makes not only the warranties of a signature guarantor under subsection (1) but also warrants the rightfulness of the particular transfer in all respects.

(6) Any person guaranteeing an instruction requesting the transfer, pledge, or release of an uncertificated security makes not only the warranties of a special signature guarantor under subsection (3) but also warrants the rightfulness of the particular transfer, pledge, or release in all respects.

(7) No issuer may require a special guarantee of signature (subsection (3)), a guarantee of indorsement (subsection (5)), or a guarantee of instruction (subsection (6)) as a condition to registration of transfer, pledge, or release.

(8) The foregoing warranties are made to any person taking or dealing with the security in reliance on the guarantee, and the guarantor is liable to the person for any loss resulting from breach of the warranties.

SECTION 28. That Part 3, Chapter 8, 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 28-8-313, Idaho Code, and to read as follows:

28-8-313. WHEN TRANSFER TO PURCHASER OCCURS -- FINANCIAL INTERMEDIARY AS BONA FIDE PURCHASER -- "FINANCIAL INTERMEDIARY". (1) Transfer of a security or a limited interest (including a security interest) therein to a purchaser occurs only:

(a) at the time he or a person designated by him acquires possession of a certificated security;

(b) at the time the transfer, pledge, or release of an uncertificated security is registered to him or a person designated by him;

(c) at the time his financial intermediary acquires possession of a certificated security specially indorsed to or issued in the name of the purchaser;

(d) at the time a financial intermediary, not a clearing corporation, sends him confirmation of the purchase and also by book entry or otherwise identifies as belonging to the purchaser:

(i) a specific certificated security in the financial intermediary's possession;

(ii) a quantity of securities that constitute or are part of a fungible bulk of certificated securities in the financial intermediary's possession or of uncertificated securities registered in the name of the financial intermediary; or

(iii) a quantity of securities that constitute or are part of a fungible bulk of securities shown on the account of the financial intermediary on the books of another financial intermediary;

(e) with respect to an identified certificated security to be delivered while still in the possession of a third person, not a financial intermediary, at the time that person acknowledges that he holds for the purchaser;

(f) with respect to a specific uncertificated security the pledge or transfer of which has been registered to a third person, not a financial intermediary, at the time that person acknowledges that he holds for the purchaser;

(g) at the time appropriate entries to the account of the purchaser or a person designated by him on the books of a clearing corporation are made under section 28-8-320;

(h) with respect to the transfer of a security interest where the debtor has signed a security agreement containing a description of the security, at the time a written notification, which, in the case of the creation of the security interest, is signed by the debtor (which may be a copy of the security agreement) or which, in the case of the release or assignment of the security interest created pursuant to this paragraph, is signed by the secured party, is received by:

(i) a financial intermediary on whose books the interest of the transferor in the security appears;

(ii) a third person, not a financial intermediary, in possession of the security, if it is certificated;

(iii) a third person, not a financial intermediary, who is the registered owner of the security, if it is uncertificated and not subject to a registered pledge; or

(iv) a third person, not a financial intermediary, who is the registered pledgee of the security, if it is uncertificated and subject to a registered pledge;

(i) with respect to the transfer of a security interest where the transferor has signed a security agreement containing a description of the security, at the time new value is given by the secured party; or

(j) with respect to the transfer of a security interest where the secured party is a financial intermediary and the security has already been transferred to the financial intermediary under paragraphs (a), (b), (c), (d), or (g), at the time the transferor has signed a security agreement containing a description of the security and value is given by the secured party.

(2) The purchaser is the owner of a security held for him by a financial intermediary, but cannot be a bona fide purchaser of a security so held except in the circumstances specified in paragraphs (c), (d)(i), and (g) of subsection (1). If a security so held is part of a fungible bulk, as in the circumstances specified in paragraphs (d)(ii) and (d)(iii) of subsection (1), the purchaser is the owner of a proportionate property interest in the fungible bulk.

(3) Notice of an adverse claim received by the financial intermediary or by the purchaser after the financial intermediary takes delivery of a certificated security as a holder for value or after the transfer, pledge, or release of an uncertificated security has been registered free of the claim to a financial intermediary who has given value is not effective either as to the financial intermediary or as to the purchaser. However, as between the financial intermediary and the purchaser the purchaser may demand transfer of an equivalent security as to which no notice of adverse claim has been received.

(4) A "financial intermediary" is a bank, broker, clearing corporation, or other person (or the nominee of any of them), which in the ordinary course of its business maintains security accounts for its customers and is acting in that capacity. A financial intermediary may have a security interest in securities held in account for its customer.

SECTION 29. That Section 28-8-314, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-314. DUTY TO ~~DELIVER~~ TRANSFER, WHEN COMPLETED. (1) Unless otherwise agreed where, if a sale of a security is made on an exchange or otherwise through brokers:

(a) the selling customer fulfills his duty to ~~deliver when~~ transfer at the time he:

(i) places ~~such a~~ certificated security in the possession of ~~the~~ selling broker or ~~of~~ a person designated by the broker; or

(ii) causes an uncertificated security to be registered in the name of the selling broker or a person designated by the broker;

(iii) if requested, causes an acknowledgement to be made to the selling broker that ~~it~~ a certificated or uncertificated security is held for ~~him~~ the broker; and or

(iv) places in the possession of the selling broker or of a person designated by the broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within thirty (30) days thereafter; and

(b) ~~T~~the selling broker, including a correspondent broker acting for a selling customer, fulfills his duty to ~~deliver by placing~~ the transfer at the time he:

(i) places a certificated security ~~or a like security~~ in the possession of the buying broker or a person designated by ~~him or by effecting~~ the buying broker;

(ii) causes an uncertificated security to be registered in the name of the buying broker or a person designated by the buying broker;

(iii) places in the possession of the buying broker or of a person designated by the buying broker a transfer instruction for an uncertificated security, providing the issuer does not refuse to register the requested transfer if the instruction is presented to the issuer for registration within thirty (30) days thereafter; or

(iv) effects clearance of the sale in accordance with the rules of the exchange on which the transaction took place.

(2) Except as otherwise provided in this section and or unless otherwise agreed, a transferor's duty to deliver transfer a security under a contract of purchase is not fulfilled until he:

(a) places the a certificated security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgment to be made to the purchaser that it is held for him;

(b) causes an uncertificated security to be registered in the name of the purchaser or a person designated by the purchaser; or

(c) if the purchaser requests, causes an acknowledgment to be made to the purchaser that a certificated or uncertificated security is held for the purchaser.

(3) Unless made on an exchange, a sale to a broker purchasing for his own account is within this subsection (2) and not within subsection (1).

SECTION 30. That Section 28-8-315, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-315. ACTION AGAINST PURCHASER TRANSFEREE BASED UPON WRONGFUL TRANSFER. (1) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, may as against anyone except a bona fide purchaser, may:

(a) reclaim possession of the certificated security or wrongfully transferred;

(b) obtain possession of any new certificated security evidencing representing all or part of the same rights;

(c) compel the origination of an instruction to transfer to him or a person designated by him an uncertificated security constituting all or part of the same rights; or

(d) have damages.

(2) If the transfer is wrongful because of an unauthorized indorsement of a certificated security, the owner may also reclaim or obtain possession of the security or new certificated security, even from a bona fide purchaser, if the ineffectiveness of the purported indorsement can be asserted against him under the provisions of this chapter on unauthorized indorsements (section 28-8-311).

(3) The right to obtain or reclaim possession of a certificated security or to compel the origination of a transfer instruction may be specifically enforced and its the transfer of a certificated or uncertificated security enjoined and the a certificated security

impounded pending the litigation.

SECTION 31. That Section 28-8-316, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-316. PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER, PLEDGE, OR RELEASE ON BOOKS. Unless otherwise agreed, the transferor ~~must~~ of a certificated security or the transferor, pledgor, or pledgee of an uncertificated security on due demand must supply his purchaser with any proof of his authority to transfer, pledge, or release or with any other requisite ~~which may be~~ necessary to obtain registration of the transfer, pledge, or release of the security; but if the transfer, pledge, or release is not for value, a transferor, pledgor, or pledgee need not do so unless the purchaser furnishes the necessary expenses. Failure within a reasonable time to comply with a demand made ~~within a reasonable time~~ gives the purchaser the right to reject or rescind the transfer, pledge, or release.

SECTION 32. That Section 28-8-317, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-317. ~~ATTACHMENT OR LEVY UPON SECURITY~~ CREDITORS' RIGHTS. (1) Subject to the exceptions in subsections (3) and (4), n~~N~~o attachment or levy upon a certificated security or any share or other interest ~~evidenced~~ represented thereby which is outstanding ~~shall be~~ is valid until the security is actually seized by the officer making the attachment or levy, but a certificated security which has been surrendered to the issuer may be ~~attached or levied upon at the source~~ reached by a creditor by legal process at the issuer's chief executive office in the United States.

(2) An uncertificated security registered in the name of the debtor may not be reached by a creditor except by legal process at the issuer's chief executive office in the United States.

(3) The interest of a debtor in a certificated security that is in the possession of a secured party not a financial intermediary or in an uncertificated security registered in the name of a secured party not a financial intermediary (or in the name of a nominee of the secured party) may be reached by a creditor by legal process upon the secured party.

(4) The interest of a debtor in a certificated security that is in the possession of or registered in the name of a financial intermediary or in an uncertificated security registered in the name of a financial intermediary may be reached by a creditor by legal process upon the financial intermediary on whose books the interest of the debtor appears.

(5) Unless otherwise provided by law, a creditor's lien upon the interest of a debtor in a security obtained pursuant to subsection (3) or (4) is not a restraint on the transfer of the security, free of the lien, to a third party for new value; but in the event of a transfer, the lien applies to the proceeds of the transfer in the hands of the secured party or financial intermediary, subject to any claims having priority.

(~~2~~6) A creditor whose debtor is the owner of a security ~~shall be~~ is entitled to ~~such~~ aid from courts of appropriate jurisdiction, by injunction or otherwise, in reaching ~~such~~ the security or io satisfying the claim by means ~~thereof as is~~ allowed at law or in equity in regard to property ~~which~~ that cannot readily be ~~attached or levied~~ upon reached by ordinary legal process.

SECTION 33. That Section 28-8-318, Idaho Code, be, and the same is hereby ameoded to read as follows:

28-8-318. NO CONVERSION BY GOOD FAITH ~~DELIVERY~~ CONDUCT. An agent or bailee who in good faith (including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities) has received certificated securities and sold, pledged~~,~~ or delivered them or has sold or caused the transfer or pledge of uncertificated securities over which he had control according to the instructions of his principal, is not liable for conversion or for participation in breach of fiduciary duty although the principal had no right ~~to dispose of them~~ so to deal with the securities.

SECTION 34. That Section 28-8-319, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-319. STATUTE OF FRAUDS. A contract for the sale of securities is not enforceable by way of action or defense unless:

(a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker, sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price; or

(b) delivery of ~~the~~ a certificated security or transfer instruction has been accepted, or transfer of an uncertificated security has been registered and the transferee has failed to send written objection to the issuer within ten (10) days after receipt of the initial transaction statement confirming the registration, or payment has been made, but the contract is enforceable under this proviaion only to the extent of ~~such~~ the delivery, registration, or payment; or

(c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sendoer under paragraph (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within ten (10) days after its receipt; or

(d) the party against whom enforcement is sought admits in his pleading, testimony, or otherwise in court that a contract was made for the sale of a stated quantity of described securities at a defined or stated price.

SECTION 35. That Part 3, Chapter 8, 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 28-8-320, Idaho Code, and to read as follows:

28-8-320. TRANSFER OR PLEDGE WITHIN CENTRAL DEPOSITORY SYSTEM. (1) In addition to other methods, a transfer, pledge, or release of a security or any interest therein may be effected by the making of appropriate entries on the books of a clearing corporation reducing the account of the transferor, pledgor, or pledgee and increasing the account of the transferee, pledgee, or pledgor by the amount of the obligation or the number of shares or rights transferred, pledge, or released, if the security is shown on the account of a transferor, pledgor, or pledgee on the books of the clearing corporation; is subject to the control of the clearing corporation; and

(a) if certificated,

(i) is in the custody of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them; and

(ii) is in bearer form or indorsed in blank by an appropriate person or registered in the name of the clearing corporation, a custodian bank, or a nominee of any of them; or

(b) if uncertificated, is registered in the name of the clearing corporation, another clearing corporation, a custodian bank, or a nominee of any of them.

(2) Under this section, entries may be made with respect to like securities or interests therein as a part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number, or the like, and, in appropriate cases, may be on a net basis taking into account other transfers, pledges, or releases of the same security.

(3) A transfer under this section is effective (section 28-8-313) and the purchaser acquires the rights of the transferor (section 28-8-301). A pledge or release under this section is the transfer of a limited interest. If a pledge or the creation of a security interest is intended, the security interest is perfected at the time when both value is given by the pledgee and the appropriate entries are made (section 28-8-321). A transferee or pledgee under this section may be a bona fide purchaser (section 28-8-302).

(4) A transfer or pledge under this section is not a registration of transfer under part 4.

(5) That entries made on the books of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries or the liabilities or obligations of the clearing corporation to any person adversely affected thereby.

SECTION 36. That Part 3, Chapter 8, 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 28-8-321, Idaho Code, and to read as follows:

28-8-321. ENFORCEABILITY, ATTACHMENT, PERFECTION AND TERMINATION OF SECURITY INTERESTS. (1) A security interest in a security is enforceable and can attach only if it is transferred to the secured party or a person designated by him pursuant to a provision of section 28-8-313(1).

(2) A security interest so transferred pursuant to agreement by a

transferor who has rights in the security to a transferee who has given value is a perfected security interest, but a security interest that has been transferred solely under paragraph (i) of section 28-8-313(1) becomes unperfected after twenty-one (21) days unless, within that time, the requirements for transfer under any other provision of section 28-8-313(1) are satisfied.

(3) A security interest in a security is subject to the provisions of chapter 9, but:

(a) no filing is required to perfect the security interest; and

(b) no written security agreement signed by the debtor is necessary to make the security interest enforceable, except as provided in paragraph (h), (i), or (j) of section 28-8-313(1). The secured party has the rights and duties provided under section 28-9-207, to the extent they are applicable, whether or not the security is certificated, and, if certificated, whether or not it is in his possession.

(4) Unless otherwise agreed, a security interest in a security is terminated by transfer to the debtor or a person designated by him pursuant to a provision of section 28-8-313(1). If a security is thus transferred, the security interest, if not terminated, becomes unperfected unless the security is certificated and is delivered to the debtor for the purpose of ultimate sale or exchange or presentation, collection, renewal, or registration of transfer. In that case, the security interest becomes unperfected after twenty-one (21) days unless, within that time, the security (or securities for which it has been exchanged) is transferred to the secured party or a person designated by him pursuant to a provision of section 28-8-313(1).

SECTION 37. That Section 28-8-401, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-401. DUTY OF ISSUER TO REGISTER TRANSFER, PLEDGE, OR RELEASE. (1) Where If a certificated security in registered form is presented to the issuer with a request to register transfer~~,~~ or an instruction is presented to the issuer with a request to register transfer, pledge, or release, the issuer ~~is under a duty to~~ shall register the transfer, pledge, or release as requested if:

(a) the security is indorsed or the instruction was originated by the appropriate person or persons (section 28-8-308); and

(b) reasonable assurance is given that those indorsements or instructions are genuine and effective (section 28-8-402); and

(c) the issuer has no duty as to ~~inquire into~~ adverse claims or has discharged ~~any such~~ the duty (section 28-8-403); and

(d) any applicable law relating to the collection of taxes has been complied with; and

(e) the transfer, pledge, or release is in fact rightful or is to a bona fide purchaser.

(2) Where If an issuer is under a duty to register a transfer, pledge, or release of a security, the issuer is also liable to the person presenting ~~it~~ a certificated security or an instruction for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the

transfer, pledge, or release.

SECTION 38. That Section 28-8-402, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-402. ASSURANCE THAT INDORSEMENTS AND INSTRUCTIONS ARE EFFECTIVE. (1) The issuer may require the following assurance that each necessary indorsement of a certificated security or each instruction (section 28-8-308) is genuine and effective:

(a) in all cases, a guarantee of the signature (subsection (1) or (2) of section 28-8-312) of the person indorsing a certificated security or originating an instruction including, in the case of an instruction, a warranty of the taxpayer identification number or, in the absence thereof, other reasonable assurance of identity; and

(b) where if the indorsement is made or the instruction is originated by an agent, appropriate assurance of authority to sign;

(c) where if the indorsement is made or the instruction is originated by a fiduciary, appropriate evidence of appointment or incumbency;

(d) where if there is more than one (1) fiduciary, reasonable assurance that all who are required to sign have done so; and

(e) where if the indorsement is made or the instruction is originated by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility provided such standards if they are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subsection (1) means:

(a) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within sixty (60) days before the date of presentation for transfer, pledge, or release; or

(b) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of such a that document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to such the evidence provided such standards if they are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph (b) except to the extent that the contents relate directly to the appointment or incumbency.

(4) The issuer may elect to require reasonable assurance beyond that specified in this section, but if it does so and, for a purpose other than that specified in subsection (3)(b), both requires and

obtains a copy of a will, trust, indenture, articles of copartnership, by-laws or other controlling instrument, it is charged with notice of all matters contained therein affecting the transfer, pledge, or release.

SECTION 39. That Section 28-8-403, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-403. ~~LIMITED~~ ISSUER'S DUTY ~~OF INQUIRY~~ AS TO ADVERSE CLAIMS. (1) An issuer to whom a certificated security is presented for registration ~~is under a duty to~~ shall inquire into adverse claims if:

(a) a written notification of an adverse claim is received at a time and in a manner ~~which~~ affordsing the issuer a reasonable opportunity to act on it prior to the issuance of a new, reissued, or re-registered certificated security, and the notification identifies the claimant, the registered owner, and the issue of which the security is a part, and provides an address for communications directed to the claimant; or

(b) the issuer is charged with notice of an adverse claim from a controlling instrument ~~which~~ it has elected to require under subsection (4) of section 28-8-402.

(2) The issuer may discharge any duty of inquiry by any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or if there be no such address, at his residence or regular place of business, that the certificated security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty (30) days from the date of mailing the notification, either:

(a) an appropriate restraining order, injunction, or other process issues from a court of competent jurisdictiou; or

(b) there is filed with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved, from any loss ~~which~~ it or they may suffer by complying with the adverse claim ~~is filed with the issuer~~.

(3) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under subsection (4) of section 28-8-402 or receives notification of an adverse claim under subsection (1) ~~of this section, where~~ if a certificated security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular:

(a) an issuer registering a certificated security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship, and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;

(b) an issuer registering transfer on an indorsement by a fidu-

ciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(c) the issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee.

(4) An issuer is under no duty as to adverse claims with respect to an uncertificated security except:

(a) claims embodied in a restraining order, injunction, or other legal process served upon the issuer if the process was served at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);

(b) claims of which the issuer has received a written notification from the registered owner or the registered pledgee if the notification was received at a time and in a manner affording the issuer a reasonable opportunity to act on it in accordance with the requirements of subsection (5);

(c) claims (including restrictions on transfer not imposed by the issuer) to which the registration of transfer to the present registered owner was subject and were so noted in the initial transaction statement sent to him; and

(d) claims as to which an issuer is charged with notice from a controlling instrument it has elected to require under subsection (4) of section 28-8-402.

(5) If the issuer of an uncertificated security is under a duty as to an adverse claim, he discharges that duty by:

(a) including a notation of the claim in any statements sent with respect to the security under subsections (3), (6), and (7) of section 28-8-408; and

(b) refusing to register the transfer or pledge of the security unless the nature of the claim does not preclude transfer or pledge subject thereto.

(6) If the transfer or pledge of the security is registered subject to an adverse claim, a notation of the claim must be included in the initial transaction statement and all subsequent statements sent to the transferee and pledgee under section 28-8-408.

(7) Notwithstanding subsections (4) and (5), if an uncertificated security was subject to a registered pledge at the time the issuer first came under a duty as to a particular adverse claim, the issuer has no duty as to that claim if transfer of the security is requested by the registered pledgee or an appropriate person acting for the registered pledgee unless:

(a) the claim was embodied in legal process which expressly provides otherwise;

(b) the claim was asserted in a written notification from the registered pledgee;

(c) the claim was one as to which the issuer was charged with

notice from a controlling instrument it required under subsection (4) of section 28-8-402 in connection with the pledgee's request for transfer; or

(d) the transfer requested is to the registered owner.

SECTION 40. That Section 28-8-404, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-404. LIABILITY AND NONLIABILITY FOR REGISTRATION. (1) Except as otherwise provided in any law relating to the collection of taxes, the issuer is not liable to the owner, pledgee, or any other person suffering loss as a result of the registration of a transfer, pledge, or release of a security if:

(a) there were on or with the a certificated security the necessary indorsements or the issuer had received an instruction originated by an appropriate person (section 28-8-308); and

(b) the issuer had no duty as to inquire into adverse claims or has discharged any such the duty (section 28-8-403).

(2) Where If an issuer has registered a transfer of a certificated security to a person not entitled to it, the issuer on demand must shall deliver a like security to the true owner unless:

(a) the registration was pursuant to subsection (1); or

(b) the owner is precluded from asserting any claim for registering the transfer under subsection (1) of the following section 28-8-405; or

(c) such the delivery would result in overissue, in which case the issuer's liability is governed by section 28-8-104.

(3) If an issuer has improperly registered a transfer, pledge, or release of an uncertificated security, the issuer on demand from the injured party shall restore the records as to the injured party to the condition that would have obtained if the improper registration had not been made unless:

(a) the registration was pursuant to subsection (1); or

(b) the registration would result in overissue, in which case the issuer's liability is governed by section 28-8-104.

SECTION 41. That Section 28-8-405, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-405. LOST, DESTROYED, AND STOLEN CERTIFICATED SECURITIES. (1) Where If a certificated security has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving such a notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under the preceding section 28-8-404 or any claim to a new security under this section.

(2) Where If the owner of a certificated security claims that the security has been lost, destroyed, or wrongfully taken, the issuer must shall issue a new certificated security or, at the option of the issuer, an equivalent uncertificated security in place of the original security if the owner:

(a) so requests before the issuer has notice that the security has been acquired by a bona fide purchaser; and

(b) files with the issuer a sufficient indemnity bond; and

(c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of ~~the~~ a new certificated or uncertificated security, a bona fide purchaser of the original certificated security presents it for registration of transfer, the issuer ~~must~~ shall register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by section 28-8-104. In addition to any rights on the indemnity bond, the issuer may recover the new certificated security from the person to whom it was issued or any person taking under him except a bona fide purchaser or may cancel the uncertificated security unless a bona fide purchaser or any person taking under a bona fide purchaser is then the registered owner or registered pledgee thereof.

SECTION 42. That Section 28-8-406, Idaho Code, be, and the same is hereby amended to read as follows:

28-8-406. DUTY OF AUTHENTICATING TRUSTEE, TRANSFER AGENT OR REGISTRAR. (1) ~~Where~~ If a person acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its certificated securities or in the registration of transfers, pledges, and releases of its uncertificated securities, in the issue of new securities, or in the cancellation of surrendered securities:

(a) he is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and

(b) ~~he has~~ with regard to the particular functions he performs, he has the same obligation to the holder or owner of ~~the~~ a certificated security or to the owner or pledgee of an uncertificated security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other ~~such~~ agent is notice to the issuer with respect to the functions performed by the agent.

SECTION 43. That Part 4, Chapter 8, 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 28-8-407, Idaho Code, and to read as follows:

28-8-407. EXCHANGEABILITY OF SECURITIES. (1) No issuer is subject to the requirements of this section unless it regularly maintains a system for issuing the class of securities involved under which both certificated and uncertificated securities are regularly issued to the category of owners, which includes the person in whose name the new security is to be registered.

(2) Upon surrender of a certificated security with all necessary indorsements and presentation of a written request by the person surrendering the security, the issuer, if he has no duty as to adverse

claims or has discharged the duty (section 28-8-403), shall issue to the person or a person designated by him an equivalent uncertificated security subject to all liens, restrictions, and claims that were noted on the certificated security.

(3) Upon receipt of a transfer instruction originated by an appropriate person who so requests, the issuer of an uncertificated security shall cancel the uncertificated security and issue an equivalent certificated security on which must be noted conspicuously any liens and restrictions of the issner and any adverse claims (as to which the issuer has a duty under subsection (4) of section 28-8-403) to which the uncertificated security was subject. The certificated security shall be registered in the name of and delivered to:

(a) the registered owner, if the uncertificated security was not subject to a registered pledge; or

(b) the registered pledgee, if the uncertificated security was subject to a registered pledge.

SECTION 44. That Part 4, Chapter 8, 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 28-8-408, Idaho Code, and to read as follows:

28-8-408. STATEMENTS OF UNCERTIFICATED SECURITIES. (1) Within two (2) business days after the transfer of an uncertificated security has been registered, the issuer shall send to the new registered owner and, if the security has been transferred subject to a registered pledge, to the registered pledgee a written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the number of shares or units transferred;

(c) the name and address and any taxpayer identification number of the new registered owner and, if the security has been transferred subject to a registered pledge, the name and address and any taxpayer identification number of the registered pledgee;

(d) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty nnder subsection (4) of section 28-8-403) to which the uncertificated secnrity is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) the date the transfer was registered.

(2) Within two (2) business days after the pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the registered pledgee a written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the number of shares or units pledged;

(c) the name and address and any taxpayer identification number of the registered owner and the registered pledgee;

(d) a notatioo of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under sub-

section (4) of section 28-8-403) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) the date the pledge was registered.

(3) Within two (2) business days after the release from pledge of an uncertificated security has been registered, the issuer shall send to the registered owner and the pledgee whose interest was released a written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the number of shares or units released from pledge;

(c) the name and address and any taxpayer identification number of the registered owner and the pledgee whose interest was released;

(d) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subsection (4) of section 28-8-403) to which the uncertificated security is or may be subject at the time of registration or a statement that there are none of those liens, restrictions, or adverse claims; and

(e) the date the release was registered.

(4) An "initial transaction statement" is the statement sent to:

(a) the new registered owner and, if applicable, to the registered pledgee pursuant to subsection (1);

(b) the registered pledgee pursuant to subsection (2); or

(c) the registered owner pursuant to subsection (3).

Each initial transaction statement shall be signed by or on behalf of the issuer and must be identified as "initial transaction statement."

(5) Within two (2) business days after the transfer of an uncertificated security has been registered, the issuer shall send to the former registered owner and the former registered pledgee, if any, a written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the number of shares or units transferred;

(c) the name and address and any taxpayer identification number of the former registered owner and of any former registered pledgee; and

(d) the date the transfer was registered.

(6) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered owner, the issuer shall send to the registered owner of each uncertificated security a dated written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the name and address and any taxpayer identification number of the registered owner;

(c) the number of shares or units of the uncertificated security registered in the name of the registered owner on the date of the statement;

(d) the name and address and any taxpayer identification number

of any registered pledgee and the number of shares or units subject to the pledge; and

(e) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subsection (4) of section 28-8-403) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(7) At periodic intervals no less frequent than annually and at any time upon the reasonable written request of the registered pledgee, the issuer shall send to the registered pledgee of each uncertificated security a dated written statement containing:

(a) a description of the issue of which the uncertificated security is a part;

(b) the name and address and any taxpayer identification number of the registered owner;

(c) the name and address and any taxpayer identification number of the registered pledgee;

(d) the number of shares or units subject to the pledge; and

(e) a notation of any liens and restrictions of the issuer and any adverse claims (as to which the issuer has a duty under subsection (4) of section 28-8-403) to which the uncertificated security is or may be subject or a statement that there are none of those liens, restrictions, or adverse claims.

(8) If the issuer sends the statements described in subsections (6) and (7) at periodic intervals no less frequent than quarterly, the issuer is not obliged to send additional statements upon request unless the owner or pledgee requesting them pays to the issuer the reasonable cost of furnishing them.

(9) Each statement sent pursuant to this section must bear a conspicuous legend reading substantially as follows: "This statement is merely a record of the rights of the addressee as of the time of its issuance. Delivery of this statement, of itself, confers no rights on the recipient. This statement is neither a negotiable instrument nor a security."

SECTION 45. That Section 28-9-103, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-103. PERFECTION OF SECURITY INTERESTS IN MULTIPLE STATE TRANSACTIONS. (1) Documents, instruments and ordinary goods. (a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in subsection (2), mobile goods described in subsection (3), and minerals described in subsection (5).

(b) Except as otherwise provided in this subsection, ~~the validity,~~ perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdictioo where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the

time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the ~~validity,~~ perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until thirty (30) days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty (30) day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by part 3 of this chapter to perfect the security interest,

(i) if the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four (4) months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) if the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii) for the purpose of priority over a buyer of consumer goods (subsection (2) of section 28-9-307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(2) Certificate of title. (a) This subsection applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, ~~the validity,~~ perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four (4) months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subsection (1).

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show

that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods. (a) This subsection applies to accounts (other than an account described in subsection (5) on minerals) and general intangibles other than uncertified securities and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subsection (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the ~~validity,~~ perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the ~~validity,~~ perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four (4) months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper. The rules stated for goods in subsection (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subsection (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals. ~~The validity,~~ Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) Uncertificated securities. The law, including the conflict of laws rules, of the jurisdiction of organization of the issuer governs the perfection and the effect of perfection or nonperfection of a security interest in uncertificated securities.

SECTION 46. That Section 28-9-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-105. DEFINITIONS AND INDEX OF DEFINITIONS. (1) In this chapter unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the chapter dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of chapter 1 (section 28-1-201), and a receipt of the kind described in subsection (2) of section 28-7-201;

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (section 28-9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also include standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

(i) "Instrument" means a negotiable instrument (defined in section 28-3-104), or a certificated security (defined in section 28-8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "Security agreement" means an agreement which creates or provides for a security interest;

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

(2) Other definitions applying to this chapter and the sections in which they appear are:

"Account."	Section 28-9-106.
"Attach."	Section 28-9-203.
"Construction mortgage."	Section 28-9-313(1).
"Consumer goods."	Section 28-9-109(1).
"Equipment."	Section 28-9-109(2).
"Farm products."	Section 28-9-109(3).
"Fixture."	Section 28-9-313(1).
"Fixture filing."	Section 28-9-313(1).
"General intangibles."	Section 28-9-106.
"Inventory."	Section 28-9-109(4).
"Lien creditor."	Section 28-9-301(3).
"Proceeds."	Section 28-9-306(1).
"Purchase money security interest."	Section 28-9-107.
"United States."	Section 28-9-103.

(3) The following definitions in other chapters apply to this chapter:

"Check."	Section 28-3-104.
"Contract for sale."	Section 28-2-106.
"Holder in due course."	Section 28-3-302.
"Note."	Section 28-3-104.
"Sale."	Section 28-2-106.

(4) In addition chapter 1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 47. That Section 28-9-203, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST -- PROCEEDS -- FORMAL REQUISITES. (1) Subject to the provisions of section 28-4-208~~,~~ on the security interest of a collecting bank, section 28-8-321 on security interest in securities and section 28-9-113~~,~~ on a security interest arising under the chapter on sales, a security interest is not enforceable against the debtor or third parties (with respect to the collateral and does not attach) unless:

(a) the collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned; and

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subsection (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed a security agreement gives the secured party the rights to proceeds provided by section 28-9-306.

(4) A transaction, although subject to this chapter, is also subject to the Uniform Consumer Credit Code and the credit unions statute, chapter 21, title 26, Idaho Code, and usury provisions, (sections 28-22-105, 28-22-106 and 28-22-107), and in the case of conflict between the provisions of this chapter and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein.

SECTION 48. That Section 28-9-302, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-302. WHEN FILING IS REQUIRED TO PERFECT SECURITY INTEREST -- SECURITY INTERESTS TO WHICH FILING PROVISIONS OF THIS CHAPTER DO NOT APPLY. (1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under section 28-9-305;

(b) a security interest temporarily perfected in instruments or

documents without delivery under section 28-9-304 or in proceeds for a 10 day period under section 28-9-306;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in section 28-9-313;

(e) an assignment of accounts which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) a security interest of a collecting bank (section 28-4-208) or in securities (section 28-8-321) or arising under the chapter on Sales (see section 28-9-113) or covered in subsection (3) of this section.

(g) an assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(h) A security interest in timber retained by the state of Idaho.

(2) If a secured party assigns a perfected security interest, no filing under this chapter is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this chapter is not necessary or effective to perfect a security interest in property subject to

(a) a statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this chapter for filing of the security interest; or

(b) chapter 4, title 49, Idaho Code, but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of part 4, chapter 9, title 28, apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subsection (2) of section 28-9-103).

(4) Compliance with a statute or treaty described in subsection (3) is equivalent to the filing of a financing statement under this chapter, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in section 28-9-103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this chapter.

(5) The filing provisions of this chapter do not apply to a security interest in personal property or fixtures of any utility company, as hereinafter defined, which security interest is created by a mortgage, deed of trust or other security agreement which also covers

real property situated in the state of Idaho and which has been filed for record in accordance with the laws of Idaho governing deeds of trust and mortgages on real property. Such security interest shall be perfected by such filing, whether such filing shall have been accomplished before or after the effective date set out in section 28-10-101; and such security interest shall be and remain effective, both as to the personal property or fixtures covered by the security interest at the time that it is perfected and as to personal property or fixtures which may subsequently be covered by the security interest under any after-acquired property provision of the mortgage, deed of trust, or other security agreement creating the security interest, as long as such mortgage, deed of trust or other security agreement shall remain in effect, without the necessity for any refiling under the provisions of this chapter 9.

Except as provided in the preceding paragraph of this subsection (5) notwithstanding anything in this chapter 9 or any other law to the contrary, the proper place to file a financing statement in order to perfect a security interest in personal property or fixtures of a utility company, as hereinafter defined, is in the office of the secretary of state; and the security interest covered by the financing statement shall continue perfected, both as to the personal property or fixtures covered by the security interest at the time that it is perfected and as to personal property or fixtures which may subsequently be covered by the security interest under any after-acquired property provision of the security agreement creating the security interest, without the necessity for any refiling or filing of a continuation statement under the provisions of this chapter 9, for as long as may be provided for in the security agreement creating the security interest. When the financing statement covers goods of a utility company as hereinafter defined, which goods are or are to become fixtures, no description of the real estate concerned or the name of the record owner or record lessee thereof is required.

A "utility company" shall mean any person, corporation, association, or other entity, foreign or domestic, primarily engaged in the railroad or street railway business; the ownership or operation of wires, or cables, used in the transmission or distribution of telephone, telegraph or television signals or any other information or data; the transmission or distribution of oil, gas or petroleum products by pipeline; or the generation, production, transmission or distribution of electric energy, steam, gas or water, whether its activities be interstate or intrastate.

SECTION 49. That Section 28-9-304, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-304. PERFECTION OF SECURITY INTEREST IN INSTRUMENTS, DOCUMENTS, AND GOODS COVERED BY DOCUMENTS -- PERFECTION BY PERMISSIVE FILING -- TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION. (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than certificated securities or instruments which constitute part of chattel paper) can be perfected only by the secured

party's taking possession, except as provided in subsections (4) and (5) of this section and subsections (2) and (3) of section 28-9-306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor, is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments, other than certificated securities, or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, (other than a certificated security), a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subsection (3) of section 28-9-312; or

(b) delivers the instrument to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21 day period in subsections (4) and (5) perfection depends upon compliance with applicable provisions of this chapter.

SECTION 50. That Section 28-9-305, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-305. WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING. A security interest in letters of credit and advices of credit (subsection (2)(a) of section 28-5-116), goods, instruments, (other than certificated securities), money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this chapter. The security interest may be otherwise perfected as provided in this chapter before

or after the period of possession by the secured party.

SECTION 51. That Section 28-9-309, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-309. PROTECTION OF PURCHASERS OF INSTRUMENTS AND DOCUMENTS AND SECURITIES. Nothing in this chapter limits the rights of a holder in due course of a negotiable instrument (section 28-3-302) or a holder to whom a negotiable document of title has been duly negotiated (section 28-7-501) or a bona fide purchaser of a security (section 28-8-30~~1~~2) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this chapter does not constitute notice of the security interest to such holders or purchasers.

SECTION 52. That Section 28-9-312, Idaho Code, be, and the same is hereby amended to read as follows:

28-9-312. PRIORITIES AMONG CONFLICTING SECURITY INTEREST IN THE SAME COLLATERAL. (1) The rules of priority stated in other sections of this part and in the following sections shall govern when applicable: section 28-4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 28-9-103 on security interests related to other jurisdictions; section 28-9-114 on consignments.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three (3) months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six (6) months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one (21) day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of section 28-9-304); and

(c) the holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inven-

tory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ten (10) days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchsse money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) conflicting security interests rank accordiug to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafater when there is neither filing nor perfection.

(b) so long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) s date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing or, the taking of possession, or under section 28-8-321 oo securities, the security interest hss the same priority for the purposes of subsection (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursnant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Approved March 21, 1985.

CHAPTER 136
(H.B. No. 61)

AN ACT

RELATING TO THE IDAHO TORT CLAIMS ACT; AMENDING SECTION 6-905, IDAHO CODE, TO INCREASE THE TIME LIMIT WHEN A CLAIM AGAINST THE STATE OF IDAHO OR AN EMPLOYEE OF THE STATE OF IDAHO ACTING IN THE SCOPE OR COURSE OF HIS EMPLOYMENT MUST BE FILED; AMENDING SECTION 6-906, IDAHO CODE, TO INCREASE THE TIME LIMIT WHEN A CLAIM AGAINST A POLITICAL SUBDIVISION OF THE STATE OF IDAHO OR AN EMPLOYEE OF A POLITICAL SUBDIVISION ACTING IN THE SCOPE OR COURSE OF HIS EMPLOYMENT MUST BE FILED; AND AMENDING SECTION 6-911, IDAHO CODE, TO PROVIDE THAT CLAIMS AGAINST GOVERNMENTAL ENTITIES PERMITTED UNDER THE IDAHO TORT CLAIMS ACT OR AGAINST GOVERNMENTAL EMPLOYEES SHALL

BE BARRED UNLESS AN ACTION IS BEGUN WITHIN TWO YEARS AFTER THE DATE THE CLAIM AROSE OR SHOULD HAVE BEEN DISCOVERED, WHICHEVER IS LATER.

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

SECTION 1. That Section 6-905, Idaho Code, be, and the same is hereby amended to read as follows:

6-905. FILING CLAIMS AGAINST STATE OR EMPLOYEE -- TIME. All claims against the state arising under the provisions of this act and all claims against an employee of the state for any act or omission of the employee within the course or scope of his employment shall be presented to and filed with the secretary of state within one hundred ~~twenty~~ eighty (~~120~~80) days from the date the claim arose or reasonably should have been discovered, whichever is later.

SECTION 2. That Section 6-906, Idaho Code, be, and the same is hereby amended to read as follows:

6-906. FILING CLAIMS AGAINST POLITICAL SUBDIVISION OR EMPLOYEE -- TIME. All claims against a political subdivison arising under the provisions of this act and all claims against an employee of a political subdivision for any act or omission of the employee within the course or scope of his employment shall be presented to and filed with the clerk or secretary of the political subdivision within one hundred ~~twenty~~ eighty (~~120~~80) days from the date the claim arose or reasonably should have been discovered, whichever is later.

SECTION 3. That Section 6-911, Idaho Code, be, and the same is hereby amended to read as follows:

6-911. LIMITATION OF ACTIONS. Every claim against a governmental entity permitted under the provisions of this act or against ~~is~~ an employee of a governmental entity shall be forever barred, unless an action is begun within two (2) years after the date the claim ~~is filed with the governmental entity~~ arose or reasonably should have been discovered, whichever is later.

Approved March 21, 1985.

CHAPTER 137
(H.B. No. 72)

AN ACT

RELATING TO THE PUBLIC WORKS CONTRACTORS LICENSE ACT; AMENDING SECTION 54-1904, IDAHO CODE, TO INCREASE THE MAXIMUM ESTIMATED CONTRACT COST AMOUNT OF EACH LICENSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 54-1904, Idaho Code, be, and the same is hereby amended to read as follows:

54-1904. CLASSES OF LICENSES -- RIGHTS GRANTED UNDER LICENSES -- FEES. There shall be five (5) classes of licenses issued under the provisions of this act which are hereby designated as Classes AAA, AA, A, B, and C, the maximum fees for which shall be as hereinafter specified and in lieu of all other license taxes. Each applicant for a license hereunder shall specify the class of license applied for in his application.

For the purpose of licensing public works contractors under this act the board may adopt rules and regulations necessary to determine the classification according to their responsibility, and the type and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as in this act provided.

Class "AAA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of more than $~~250~~1,000,000 may, upon his application and the payment of a license fee of not to exceed $125, be granted a Class "AAA" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "AAA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AAA" license shall not exceed $125.

Class "AA" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than $~~250~~1,000,000 may, upon his application and the payment of a license fee of not to exceed $100, be granted a Class "AA" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "AA" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "AA" license shall not exceed $100.

Class "A" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than $~~100~~250,000, may, upon his application and the payment of a license fee of not to exceed $75.00 he granted a Class "A" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "A" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "A" license shall not exceed $75.00.

Class "B" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than $~~50~~100,000, may, upon his application and the payment of a license fee of not to exceed $50.00, be granted a class "B" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "B" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "B"

license shall not exceed $50.00.

Class "C" license. Any contractor whose qualifications, ability and responsibility to execute contracts for public works involving an estimated cost of not more than $250,000, may, upon his application and the payment of a license fee of not to exceed $25.00, be granted a Class "C" license and be so classified by the board in accordance with the provisions of this act. The holder of a Class "C" license shall be entitled to engage in the public works contracting business in the state as provided in said license. The renewal fee for a Class "C" license shall not exceed $25.00.

The board shall be vested with the power to fix annually the amount of the original and renewal license fees for each class of license for the ensuing license year. The amount of the license fees so fixed shall not exceed the maximum fees set forth in this section.

Each license issued by the board shall clearly indicate the type and scope of work for which the licensee is qualified and licensed and the holder of the license shall be permitted to submit proposals for and perform only those types of work specified in each such license; provided, however, that the board may extend the permissible type or scope of work to be done under any license when it is determined by the board that the applicant meets all of the requirements of this act to qualify him to do such other work.

SECTION 2. This act shall be in full force and effect on and after January 1, 1986.

Approved March 21, 1985.

CHAPTER 138
(H.B. No. 76)

AN ACT

RELATING TO BONDED WAREHOUSES; AMENDING SECTION 69-202, IDAHO CODE, TO CLARIFY DEFINITIONS OF "CONTRACTS", "DEPOSITOR" AND "PRODUCER"; AMENDING SECTION 69-208, IDAHO CODE, TO PROVIDE AN ALTERNATIVE METHOD TO MEET BONDING REQUIREMENTS; AMENDING SECTION 69-208A, IDAHO CODE, TO AGREE WITH THE CANCELLATION PROCEDURES AS STIPULATED ON THE BOND FORM; AMENDING SECTION 69-209, IDAHO CODE, TO PROVIDE PROPER NOMENCLATURE; AMENDING SECTION 69-211, IDAHO CODE, TO INCREASE LICENSE RENEWAL FEES TO COMPLY WITH RECOMMENDATIONS FROM THE LEGISLATIVE AUDITOR; AMENDING SECTION 69-236, IDAHO CODE, TO CORRECT WORDING IN ITEM FOUR; AMENDING SECTION 69-241, IDAHO CODE, TO CORRECT A REFERENCE NUMBER; AND AMENDING SECTION 69-248, IDAHO CODE, TO STRIKE REFERENCE TO "COMMODITY DEALER" AS SUBJECT IS ADDRESSED IN SECTION 69-520, IDAHO CODE.

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

SECTION 1. That Section 69-202, Idaho Code, be, and the same is

hereby amended to read as follows:

69-202. DEFINITIONS. As used in this chapter:

(1) "Agricultural product" means any grain, dry peas, dry beans, leguminous or other small seeds and feeds (not including minerals).

(2) ~~"Credit-sale--contract"--means--a-contract-for-the-sale-of-an agricultural-product-pursuant-to-which-the-sale-price-is-to-be-paid-at a-date-subsequent-to-the-delivery-of-the-agricultural-product--to--the buyer--and--includes,--but-is-not-limited-to,-those-contracts-commonly referred-to-as-deferred-payment-contracts,-deferred-pricing--contracts and-price-later-contracts~~ "Contract" means a written agreement between two (2) or more parties for the sale of agricultural product stipulating the terms and conditions of performance of the parties and includes but is not limited to, those contracts commonly referred to as credit sales, deferred payment, deferred or price later contracts.

(3) "Department" means the Idaho department of agriculture.

(4) "Depositor" means any producer person who deposits an agricultural product in an Idaho state licensed warehouse for storage, handling, processing, reconditioning or shipment, or who is the owner or legal holder of a negotiable warehouse receipt, outstanding scale weight ticket, nonnegotiable warehouse receipt or other evidence of such deposit, or any producer person whose agricultural product has been sold to or is under control of a warehouseman for selling, processing, reconditioning or handling whether or not such agricultural product is within the warehouse.

(5) "Director" means the director of the department of agriculture.

(6) "Historical depositor" means any person who, in the normal course of business operation has consistently made deposits in the same warehouse of commodities produced on the same land. In addition, anyone purchasing or leasing that particular land directly from the original depositor or receiving that particular land by devise, descent, bequest or gift directly from the historical depositor shall also be considered an historical depositor with regard to the commodities produced on that land.

(7) "Person" means any individual, firm, association, corporation or partnership.

(8) "Producer" means any person who is the owner, tenant or operator of land ~~in-this-state~~ who has an interest in and receives all or part of the proceeds from the sale of agricultural products produced on that land.

(9) "Public warehouse" or "warehouse" means any elevator, mill, warehouse, subterminal grain warehouse, public warehouse or other structure or facility in which agricultural products are received for storage, shipment, processing, reconditioning or handling.

(10) "Receipt" means a warehouse receipt.

(11) "Revocation" means the permanent removal of a warehouse license following a hearing on violations of this act by the hearing officer or director.

(12) "Scale weight ticket" means a load slip or other evidence, other than a receipt, given to a depositor by a warehouseman licensed under the provisions of this chapter, upon initial delivery of the

commodity to the warehouse.

(13) "Subterminal warehouse" means any warehouse at which an intermediate function is performed in which agricultural products are customarily received from dealers rather than producers and where the commodities are accumulated prior to shipment.

(14) "Suspension" means the temporary removal of a warehouse license by the department pending a hearing for violations of this chapter. Correction of the violations prior to a hearing may result in the reinstatement of a license without a hearing.

(15) "Termination" means the expiration of a warehouse license due to failure to meet minimum licensing requirements, failure to renew a warehouse license or as requested by the licensee, unless a complaint has been filed against the licensee alleging a vinlation of any provision of this chapter.

(16) "Warehouse receipt" means every receipt, whether negotiable or nonnegotiable, issued by a werehouseman, except scale weight tickets.

(17) "Warehouseman" means a person operating or controlling a public warehouse.

SECTION 2. That Section 69-208, Idahn Code, be, and the same is hereby amended to read as follows:

69-208. BOND OF APPLICANT FOR LICENSE -- ADDITIONAL BOND -- ADDITIONAL OBLIGATIONS -- CERTIFICATE OF DEPOSIT IN LIEU OF BOND. Each warehouseman applying for a license to conduct a warehouse in accordance with this chapter shall, as a condition to the granting thereof, execute and file with the department ~~of agriculture~~ a good and sufficient bond other than personal security to the state to secure the faithful performance of his obligations as a warehouseman under all the laws of the state, and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, and shall contain such terms and conditions as the department ~~of agriculture~~ may prescribe to carry out the purposes of this chapter. Whenever the department ~~of agriculture~~ shall determine that a bond approved by it is, or for any cause has become, insufficient, it may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

The bond shall be approved by the department and shall be conditioned upon the faithful performance by the warehouseman of the duty to keep in the warehouse for the depositor the agricultural product delivered and to deliver the agricultural product to or for such depositors. The bond shall also be conditioned upon the faithful performance by the warehouseman of any additional obligations involving marketing transactions with a depositor.

The warehouseman may give a single bond meeting the requirements as provided in this chapter and all warehouses operated by the ware-

houseman shall be as one (1) warehouse for the purpose of compliance with the provisions of this section. Any changes in the capacity of a warehouse or installation of any new warehouses involving a change in the bond liability under the provisions of this chapter shall be reported to the department prior to the operation thereof.

Any person required to submit a bond to the department in accordance with this chapter, may at his option give to the department a certificate of deposit payable to the director as trustee in lieu of the bond required herein. The principal amount of the certificate shall be the same as that required for a surety bond pursuant to this chapter. Accrued interest upon the cerrificate of deposit shall be payable to the purchaser of the certificate. The certificate shall remain on file with the department until it is released, cancelled or discharged by the director. The provisions of this chapter that apply to a bond required pursuant to this chapter apply to each certificate of deposit given in lieu of such bond.

SECTION 3. Thar Section 69-208A, Idaho Code, be, and the same is hereby amended to read as follows:

69-208A. AMOUNT OF BOND -- CANCELLATION. The amount of bond to be furnished for each warehouse shall be fixed at a rate of twenty cents (20¢) per bushel of licensed capacity or six percent (6%) of the total value of the agricultural products stored, whichever is greater. In any case, the amount of the bond shall not be less than twenty-five thousand dollars ($25,000) and shall not be more than five hundred thousand dollars ($500,000). This bond shall run continuously with the warehouse license until suspended, revoked or cancelled by the bonding company. A ninety (90) day writteu notice shall be given to the department by the bonding company before any bond is suspended, revoked or cancelled. The director reserves the right to waive the ninety (90) day cancellation period.

SECTION 4. That Section 69-209, Idaho Code, be, and the same is hereby amended to read as follows:

69-209. ACTION ON BOND BY PERSONS INJURED. Any producer person injured by the breach of any obligation for which a bond is written, under the provisions of section 69-208, Idaho Code, shall be entitled to sue on the bond in his own name in a court of competent jurisdiction to recover the damages he may have sustained by such breach, or may petition the director to fix the amount of his damages. The director may thereupon make demand upon the warehouseman and his surety for payment of such damages and in the event such damages are not promptly paid the director may commence an action on the bond to enforce payment of such damages. The liability of the surety upon the bond required to be given by warehousemen as provided in section 69-208, Idaho Code, for any one (1) annual licensing period shall be limited to the amount specified in the bond, and in case of recoveries had by two (2) or more persons for violation of the conditions of such bond in excess of the amount of the bond, such recovery shall be prorated and the total recovery against the surety for any one (1) annual

licensiog period shall not exceed the amount of the bond. Any person who sues and obtains a judgment against the warehouseman and/or his surety for payment of such damages under this section shall be entitled to recover a reasonable attorney's fee.

SECTION 5. That Section 69-211, Idaho Code, be, and the same is hereby amended to read as follows:

69-211. FEES OF DEPARTMENT. (1) The department of agriculture shall charge, assess, and cause to be collected an annual fee for each warehouse license or renewal thereof, according to the following schedule:

For each original application --

Capacity in Hundredweight	Rate
0 to 50,000	$100.00
50,001 to 100,000	200.00
100,001 to 250,000	300.00
250,001 to 500,000	400.00
500,001 to 750,000	500.00
Over 750,000	600.00

For each renewal application --

Capacity in Hundredweight	Rate
0 to 50,000	$ 230.00
50,001 to 100,000	460.00
100,001 to 250,000	690.00
250,001 to 500,000	8120.00
500,001 to 750,000	1850.00
Over 750,000	1280.00

(2) The department of agriculture shall assess and collect a fee of fifty dollars ($50.00) for each inspection of a warehouse or station which is done for the purpose of licensing.

(3) The department of agriculture shall assess and collect a fee of one hundred and fifty dollars ($150) per day or fraction thereof for maintaining an employee of the department at a warehouse to oversee the correction of a violation of this chapter.

(4) If a public warehouseman operates two (2) or more warehouses in the same city or immediately adjacent thereto or in the same immediate area, in conjunction with each other, and where one (1) set of books and records is kept for all such warehouses, only one (1) license shall be required for the operations of all such warehouses.

(5) All fees shall be deposited into the state treasury and credited to the general account.

SECTION 6. That Section 69-236, Idaho Code, be, and the same is hereby amended to read as follows:

69-236. NONCOMPLIANCE -- FAILURE -- REMEDIES OF DEPARTMENT. (1) Whenever it appears, after any investigation, that a warehouseman does not have in his possession sufficient agricultural products to cover the outstanding warehouse receipts, scale weight tickets, or other evidence of storage liability issued or assumed by him, or when this warehouseman refuses to submit his books, papers, or property to

lawful inspection, the department may give notice to the warehouseman to comply with all or any of the following requirements:

(a) Cover such shortage;

(b) Give an additional bond as requested by the department; or

(c) Submit to such inspection as the department may deem necessary.

(2) If the warehouseman fails to comply with the terms of such notice within twenty-four (24) hours from the date of issuance of the notice, or within such further time as the department may allow, the department may petition the district court in the county where the licensee's principal place of business is located (as shown by the license application) for an order:

(a) Authorizing the department to seize and take possession of any or all agricultural products in the warehouse or warehouses owned, operated, or controlled by the warehouseman, and of all books, papers and property of all kinds used in connection with the conduct or the operation of the warehouse business, and any materials which pertain in any way to that business; and

(b) Enjoining the warehouseman from interfering with the department in the discharge of its duties as required by the provisions of this section.

(3) Upon taking possession, the department shall give written notice of its action to the surety on the bond of the warehouseman and may notify the holders of record, as shown by the warehouseman's records, of all warehouse receipts or scale weight tickets issued for agricultural products, to present their warehouse receipt or other evidence of deposits for inspection or to account for the same. The department may thereupon cause an audit to be made of the affairs of such warehouse including, but not limited to, the agricultural products in which there is an apparent shortage, to determine the amount of such shortage and compute the shortage as to each depositor as shown by the warehouseman's records, if possible. The department shall notify the warehouseman and the surety on his bond of the approximate amount of such shortage and notify each depositor thereby affected by sending notices to the depositor's last known address as shown by the records of the warehouseman.

(4) The department shall retain possession of the agricultural products in the warehouse or warehouses, and the books, papers, and property of the warehouseman, until such time as the warehouseman or the surety on the bond shall have satisfied the claims of all holders of warehouse receipts or other evidence of deposits or, in case the shortage exceeds the amount of the bond, the surety on the bond shall have satisfied such claims pro rata, or until such time as the department is ordered by the court to surrender possession.

(5) If during or after the audit provided for in this section, or at any other time the department has evidence that the warehouseman is insolvent or is unable to satisfy the claims of all holders of warehouse receipts or other evidence of deposits, the departmeot may petition the district court for the appointment of a receiver to operate or liquidate the business of the warehouseman in accordance with the law.

(6) At any time within ten (10) days after the department takes

possession of any agricultural products, or the books, papers, or property of any warehouse, the warehouseman may serve notice on the department to appear in the district court of the county in which the warehouse is located, at a time to be fixed by the court, and show cause why the agricultural products, books, papers and other property should not be restored to his possession.

(7) All necessary expenses incurred by the department in carrying out the provisions of this sectioo may be recovered in a separate civil action brought by the department in district court or recovered at the same time and as part of the receivership or seizure action filed under the provisions of this chapter.

(8) As a part of the expenses so incurred, the department or the receiver is authorized to include the cost of adequate liability insurance necessary to protect the department, its officers, and others engaged in carrying out the provisions of this section.

(9) The provisions and remedies of this section are not limited to a warehouse shortage.

SECTION 7. That Section 69-241, Idaho Code, be, and the same is hereby amended to read as follows:

69-241. INSURANCE -- CANCELLATION PROCEDURE -- SUSPENSION OF LICENSE. With the existence of an effective policy of insurance as required by section 69-206(a1), Idaho Code, the insurance company involved shall be required to give thirty (30) days' advanced notice to the department by registered or certified mail, return receipt requested, of cancellation of the policy. In the event of any cancellation, the department shall immediately terminate the license of such person without a hearing, and the termination shall be in effect until satisfactory evidence of the existence of an effective policy of insurance complying with the requirements of this chapter has been submitted to the department.

SECTION 8. That Section 69-248, Idaho Code, be, and the same is hereby amended to read as follows:

69-248. DRAWING CHECKS INSUFFICIENTLY COVERED A VIOLATION. Any person engaged in business as a ~~commodity-dealer,~~ bonded warehouseman or agent, as defined in this chapter, who shall make, draw, utter or deliver any check, draft or order for the payment of money upon any bank or other depository, in payment to the seller of the purchase price of any agricultural product or any part thereof upon obtaining possession or control thereof, when at the time of such making, drawing, uttering or delivery the maker or drawer does not have sufficient funds in or credit with such bank or other depository for the payment of such check, draft or order in full upon its presentation, shall violate the provisions of this chapter. The word "credit" as used herein shall mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order.

Approved March 21, 1985.

CHAPTER 139
(H.B. No. 77)

AN ACT

RELATING TO COMMODITY DEALERS; AMENDING SECTION 69-506, IDAHO CODE, TO PROVIDE AN ALTERNATIVE METHOD TO MEET BONDING REQUIREMENTS AND TO STRIKE LANGUAGE WHICH IS NOT APPLICABLE.

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

SECTION 1. That Section 69-506, Idaho Code, be, and the same is hereby amended to read as follows:

69-506. BONDING REQUIREMENTS -- CANCELLATION -- CERTIFICATE OF DEPOSIT IN LIEU OF BOND. An applicant for a license to operate as a commodity dealer shall, before a license will be issued, file with the department a bond payable to the state of Idaho with a corporate surety approved by the department with the condition that the applicant will pay the purchase price of any agricultural product to the seller. The aggregate annual liability of the surety shall in no event exceed the sum of the bond.

The bond for each class 1 license shall be in the sum of twenty-five thousand dollars ($25,000). The bond for each class 2 license shall be in the sum of fifteen thousand dollars ($15,000). ~~One-bond, cumulative-as-to-minimum--requirements,--shall--be--required--where--a person--has-more-than-one-(1)-license,-but-in-no-event-shall-the-total amount-of-the-bond--required--herein--exceed--three--hundred--thousand dollars--($300,000)--for--a--class--1-license-or-one-hundred-and-fifty thousand-dollars-($150,000)-for-a-class--2--license.~~ A surety shall notify the commodity dealer and the department by certified mail at least sixty (60) days prior to the cancellation of a bond issued under the provisions of this chapter. The liability of the surety shall cover purchases made by the commodity dealer during the time the bond is in force. A commodity dealer's bond filed with this department shall be continuous until cancelled by the surety upon sixty (60) days' notice. The director reserves the right to waive the sixty (60) day cancellation period.

Any person required to submit a bond to the department in accordance with this chapter, may at his option give to the department a certificate of deposit payable to the director as trustee in lieu of the bond required herein. The principal amount of the certificate shall be the same as that required for a surety bond pursuant to this chapter. Accrued interest upon the certificate of deposit shall be payable to the purchaser of the certificate. The certificate shall remain on file with the department until it is released, cancelled or discharged by the director. The provisions of this chapter that apply to a bond required pursuant to this chapter apply to each certificate of deposit given in lien of such bond.

Approved March 21, 1985.

CHAPTER 140
(H.B. No. 83)

AN ACT

RELATING TO THE SALES TAX ACT; AMENDING SECTION 63-3609, IDAHO CODE, TO PROVIDE THAT THE SALE OR PURCHASE OF PERSONAL PROPERTY INCIDENTAL TO THE SALE OF REAL PROPERTY OR USED MOBILE HOMES IS DEEMED A SALE OF REAL PROPERTY.

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

SECTION 1. That Section 63-3609, Idaho Code, be, and the same is hereby amended to read as follows:

63-3609. RETAIL SALE -- SALE AT RETAIL. The terms "retail sale" or "sale at retail" means a sale of tangible personal property for any purpose other than resale of that property in the regular course of business or lease or rental of that property in the regular course of business where such rental or lease is taxable under section 63-3612(h) ~~of this act~~, Idaho Code.

(a) All persons engaged in constructing, altering, repairing or improving real estate, which includes construction of prefabricated buildings as defined in section 63-3606A, Idaho Code, are consumers of the material used by them; all sales to or use by such persons of tangible personal property are taxable whether or not such persons intend resale of the improved property.

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery. He shall include the retail selling price of the property in his total sales subject to tax under this act.

(c) For the purposes of the sales tax act as enacted, the sale or purchase of a prefabricated building is deemed a sale or purchase of real property and not a sale or purchase of tangible personal property.

(d) For the purpose of this chapter, the sale or purchase of personal property incidental to the sale of real property or used mobile homes is deemed a sale of real property.

Approved March 21, 1985.

CHAPTER 141
(H.B. No. 93, As Amended in the Senate)

AN ACT

RELATING TO ZONING ORDINANCES AND SPECIAL USE PERMITS; AMENDING SECTION 67-6511, IDAHO CODE, TO PROVIDE FOR NOTICE TO PROPERTY OWNERS OR PURCHASERS OF RECORD AND POSTING NOTICE ON PREMISES; AND AMENDING SECTION 67-6512, IDAHO CODE, TO PROVIDE FOR NOTICE TO PROPERTY OWNERS OR PURCHASERS OF RECORD, AND POSTING NOTICE ON PREMISES.

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

SECTION 1. That Section 67-6511, Idaho Code, be, and the same is hereby amended to read as follows:

67-6511. ZONING ORDINANCE. Each governing board shall, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, establish within its jurisdiction one ~~(1)~~ or more zones or zoning districts where appropriate. The zoning districts shall be in accordance with the adopted plan.

Within a zoning district, the governing board shall where appropriate, establish standards to regulate and restrict the height, number of stories, size, construction, reconstruction, alteration, repair or use of buildings and structures; percentage of lot occupancy, size of courts, yards, and open spaces; density of population; and the location and use of buildings and structures. All standards shall be uniform for each class or kind of buildings throughout each district, but the standards in one (1) district may differ from those in another district.

Ordinances establishing zoning districts shall be amended as follows:

(a) Requests for an amendment to the zoning ordinance shall be submitted to the zoning or planning and zoning commission which shall ~~be--submitted--to--the--zoning-or-planning-and-zoning-commission-which shall~~ evaluate the request to determine the extent and nature of the amendment requested.

(b) If the request is in accordance with the adopted plan, the zoning or planning and zoning commission may recommend and the governing board may adopt or reject the ordinance amendment under the notice and hearing procedures provided in section 67-6509, Idaho Code, provided that in the case of a zoning district boundary change, additional notice shall be provided by mail to property owners and ~~residents~~ or purchasers of record within the land being considered; three hundred (300) feet of the external boundaries of the land being considered; and any additional area that may be impacted by the proposed change as determined by the commission. Notice shall also be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners ~~or residents~~ or purchasers of record, alternate forms of proce-

dures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice.

(c) If the request is not in accordance with the adopted plan, the request shall be submitted to the planning or planning and zoning commission or, in absence of a commission, the governing board, which shall recommend and the governing board may adopt or reject an amendment to the plan under the notice and hearing procedures provided in section 67-6509, Idaho Code. After the plan has been amended, the zoning ordinance may then be amended as provided for under section 67-6511(b), Idaho Code.

(d) If a governing board adopts a zoning classification pursuant to a request by a property owner based upon a valid, existing comprehensive plan and zoning ordinance, the governing board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the governing board adopted said individual property owner's request for a zoning classification change. If the governing body does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this section.

SECTION 2. That Section 67-6512, Idaho Code, be, and the same is hereby amended to read as follows:

67-6512. SPECIAL USE PERMITS, CONDITIONS, AND PROCEDURES. As part of a zoning ordinance each governing board may provide by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, for the processing of applications for special or conditional use permits. A special use permit may be granted to an applicant if the proposed use is otherwise prohibited by the terms of the ordinance, but may be allowed with conditions under specific provisions of the ordinance and when it is not in conflict with the plan.

Prior to granting a special use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place, and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall be posted on the premises not less than one (1) week prior to the hearing. Notice shall also be provided to property owners ~~and--residents~~ or purchasers of record within the land being considered, three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the commission.

When notice is required to two hundred (200) or more property owners ~~or--residents~~ or purchasers of record, alternate forms of proce-

dures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice.

Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

(a) Minimizing adverse impact on other development;

(b) Controlling the sequence and timing of development;

(c) Controlling the duration of development;

(d) Assuring that development is maintained properly;

(e) Designating the exact location and nature of development;

(f) Requiring the provision for on-site or off-site public facilities or services;

(g) Requiring more restrictive standards than those generally required in an ordinance.

Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferrable from one parcel of land to another.

Approved March 21, 1985.

CHAPTER 142
(H.B. No. 102)

AN ACT

RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICATING SUBSTANCES; AMENDING SECTION 18-8004, IDAHO CODE, TO PROVIDE THAT IT SHALL NOT BE A DEFENSE TO THE CHARGE OF OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF DRUGS IF THE DEFENDANT IS OR HAS BEEN ENTITLED TO USE A DRUG UNDER THE LAWS OF THIS STATE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 18-8004, Idaho Code, be, and the same is hereby amended to read as follows:

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 is or has been entitled to use such drug under the laws of this state 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).

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 21, 1985.

CHAPTER 143
(H.B. No. 103)

AN ACT

RELATING TO GARNISHEES AND JUDGMENT DEBTORS; AMENDING SECTION 8-509, IDAHO CODE, TO PROVIDE FOR A CONTINUING GARNISHMENT.

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

SECTION 1. That Section 8-509, Idaho Code, be, and the same is hereby amended to read as follows:

8-509. EXAMINATION OF GARNISHEE. (a) Any person owing debts to the defendant, or having in his possession or under his control, any credits or other personal property belonging to the defendant, may be required to attend before the court or judge, or a referee appointed by the court or judge, and be examined on oath respecting the same. If the garnishee be a corporation the officer or agent thereof having knowledge of the fact sought to be established may be required to attend and give evidence thereof. The defendant may also be required to attend for the purpose of giving information respecting his property and may be examined on oath. The court or judge may, after such examination, order personal property capable of manual delivery to be delivered to the sheriff on such terms as may be just, having reference to any liens or claims against the same, and a memorandum to be given of all other personal property, containing the amount and description thereof.

(b) When the garnishee is the employer of the judgment debtor, the judgment creditor, upon application to the court, shall have issued by the clerk of court, a continuing garnishment directing the employer-garnishee to pay to the sheriff such future moneys coming due to the judgment debtor as may come due to said judgment debtor as a result of the judgment debtor's employment. This continuing garnishment shall continue in force and effect until the judgment is satisfied. The creditor shall be solely responsible for insuring that the amounts garnished do not exceed the amount due on the judgment.

Approved March 21, 1985.

CHAPTER 144
(H.B. No. 104)

AN ACT

RELATING TO FORCIBLE ENTRY AND UNLAWFUL DETAINER; AMENDING CHAPTER 3, TITLE 6, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 6-324, IDAHO CODE, TO PROVIDE FOR THE AWARD OF ATTORNEY FEES IN ACTIONS BROUGHT UNDER THIS CHAPTER.

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

SECTION 1. That Chapter 3, 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 6-324, Idaho Code, and to read as follows:

6-324. ATTORNEY FEES. In any action brought under the provisions of this chapter, except in those cases where treble damages are awarded, the prevailing party shall be entitled to an award of attorney fees. For attorney fees to be awarded in cases requiring the three (3) days' notice as set forth in section 6-303 2., Idaho Code, it shall be necessary that the three (3) days' notice advise the tenant that attorney fees shall be awarded to the prevailing party.

Approved March 21, 1985.

CHAPTER 145
(H.B. No. 116)

AN ACT

RELATING TO PURCHASES OF SUPPLIES; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2349, IDAHO CODE, TO PROVIDE A PREFERENCE FOR IDAHO DOMICILED BIDDERS ON MATERIALS, SUPPLIES OR EQUIPMENT FOR GOVERNMENT PURCHASE.

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 67-2349, Idaho Code, and to read as follows:

67-2349. PREFERENCE FOR IDAHO SUPPLIERS FOR PURCHASES. To the extent permitted by federal laws and regulations, whenever the state of Idaho, or any department, division, bureau or agency thereof, or any city, county, school district, irrigation district, drainage district, sewer district, highway district, good road district, fire district, flood district, or other public body, shall let for bid any contract for purchase of any materials, supplies or equipment, the bidder domiciled outside the boundaries of Idaho shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible bidder domiciled in Idaho as would be required for such an Idaho domiciled bidder to succeed over the bidder domiciled outside Idaho on a like contract being let in his domiciliary state.

Approved March 21, 1985.

CHAPTER 146
(H.B. No. 117)

AN ACT

RELATING TO REAL ESTATE BROKERS OR SALESMEN; AMENDING SECTION 54-2029, IDAHO CODE, TO PROVIDE MAXIMUM EXAMINATION FEES AND TO PROVIDE A PROCEDURE FOR THE REAL ESTATE COMMISSION TO SET THE EXAMINATION FEE; AMENDING SECTION 54-2036, IDAHO CODE, TO STRIKE THE REEXAMINATION FEE.

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

SECTION 1. That Section 54-2029, Idaho Code, be, and the same is hereby amended to read as follows:

54-2029. QUALIFICATIONS FOR THE ISSUANCE OF LICENSES -- APPLICATION FOR LICENSE -- CONTENTS OF APPLICATION -- FEES -- TERMS OF LICENSES ISSUED. A. Except as provided in section 54-2031, Idaho Code, any person desiring to carry on the business of a real estate broker or real estate salesman in this state shall have and meet the following qualifications:

(1) The applicant must be at least eighteen (18) years of age;

(2) The applicant must not have had revoked a license or been refused a renewal of a license issued by the state of Idaho or any other state, as a real estate broker or salesman, if such revocation or refusal occurred within two (2) years prior to the date the application is submitted to the commission;

(3) The applicant must not have been convicted, issued any fine, placed on probation, received a withheld judgment or completed any sentence of confinement for or on account of a felony or a misdemeanor involving moral turpitude in a state or federal court within five (5) years prior to the date the application is submitted to the commission;

(4) The applicant must be a resident of the state of Idaho, or shall have established his residency in the state of Idaho prior to the issuance of the license, except as provided in sections 54-2031 and 54-2032, Idaho Code;

(5) The applicant must have complied with the educational requirements as provided for in subsection C of this section; the real estate education course requirements set forth in subsection C of this section must have been successfully completed within five (5) years prior to the date upon which the applicant makes application; provided, the commission may waive or modify the requirement that the real estate education courses must have been successfully completed within five (5) years prior to the date upon which the applicant makes application;

(6) If the application is for a real estate broker's license, the applicant must have been actively engaged as a licensed real estate salesman in this state as provided for in subsection B(3) of this section.

If the commission determines that an applicant does not possess

the aforementioned qualifications, it shall have the authority to deny the application. If the commission finds that the applicant employed any fraud, deception, misrepresentation, misstatement or any unlawful means in applying for a license or taking the examination, then the commission shall have the authority to deny the application.

B. Any person desiring to carry on the business of real estate broker or real estate salesman in this state shall make application for license therefor upon a form to be prescribed and furnished by the commission, giving his full name and address and the address of his principal place of business in the state of Idaho. Applications shall be made to and filed with the commission and be accompanied by:

(1) An examination fee, (in an amount not to exceed) ~~of twenty~~ thirty-five dollars ($~~20~~35.00) which shall not be refunded, shall be assessed to each applicant who has preregistered for the examination. If the applicant has not preregistered, an examination fee in an amount not to exceed forty-five dollars ($45.00) shall be charged to the applicant. The exact examination fees shall be determined by the commission at the conclusion of a hearing called for such purposes to be conducted, pursuant to notice each year. The fees so established by the commission at such hearing to be in effect during the next ensuing year shall be that amount which, in the discretion of the commission, are sufficient to raise that revenue required to administer the examination.

(2) In addition to subsection B(1), an applicant for a real estate broker's license shall submit satisfactory evidence of having been actively engaged for two (2) years as a licensed real estate salesman in this state within five (5) years prior to the date upon which the applicant makes application; provided, however, that said requirement may be modified or reduced, in whole or in part, at the discretion of the commission, based upon the educational background of the applicant, his experience as a licensed real estate broker or salesman in another state, or his experience in related or affiliated business activities. The commission in its discretion may make such additional investigation and inquiry relative to the applicant as it shall deem advisable.

C. An applicant for an original salesman's license or a broker's license shall furnish proof that he is a graduate from an accredited high school or the holder of a certificate of general education development issued by proper authorities of public schools of any state. An applicant for an original salesman's license shall furnish to the commission proof that he has successfully completed a course of study consisting of at least thirty (30) classroom hours, or equivalent correspondence hours, of real estate courses, which courses shall include but not be limited to: principles of real estate practice and canons of ethics pertaining thereto; the provisions of this act and rules and regulations of the commission; arithmetical calculations as used in real estate transactions; rudimentary principles of conveyancing; the general purposes and effects of deeds, deeds of trust, mortgages, land contracts of sales, leases, liens and listing contracts; fundamentals of land economics and appraisals; and fundamentals of obligations between principal and agent; provided however, the commission may accept other courses in lieu of the above mentioned courses and may

designate additional required courses.

An applicant for an original real estate broker's license shall furnish the commission satisfactory proof that he has successfully completed a total of ninety (90) hours of classroom instruction, or equivalent correspondence hours, in real estate courses above set forth.

Any applicant for a license as a real estate broker or real estate salesman may submit a certification from any university, college or junior college, or from any privately owned school approved by the commission, that the applicant has successfully completed the prescribed courses within five (5) years prior to the date upon which the applicant makes application; and such certificate is considered to be in full compliance with the requirements of this act for the completion of a course of study.

D. For each year for which the license is issued or renewed, a license fee in an amount not to exceed fifty dollars ($50.00) shall be charged for the issuance of real estate broker's, associate broker's and salesman's licenses, the exact fee for the issuance of each to be determined by the commission at the conclusion of a hearing called for such purpose to be conducted, pursuant to notice, each year. The fee so established by the commission at such hearing to be in effect during the next ensuing year shall be that amount which, in the discretion of the commission, and when added to the other fees charged and collected as authorized by law, is sufficient to raise that revenue required to administer the provisions of this chapter which shall not be refunded. In the event the commission deems it necessary to increase such license fee when the same is so established each year, the increase in such fee shall not exceed ten dollars ($10.00) for any license issued or renewed for two (2) years.

E. There is established a staggered renewal period for licenses to coincide with the last day of the month of the birthdate of each licensee. A license renewal issued after July 1, 1980, shall be for a two (2) year period and the license fee therefor shall be in an amount not to exceed one hundred dollars ($100) and may be increased in accordance with subsection D of this section.

Each license as a real estate broker or real estate salesman may be renewed by the commission upon the payment by the licensee of the renewal fee specified in this section, if that fee is paid on or before the first day of the month following the month of the birthdate of the licensee.

If the licensee fails to pay the renewal fee on or before the first day of the month following the month of the birthdate of the licensee, the commission may accept a later payment, subject to such conditions as the commission may require, including but not limited to the assessment of a late fee not to exceed fifteen dollars ($15.00); provided that between the last day of the month of his birthdate and the date of renewal of the license, the rights of the licensee under such license shall be suspended, and during such period of suspension it shall be unlawful for any licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions of a real estate broker or real estate salesman in section 54-2022, Idaho Code, in consideration of compensation of any kind or expectation

thereof.

A new license or renewal issued after January 1, 1975, shall be for the term of the months up to and including the month of the birthdate of the licensee. A new license or renewal issued after July 1, 1980, shall be for a term of one (1) year plus the months up to and including the next birthdate of the licensee. A license fee in an amount not to exceed one hundred dollars ($100) shall be charged for the issuance of a new real estate broker's, associate broker's or salesman's license, the exact fee to be determined in accordance with subsection D of this section.

Corporations and partnerships shall have established as the equivalent of a birthdate, the birthdate of the designated broker of each.

Branch offices shall have established as the equivalent of a birthdate, the birthdate of the real estate broker establishing the branch office.

SECTION 2. That Section 54-2036, Idaho Code, be, and the same is hereby amended to read as follows:

54-2036. ADDITIONAL FEES. In addition to the license fee provided for in this act the commission shall be authorized to charge and collect the following fees for the following services:

a. A renewal fee for each salesman's license, associate broker's license and broker's license in an amount not to exceed one hundred dollars ($100) for each two (2) year license period or portion thereof for which the license is renewed, the exact renewal fee to be determined by the commission in the manner and method and at the time as prescribed by section 54-2029, Idaho Code, for the establishment of the initial license fee.

b. An inactive license fee and the fee for the renewal of an inactive license each in an amount not to exceed one hundred dollars ($100), for each two (2) year license period or portion thereof for which such license is issued, the exact fee to be determined by the commission in the manner and method and at the time as prescribed by section 54-2029, Idaho Code, for the establishment of the initial license fee.

c. ~~A--reexamination--fee--of--fifteen--dollars--($15.00)-for-each reexamination;~~

~~d.~~ A change of address fee of ten dollars ($10.00) for each license requiring the change of address.

~~e~~d. A fee of twenty dollars ($20.00) for the establishment of each branch office.

~~f~~e. A tuition or registration fee for real estate education courses. Such fee is to be established for each course conducted based upon the total costs involved in each course.

Approved March 21, 1985.

CHAPTER 147
(H.B. No. 120)

AN ACT

RELATING TO PROCEEDINGS IN CIVIL ACTIONS; AMENDING CHAPTER 3, TITLE 5, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 5-334, IDAHO CODE, TO PROVIDE THAT A CAUSE OF ACTION SHALL NOT ARISE, AND DAMAGES SHALL NOT BE AWARDED, ON BEHALF OF ANY PERSON, BASED ON THE CLAIM THAT BUT FOR THE ACT OR OMISSION OF ANOTHER, A PERSON WOULD NOT HAVE BEEN PERMITTED TO HAVE BEEN BORN ALIVE BUT WOULD HAVE BEEN ABORTED, AND TO PROVIDE CAUSES OF ACTION THIS ACT SHALL NOT PRECLUDE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 3, Title 5, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 5-334, Idaho Code, and to read as follows:

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

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

SECTION 2. 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 21, 1985.

CHAPTER 148
(H.B. No. 123)

AN ACT

RELATING TO CORPORATIONS; AMENDING SECTION 30-1-13, IDARO CODE, TO PROVIDE PROCEDURES FOR FILINC, WITH THE SECRETARY OF STATE, A NOTICE OF CHANGE OF REGISTERED OFFICE OR AGENT; AMENDING SECTION 30-1-110, IDAHO CODE, TO REMOVE THE REQUIREMENT THAT FOREIGN CORPORATIONS REPORT THEIR EQUITY POSITION; AMENDING SECTION 30-1-114, IDAHO CODE, TO PROVIDE A PROCEDURE FOR FOREIGN CORPORATIONS FOR FILING WITH THE SECRETARY OF STATE A NOTICE OF CHANGE OF RECIS-

TERED OFFICE OR AGENT; AMENDING SECTION 30-1-125, IDAHO CODE, TO REQUIRE ANNUAL CORPORATE REPORTS BE EXECUTED BY A CORPORATE OFFICER; AMENDING SECTION 30-1-128, IDAHO CODE, TO ELIMINATE THE FEE FOR FILING A STATEMENT OF CHANGE OF ADDRESS OF REGISTERED OFFICE OR AGENT, AND TO INCLUDE NOTICE OF RESIGNATION OF REGISTERED AGENT.

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

SECTION 1. That Section 30-1-13, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-13. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(a) The name of the corporation.

(b) The address of its then registered office.

(c) If the address of its registered office is to be changed, the address to which the registered office is to be changed.

(d) The name of its then registered agent.

(e) If its registered agent is to be changed, the name of its successor registered agent.

(f) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

~~(g)--That such change was authorized by resolution duly adopted by its board of directors;~~

Such statement shall be executed by the corporation by ~~its--president,--vice-president,-secretary,-or-assistant-secretary;-and-verified by-him,~~ an officer and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

A corporation may also change its registered office or its registered agent, or both, by indicating such change in the appropriate space on the annual report required in section 30-1-125, Idaho Code.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation at its registered office. The appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the same county, he or it may change such address and the address of the registered office of any corporation of which he or it is a registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be responsive to subsections (e) ~~or (g)~~ of this section and must recite that a copy of the statement has been mailed to the corpora-

tion.

SECTION 2. That Section 30-1-110, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-110. APPLICATION FOR CERTIFICATE OF AUTHORITY. A foreign corporation, in order to procure a certificate of authority to transact business in this state, shall make application therefor to the secretary of state, which application shall set forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The date of incorporation and the period of duration of the corporation.

(c) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(d) The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address.

(e) The purpose or purposes of the corporation which it proposes to pursue in the transaction of business in this state.

(f) The names and respective addresses of the directors and officers of the corporation.

~~(g) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes, par value of shares and shares without par value.~~

~~(h) A statement of the aggregate number of issued shares itemized by classes, par value of shares and shares without par value.~~

~~(i)~~ Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to transact business in this state and to determine and assess the fees and franchise taxes payable as in this act prescribed.

Such application shall be made on forms prescribed and furnished by the secretary of state and 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 application.

SECTION 3. That Section 30-1-114, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-114. CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT OF FOREIGN CORPORATION. A foreign corporation authorized to transact business in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(a) The name of the corporation.

(b) The address of its then registered office.

(c) If the address of its registered office be changed, the address to which the registered office is to be changed.

(d) The name of its then registered agent.

(e) If its registered agent be changed, the name of its successor

registered agent.

(f) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

~~(g) That such change was authorized by resolution duly adopted by its board of directors.~~

Such statement shall be executed by the corporation by ~~its president, vice president, secretary, or assistant secretary, and verified by him,~~ an officer and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this act, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

A foreign corporation may also change its registered office or its registered agent, or both, by indicating such change in the appropriate space on the annual report required by section 30-1-125, Idaho Code.

Any registered agent of a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of such agent shall terminate upon the expiration of thirty (30) days after receipt of such notice by the secretary of state.

If a registered agent changes his or its business address to another place within the same county, he or it may change such address and the address of the registered office of any corporation of which he or it is registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be responsive to (e) ~~or (g)~~ and must recite that a copy of the statement has been mailed to the corporation.

SECTION 4. That Section 30-1-125, Idaho Code, be, and the same is hereby amended to read as follows:

30-1-125. ANNUAL REPORT OF DOMESTIC AND FOREIGN CORPORATIONS. Each domestic corporation, and each foreign corporation authorized to transact business in this state, except for insurance companies subject to regulation by the department of insurance under title 41, Idaho Code, shall file, within the time prescribed by this act, an annual report setting forth:

(a) The name of the corporation and the state or country under the laws of which it is incorporated.

(b) The address of the registered office of the corporation in this state, and the name of its registered agent in this state at such address, and in case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.

(c) A brief statement of the character of the business in which the corporation is actually engaged in this state.

(d) The names and respective addresses of the directors and offi-

cers of the corporation.

Such annual report shall be made on forms prescribed and furnished by the secretary of state, and the information therein contained shall be given as of the date of the execution of the report. It shall be executed by the corporation by ~~its president, a vice president, secretary, an assistant secretary, or treasurer,~~ an officer or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

SECTION 5. 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)~~ or for filing a notice of resignation of registered agent, no fee.

(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 an application for withdrawal of a foreign corporation, ten dollars ($10.00).

(n) Filing any other statement or report, except an annual report, of a domestic or foreign corporation, ten dollars ($10.00).

(o) 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 21, 1985.

CHAPTER 149
(H.B. No. 124)

AN ACT

RELATING TO DUTIES OF THE COUNTY SHERIFF; AMENDING SECTION 31-2202, IDAHO CODE, TO PROVIDE THAT THE COUNTY SHERIFF SHALL EXPEDITIOUSLY AND PROMPTLY INVESTIGATE ALL CASES INVOLVING MISSING CHILDREN WHEN SUCH CASES ARE REPORTED TO HIM; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Sectioo 31-2202, Idaho Code, be, and the same is hereby amended to read as follows:

31-2202. DUTIES OF SHERIFF. The sheriff must:

1. Preserve the peace.

2. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or who have committed a public offense, unless otherwise provided by law.

3. Prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.

4. Attend all courts, including magistrate's division of the district court when ordered by a district judge, at their respective terms held within his county, and obey the lawful orders and directions of the courts.

5. Command the aid of as many male inhabitants of the county as he may think necessary in the execution of these duties.

6. Take charge of and keep the county jail and the prisoners therein.

7. Indorse upon all process and notices the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of fees, a certificate showing the names of the parties, title of paper and time of reception.

8. Serve all process and notices in the manner prescribed by law.

9. Certify under his hand upon process or notices the manner and time of service, or if he fails to make service, the reasons of his failure, and return the same without delay.

10. Perform such other duties as are required of him by lew.

11. Keep a record of all stolen cars reported within his county, which record shall contain the name of the motor vehicle, the engine number thereof, a complete description of such vehicle and such other information as may aid in the identification of the stolen car. Such record shall be open to public inspection during office hours, and immediately upon receiving a report of a stolen car the sheriff shall prepare and forward a copy thereof to the director of the department of law enforcement and he shall also notify the director of the department of law enforcement of any and all cars recovered.

12. Work concurrently and cooperate in his county, with the Idaho state police in the following respects:

(a) Require all persons using the highways in the state to do so carefully, safely and with exercise of care for the persons, property and safety of others;
(b) Safeguard and protect the surface and other physical portions of the state highways;
(c) Enforce all of the laws of the state enacted for the identification, inspection and transportation of livestock and all laws of the state designed to prevent the theft of livestock;
(d) Regulate traffic on all highways and roads in the state; and respond to calls following wrecks aod make investigations relative thereto.

13. ~~To~~ gGive examinations for and sell operators' and chauffeurs' licenses.

14. Expeditiously and promptly investigate all cases involving missing children when such cases are reported to him.

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 21, 1985.

CHAPTER 150
(H.B. No. 128)

AN ACT

RELATING TO VETERANS PRIVILEGES IN PUBLIC HIRING; AMENDING SECTION 65-502, IDAHO CODE, TO STRIKE REFERENCE TO PROFESSIONAL POSITIONS; AND AMENDING SECTION 65-504, IDAHO CODE, TO STRIKE REFERENCE TO PROFESSIONAL POSITIONS.

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

SECTION 1. That Section 65-502, Idaho Code, be, and the same is hereby amended to read as follows:

65-502. PREFERENCE TO BE GIVEN VETERANS BY PUBLIC EMPLOYERS. In all employment of any kind or character, excluding ~~professional--and~~ confidential secretarial positions, in all state, county, and municipal governments and departments and in all political subdivisions thereof, the official or person in charge of such unit of government shall give preference to the employment of war veterans who served on active duty in the armed forces of the United States for a period of more than one hundred eighty (180) days or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty, who are discharged under honorable conditions, and who are residents of the state of Idaho when the application for work or employment is made.

An application for an examination for appointment to a position in

said public employment will be accepted after the closing date of the examination from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge during any period in which the examination was open. The application must be submitted within one hundred twenty (120) days of his or her separation from the armed forces or hospitalization and prior to the expiration of any register established as a result of the examination. A disabled veteran may file an application at any time for any position for which a register is then maintained, or for which a register is about to be established, provided he or she has not already been examined twice for the same position and grade for which application is made, does not have current eligibility on that register, or is not serving in a competitive position in the same grade for which application is made.

SECTION 2. That Section 65-504, Idaho Code, be, and the same is hereby amended to read as follows:

65-504. OFFICIALS TO OBSERVE PREFERENCE -- EXCEPTIONS. All elective officers, department heads, boards, commissions and/or other public officials of all state, county or municipal governments and departments and all political subdivisions thereof, who may be authorized to select or hire employees, are hereby required to strictly observe this preference for war veterans, when filling vacancies or selecting new employees, provided that this act shall not apply to ~~professional and~~ confidential secretarial positions. This preference shall be granted without regard to political affiliation or indorsements to war veterans who are qualified for the position or positions to be filled. In the event of an emergency which may endanger the health, safety, and public welfare, the provisions of this act may be dispensed with temporarily, but in no event shall persons who were employed to meet such emergencies be permitted to work for a period of time exceeding ten (10) days, except such employees who meet all the requirements provided for in the act.

Approved March 21, 1985.

CHAPTER 151
(H.B. No. 135)

AN ACT

RELATING TO COUNTY HIGHWAY REORGANIZATION; AMENDING SECTION 40-2703, IDAHO CODE, TO REQUIRE THAT A MAJORITY OF THE VOTES CAST IN EACH OF ANY EXISTING DISTRICTS SHALL BE REQUIRED FOR APPROVAL OF A CONSOLIDATION PROPOSAL, AND TO PROVIDE FOR CONSOLIDATION OF DISTRICTS WHICH SUPPORT A PROPOSAL UNDER CONDITIONS SPECIFIED; AMENDING SECTION 40-2706, IDAHO CODE, TO PROVIDE CRITERIA FOR THE APPOINTMENT OF THE INITIAL COUNTY WIDE HIGHWAY DISTRICT COMMISSIONERS; AND AMENDING SECTION 40-2715, IDAHO CODE, TO PROVIDE FOR THE

INCLUSION OF THE COUNTY ROAD DEPARTMENT IN THE REQUIREMENTS FOR AN INVENTORY AND FINANCIAL STATEMENT UPON COUNTY HIGHWAY REORGANIZATION.

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

SECTION 1. That Section 40-2703, Idaho Code, be, and the same is hereby amended to read as follows:

40-2703. COUNTY WIDE ELECTION TO ADOPT METHOD OF SECONDARY HIGHWAY ADMINISTRATION -- PROCEDURE. In any county where there is a petition for vote under this act, the county commissioners must refer by popular vote to the entire electorate of said county the question of administration thereof, allowing such electorate at such election to adopt one (1) of the following systems for administration:

(1) To establish a county wide highway system for the administration of the secondary road system of the entire county by county commissioners;

(2) For the formation of a county wide highway district independent of the administration of the county commissioners;

(3) For the division of the county or area into highway districts covering the entire county secondary road system which could include parts of adjacent counties.

(4) For the continued existence of the present method of administration of the secondary highway system in the county.

In any county, petitions signed by five per cent (5%) of the qualified voters of each and every highway or good roads district, and area where served by a county road department (where applicable), within the county may be filed with the county clerk and upon the county commissioners finding that such petitions have been properly signed and filed, submit the matter to vote of the entire county by a special election not less than ninety (90) days from the filing of said petitions. All of the laws of the state of Idaho relating to the holding of elections at the county level shall apply to the holding of such special election provided for in this act, except as may be specifically modified herein. In addition to the other requirements of the law, the notice of election shall notify the electors of the issues to be voted upon at said election, and publication of such notice shall be as required for elections at the county level. Public hearing within the county shall be held, as deemed advisable, by the county commissioners.

The election shall be conducted in such a manner that the vote is canvassed in each of any existing districts separately from any other existing district. In order to be adopted, a majority of the votes cast in each district shall be required. If more than two (2) districts are proposed for consolidation, and the election carries in two (2) or more districts, consolidation may be carried out in districts where a majority favored consolidation, if the districts are contiguous and it is the finding of the board of county commissioners that the consolidation is otherwise practicable.

A. The county commissioners in the notice of election shall designate such polling places in each precinct as shall adequately

provide for the vote at such election. Every qualified elector of the precinct who was registered to vote at the last general election may vote thereat.

B. The vote shall be canvassed by the board of county commissioners within five (5) days of the election.

C. Upon any one (1) of the four (4) options herein receiving a majority of the valid votes cast at such election in each existing district, such option shall be declared to have been selected by the said vote.

D. In the event that no one (1) of the four (4) options voted upon shall receive a majority then the county commissioners shall provide a runoff election to be held within the next thirty (30) days to determine which of the two (2) optional methods receiving the highest number of votes shall be adopted.

SECTION 2. That Section 40-2706, Idaho Code, be, and the same is hereby amended to read as follows:

40-2706. ORGANIZATION OF COUNTY WIDE HIGHWAY DISTRICTS -- HIGHWAY DISTRICT COMMISSIONERS -- APPOINTMENT -- TERMS -- ELECTION. County wide highway districts may be organized under the laws applicable to highway districts and for county highway districts, new highway districts, consolidated or enlarged highway districts, and the number of commissioners to be elected shall be three (3). The formation of the county wide highway district, new highway district, consolidated or enlarged highway district, shall be effected by the board of county commissioners of the county so affected within sixty (60) days of such reorganization election creating a county wide highway district, new highway districts, consolidation, enlargement or other modification of highway districts, and, upon the determination that said county road system shall be reorganized as a county wide highway district, new highway districts, consolidation, enlargement or other modification, the original board of said highway districts commissioners shall, within seventy (70) days of said election, be appointed by the governor of the state of Idaho. The said highway districts shall be divided by the county commissioners into three (3) subdistricts as nearly equal in mileage, assessed valuation, and population as is practicable under the circumstances, for the purpose of determining each commissioner's district, and each commissioner for said highway districts shall represent and be elected or appointed from the district in which he resides.

Upon their appointment, qualification and entering into the performance of their duties as highway commissioners, the commissioners originally appointed shall, by lot, determine two (2) of the original appointed commissioners who shall serve for terms of original appointment for two (2) years, or until the next regular election for highway commissioners. The remaining one (1) commissioner shall serve for a period of four (4) years, or until the next succeeding election for highway commissinners. Thereafter, the commissioners elected shall be elected for four (4) year terms as their terms shall expire, thus providing a continuation in office of highway district commissioners, and providing for the staggered election of the commissioners in subse-

quent elections.

The laws applicable to the election of highway commissioners shall apply to the conducting of highway district elections throughout the county, said election for commissioners to be on a nonpartisan basis.

Where a county wide highway district, new highway district, or consolidated or enlarged district results from the election under the local option law, it shall be the duty of the governor, in the appointment of the original board of highway commissioners for the county, where there shall have been in existence at the time of the creation of the county wide highway district, any good roads districts or highway districts within the limits of said county to appoint, whenever practicable, one ~~(1)~~ of the existing commissioners as they shall qualify by reason of residence in the territorial limits of the districts of the county wide highway district as a commissioner of the county wide highway system. County commissioners and city council members shall not be eligible to hold office as a county wide highway district commissioner.

SECTION 3. That Section 40-2715, Idaho Code, be, and the same is hereby amended to read as follows:

40-2715. INVENTORY AND FINANCIAL STATEMENT OF DISSOLVED DISTRICT -- DISPOSITION OF PROPERTY AND OBLIGATIONS OF DISSOLVED DISTRICT. Upon the election being held under this act for exercise of the options hereunder, and an option being chosen, all highway districts or good roads districts and the county road department shall prepare and file with the county commissioners an inventory and financial statement to be filed not later than ten (10) days subsequent to the canvass of such election.

Title to all machinery, buildings, lands and property of every kind and nature, belonging to each ~~said~~ highway or good road district and title to all machinery, buildings, lands and property of every kind and nature formerly used by the county road department shall immediately upon the dissolution of the district and county road department and without further conveyance, be vested in the board of county commissioners as custodians thereof, and immediately thereafter, as soon as may be practical, delivered to the succeeding operational unit and such unit shall be liable for any and all unliquidated obligations of ~~said~~ the dissolved highway or good roads districts and county road department.

Approved March 21, 1985.

CHAPTER 152
(H.B. No. 136)

AN ACT

RELATING TO PHARMACISTS; AMENDING SECTION 37-2718, IDAHO CODE, TO PROVIDE FOR THE INCLUSION OF A MISDEMEANOR OR VIOLATION OF A FEDERAL REGULATION AS A CONDITION OF REVOCATION OR SUSPENSION OF LICENSE IN RESPECT TO A CONTROLLED SUBSTANCE; AMENDING SECTION 54-1720, IDAHO CODE, TO PROVIDE FOR THE INCLUSION OF FINES TO BE PAID OVER BY THE BOARD OF PHARMACY TO THE STATE TREASURER; AMENDING SECTION 54-1726, IDAHO CODE, TO CHANGE TERMINOLOGY AND TO PROVIDE A CODE REFERENCE; AND AMENDING SECTION 54-1728, IDAHO CODE, TO PROVIDE AN ADMINISTRATIVE FINE.

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

SECTION 1. That Section 37-2718, Idaho Code, be, and the same is hereby amended to read as follows:

37-2718. REVOCATION AND SUSPENSION OF REGISTRATION. (a) A registration under section 37-2717, Idaho Code, to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the board upon a finding that the registrant:

(1) has furnished false or fraudulent material information in any application filed under this act;

(2) has been ~~convicted~~ found guilty of a felony or misdemeanor under any state or federal law relating to any controlled substance; or

(3) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances;

(4) has violated any rule of the board promulgated under this ~~section~~ chapter, or any federal regulation relating to controlled substances; provided, however, that no revocation or suspension procedure be initiated under this paragraph without the concurrence of the state licensing board with authority over the registrant's professional license.

(b) The board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The board shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

SECTION 2. That Section 54-1720, Idaho Code, be, and the same is hereby amended to read as follows:

54-1720. OTHER DUTIES -- POWERS -- AUTHORITY. The board of pharmacy shall have such other duties, powers, and authority as may be necessary to the enforcement of this act and to the enforcement of board rules and regulations made pursuant thereto, which shall include, but are not limited to, the following:

(1) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

(2) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

(3) The executive director of the board shall keep the seal of the board and shall affix it only in such manner as may be prescribed by the board.

(4) On or before the 60th day after the last day of each state fiscal year, the board shall submit to the governor a report summarizing its proceedings and activities during that fiscal year, together with a report of all moneys received and disbursed by the board. Such reports or comprehensive summaries or abstracts thereof, as determined by the board shall be made available to the public.

(5) (a) The board shall determine within thirty (30) days prior to the beginning of each state fiscal year the fees to be collected for:

1. Examinations and reexaminations, which fee shall not exceed two hundred fifty dollars ($250);

2. The issuance of licenses, which fee shall not exceed two hundred fifty dollars ($250);

3. The issuance of certificates of registration and renewal certificates of registration, which fee shall not exceed one hundred dollars ($100); and

4. The certification of approved providers of continuing education courses, which fee shall not exceed three hundred dollars ($300).

(b) All fees or fines which shall be paid under the provisions of this act shall be paid over by the board to the treasurer of the state of Idaho, and shall be held by the state treasurer in the pharmacy account, which shall be paid out by the state treasurer upon warrant drawn by the state auditor against said account. The state auditor is hereby authorized, upon presentation of the proper vouchers of claims against the state, approved by the said board and the state board of examiners, as provided by law, to draw his warrant upon said account.

(6) The board may receive and expend moneys in addition to its annual appropriations, from parties other than the state, provided:

(a) Such moneys are awarded for the pursuit of a specific objec-

tive which the board is authorized to accomplish by this act, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(b) Such moneys are expended for the pursuit of the objective for which they are awarded;

(c) Activities connected with or occasioned by the expenditures of such moneys do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this act;

(d) Such moneys are kept in a separate, special state account; and

(e) Periodic reports are made to the administrator, division of budget, policy planning and coordination, concerning the board's receipt and expenditure of such moneys.

(7) The board shall assign to each drug outlet under its jurisdiction, a uniform state number, coordinated where possible with all other states which adopt the same uniform numbering system.

(8) The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this act or of the rules and regulations of the board.

(9) (a) Notwithstanding anything in this act to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug, or device is adulterated or misbranded within the meaning of the Idaho food, drug and cosmetic act, he shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated or misbranded, has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

(b) When a drug or device detained or embargoed under paragraph (a) of this subsection (9) has been declared by such representative to be adulterated or misbranded, the board shall, as soon as practical thereafter, petition the judge of the district court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the board shall direct the immediate removal of the tag or other marking.

(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after such costs,

fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

(d) It is the duty of the attorney general to whom the board reports any violation of this subsection to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this subsection (9) shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

(10) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with the administrative procedures act.

(11) (a) For the purpose of any proceedings held before the board as authorized by law, including the refusal, nonrenewal, revocation or suspension of licenses, registrations or certifications authorized by this act, or the imposition of fines or reprimands on persons holding such licenses, certification or registrations, the board may subpoena witnesses and compel their attendance, and may also at such time require the production of books, papers, documents or other memoranda. In any such proceeding before the board, any member of the board, or its designee, may administer oaths or affirmations to witnesses so appearing.

(b) If any person shall refuse to obey a subpoena so issued, or refuse to testify or produce any books, papers or documents called for by said subpoena, the board may make application to the district court of the county in which the proceeding is held, for an order of the court requiring the person to appear before the court, and to show cause why the person should not be compelled to testify, to produce such books, papers, memoranda or other documents required by the subpoena, or otherwise comply with its terms. The application shall set forth the action theretofore taken by the board to compel the attendance of the witness, the circumstances surrounding the failure of the witness to attend or otherwise comply with the subpoena, together with a brief statement of the reasons why compliance with the subpoena is necessary to the proceeding before the board.

(c) Upon the failure of a person to appear before the court at the time and place designated by it, the court may enter an order without further proceedings requiring the person to comply with the subpoena. Any person failing or refusing to obey such order of the court shall be punished for contempt of court as in other cases provided.

SECTION 3. That Section 54-1726, Idaho Code, be, and the same is hereby amended to read as follows:

54-1726. GROUNDS FOR DISCIPLINE. (1) The board of pharmacy may refuse to issue or renew, or may suspend, revoke or restrict the licenses of any person, pursuant to the procedures set forth in section 54-1727, Idaho Code, upon one or more of the following grounds:

(a) Unprofessional conduct as that term is defined by the rules and regulations of the board;

(b) Incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, competence and safety to the public;

(c) Being found guilty by a court of competent jurisdiction of one or more of the following:

1. A felony as defined by the statutes of this state;

2. Any act involving moral turpitude or gross immorality; or

3. Violations of the pharmacy or drug laws of this state or rules and regulations pertaining thereto, or of statutes, rules or regulations of any other state, or of the federal government;

(d) Fraud or intentional misrepresentation by a licensee in securing the issuance or renewal of a license.

(e) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license, or falsely using the title of pharmacist.

(f) Being found by the board to be in violation of any of the provisions of this ~~act~~ chapter, chapter 27, title 37, Idaho Code, or rules and regulations adopted pursuant to ~~this act~~ either chapter.

SECTION 4. That Section 54-1728, Idaho Code, be, and the same is hereby amended to read as follows:

54-1728. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the existence of grounds for discipline of any person holding a license, seeking a license, or a renewal license under the provisions of this act, the board of pharmacy may impose one or more of the following penalties:

(a) Suspension of the offender's license for a term to be determined by the board;

(b) Revocation of the offender's license;

(c) Restriction of the offender's license to prohibit the offenders from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;

(d) Refusal to renew offender's license;

(e) Placement of the offender on probation and supervision by the board for a period to be determined by the board;

(f) Imposition of an administrative fine not to exceed two thousand dollars ($2,000).

(2) Any person whose license to practice pharmacy in this state has been suspended, revoked or restricted pursuant to this act, or any drug outlet whose certificate of registration has been suspended,

revoked or restricted pursuant to this act, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon investigation and hearing, the board may in its discretion grant or deny such petition, or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.

(3) Nothing herein shall be construed as barring criminal prosecutions for violations of the act where such violations are deemed as criminal offenses in other statutes of this state or of the United States.

(4) All final decisions by the board shall be subject to judicial review pursuant to the procedures of the administrative procedures act.

Approved March 21, 1985.

CHAPTER 153
(H.B. No. 137)

AN ACT

RELATING TO EXEMPTIONS FROM TAXATION IN FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1422, IDAHO CODE, TO PROVIDE THAT THE BOARD OF COUNTY COMMISSIONERS MAY, BY ORDINANCE, EXEMPT ALL OR A PORTION OF CERTAIN PROPERTIES WITHIN A FIRE PROTECTION DISTRICT FROM TAXATION FOR THAT DISTRICT, AND TO PROVIDE FOR NOTICE OF INTENT TO EXEMPT CERTAIN PROPERTIES; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 31-1422, Idaho Code, be, and the same is hereby amended to read as follows:

31-1422. EXEMPTIONS. (1) All public utilities, including railroads, street railroads, bus lines, gas plants, pipe lines, telephone and telegraph lines, water systems, warehouses, electric transmission lines and every common carrier, shall be exempt from taxation under the proviaions of this act and shall not be entitled to the privileges or protection hereby provided without their conaent in writing filed with the clerk of the board of county commissioners.

(2) The board of county commissioners, upon application and recommendation of the board of fire protection commissioners, may, by an ordinance enacted by not later than the second Monday of July, exempt all or a portion of the unimproved real property within the district from taxation, and may exempt all or a portion of the taxable personal property within the district from taxation. Any ordinance of the board of county commissioners granting an exemption from taxation under the provisions of this section must provide that each category

of property is treated uniformly. Notice of intent to adopt an ordinance which exempts unimproved real property shall be provided to property owners of record in substantially the same manner as required in section 67-6511(b), Idaho Code, as if the ordinance were making a zoning district boundary change.

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 21, 1985.

CHAPTER 154
(H.B. No. 142)

AN ACT

RELATING TO THE DISTRIBUTION OF FUNDS COLLECTED BY THE STATE DEPARTMENT OF FISH AND GAME; AMENDING SECTION 36-107, IDAHO CODE, TO INCREASE THE MONEYS DISTRIBUTED TO THE PREDATORY ANIMALS ACCOUNT FROM TWELVE THOUSAND DOLLARS TO FIFTY THOUSAND DOLLARS.

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~~ fifty thousand dollars ($~~12~~50,000) per annum which amount shall be nsed 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 expeud, 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 nougame 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.

Approved March 21, 1985.

CHAPTER 155
(H.B. No. 295)

AN ACT

RELATING TO INTEREST EARNED ON INVESTMENT OF IDLE MONEYS IN THE STATE TREASURY; AMENDING SECTION 67-1210, IDAHO CODE, TO PROVIDE CORRECT NOMENCLATURE, TO PROVIDE FOR THE ACCOUNTING FOR AND DISPOSITION OF INTEREST EARNED UPON CERTAIN FEDERAL FUNDS RECEIVED BY THE STATE, AND TO PROVIDE FOR AN INVESTMENT ADMINISTRATION FEE TO BE CHARGED AGAINST FUNDS OR ACCOUNTS OTHER THAN THE GENERAL ACCOUNT WHICH RECEIVE INVESTMENT INCOME FROM INVESTMENTS ADMINISTERED BY THE STATE TREASURER.

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

SECTION I. That Section 67-1210, Idaho Code, be, and the same is hereby amended to read as follows:

67-1210. INVESTMENT OF IDLE MONEYS. It shall be the duty of the state treasurer to invest idle moneys in the state treasury, other than moneys in public endowment funds, in any of the following:

(a) Bonds, treasury bills, interest-bearing notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) General obligation or revenue bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(c) General obligation or revenue bonds of any county, city, metropolitan water district, municipal utility district, school district or other taxing district of this state.

(d) Notes, bonds, debentures, or other similar obligations issued by the Farm Credit System or institutions forming a part thereof under the Farm Credit Act of 1971 [U.S.C., tit. 12, sections 2001-2259] and all Acts of Congress amendatory thereof or supplementary thereto; in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act [U.S.C., tit. 12, sections 1421-1449]; in bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act [U.S.C., tit. 12, sections 1701-1750g] as amended, and in the bonds of any federal home loan bank established under said act and in other obligations of agencies or instrumentalities of the government of the state of Idaho or of the United States.

(e) Repurchase agreements covered by any legal investment for the state of Idaho.

(f) Tax anticipation notes and registered warrants of the state of Idaho.

(g) Time deposit accounts and savings accounts in state depositories including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(h) Time deposit accounts and savings accounts of state or federal savings and loan associations located within the geographical boundaries of the state in amounts not to exceed the insurance provided by the Federal Savings and Loan Insurance Corporation including, but not limited to, accounts on which interest or dividends are paid and upon which negotiable orders of withdrawal may be drawn, and similar transaction accounts.

(i) Revenue bonds of institutions of higher education of the state of Idaho.

The term "idle moneys" means the balance of cash and other evidences of indebtedness which are accepted by banks as cash in the ordinary course of business, in demand deposit accounts, after taking into consideration all deposits and withdrawals, on a daily basis.

The interest received on all such investments, unless otherwise specifically required by law, shall be paid into the general fund account of the state of Idaho. Provided, unless otherwise specifically provided by statute, funds received by the state pursuant to a federal law, regulation, or federal-state agreement which governs disposition of interest earned upon such funds shall be classified in the agency asset fund provided by section 57-811, Idaho Code. Any interest earned upon such funds shall be accounted for separately to give effect to the federal law, regulation, or federal-state agreement.

If the interest is to be credited to a separate account, to partially compensate for the amount of interest the general account would otherwise receive if such separate investment were not required, the state treasurer shall charge the account an investment administration fee equal to one-quarter of one percent (.25%) per year of the average daily balance of the account, including separate investments, if any, of that account. The fee may be charged monthly in an amount approximately one-twelfth of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from the account for which the investment administration services are rendered.

To partially compensate for the interest the general account has lost when such interest was diverted to certain state funds or accounts by statute authorizing them to be invested individually and receive their own interest, the state treasurer shall charge an investment administration fee to each such state fund or account, other than the general account, which receives investment income from investments administered by the office of state treasurer. The investment administration fee shall be equal to one-quarter of one percent (.25%) per year of the average daily balance of the fund or account, including separate investments, if any, of that fund or account. The fee may be charged monthly in an amount approximately one-twelfth of the fee which would be payable on an annual basis. The amount of the investment administration fee shall constitute an appropriation from

the fund or account for which the investment administration services are rendered.

The term "to invest" means to use the idle moneys in the state treasury to buy, sell, including selling before maturity at either a gain or a loss, retain, or exchange any of the investments described in this section, considering the probable safety of the capital, the probable income to be derived, and the liquidity of the assets.

Approved March 21, 1985.

CHAPTER 156
(H.B. No. 336)

AN ACT

RELATING TO APPROPRIATIONS NECESSARY TO AUTHORIZE WARRANTS; AMENDING SECTION 67-1011, IDAHO CODE, TO PROVIDE THAT THE CASH BALANCE IN THE BENEFIT ACCOUNT OF THE EMPLOYMENT SECURITY FUND SHALL BE THE CASH BALANCE IN THE ACCOUNT OF THIS STATE IN THE UNEMPLOYMENT TRUST FUND; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 67-1011, Idaho Code, be, and the same is hereby amended to read as follows:

67-1011. APPROPRIATION NECESSARY TO AUTHORIZE~~D~~ WARRANT. In all cases of specific appropriations, salaries, pay and expenses, ascertained and allowed by law, found due to individuals from the state, when audited, the auditor must draw warrants upon the treasury for the amount; but in cases of unliquidated accounts and claims, the adjustment and payment of which are not provided for by law, no warrants must be drawn by the auditor, or paid by the treasurer, until appropriation is made by law for that purpose, nor must the whole amount drawn for and paid for any purpose or under any one (1) appropriation ever exceed the amount appropriated, or the cash balance in the account charged, whichever is less. For the purposes of this section, the cash balance in the benefit account established in section 72-1346(b), Idaho Code, shall be deemed to be the cash balance in the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the social security act, as amended.

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 21, 1985.

CHAPTER 157
(H.B. No. 33, As Amended in the Senate)

AN ACT

RELATING TO COMMENCEMENT OF ACTIONS FOR ANY FELONY COMMITTED UPON OR AGAINST A MINOR CHILD; AMENDING SECTION 19-402, IDAHO CODE, TO PROVIDE THAT PROSECUTION FOR ANY FELONY COMMITTED UPON OR AGAINST A MINOR CHILD MUST BE COMMENCED WITHIN FIVE YEARS AFTER THE COMMISSION OF THE OFFENSE BY THE FILING OF THE COMPLAINT OR A FINDING OF AN INDICTMENT.

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

SECTION 1. That Section 19-402, Idaho Code, be, and the same is hereby amended to read as follows:

19-402. COMMENCEMENT OF PROSECUTIONS FOR CRIMES AGAINST CHILDREN AND OTHER FELONIES. A prosecution for any ~~other~~ felony other than murder or any felony committed upon or against a minor child must be commenced by the filing of the complaint or the finding of an indictment within three (3) years after its commission. A prosecution for any felony committed upon or against a minor child must be commenced within five (5) years after the commission of the offense by the filing of the complaint or a finding of an indictment.

Approved March 22, 1985.

CHAPTER 158
(H.B. No. 34, As Amended in the Senate)

AN ACT

RELATING TO THE REPORTING OF ABUSED, ABANDONED OR NEGLECTED CHILDREN; AMENDING SECTION 16-1619, IDAHO CODE, TO PROVIDE DUTIES UPON PERSONS HAVING REASON TO BELIEVE THAT CHILDREN UNDER EIGHTEEN YEARS OF AGE HAVE BEEN ABUSED, ABANDONED OR NEGLECTED AND TO PROVIDE A PENALTY FOR FAILURE TO REPORT SUCH SUSPECTED ABUSE; AND AMENDING SECTION 16-1620, IDAHO CODE, TO PROVIDE IMMUNITY FOR A PERSON WHO HAS REASON TO BELIEVE THAT A CHILD HAS BEEN ABUSED, ABANDONED OR NEGLECTED AND, ACTING UPON THAT BELIEF, MAKES A REPORT OF ABUSE, ABANDONMENT OR NEGLECT AS REQUIRED BY LAW.

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

SECTION 1. That Section 16-1619, Idaho Code, be, and the same is hereby amended to read as follows:

16-1619. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT. (a) Any physician, resident on a hospital staff, intern, nurse, coroner,

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

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

SECTION 2. That Section 16-1620, Idaho Code, be, and the same is hereby amended to read as follows:

16-1620. IMMUNITY. Any person ~~acting-upon-reasonable-cause-in-the making-of-a-report-of-abuse,-abandonment-or-neglect~~ who has reason to believe that a child has been abused, abandoned or neglected and, acting upon that belief, makes a report of abuse, abandonment or neglect as required in section 16-1619, Idaho Code, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Any privilege between husband and wife, or between any professional person except the lawyer-client privilege, including but not limited to physicians, ministers, counselors, hospitals, clinics, day care centers and schools and their clients shall not be grounds for excluding evidence at any proceeding regarding the abuse, abandonment or neglect of the child or the cause thereof.

Approved March 22, 1985.

CHAPTER 159
(H.B. No. 100, As Amended)

AN ACT

RELATING TO ENFORCEMENT OF CHILD SUPPORT ORDERS; AMENDING TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12, TITLE 7, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE INTENT; TO PROVIDE DEFINITIONS; TO PROVIDE A SYSTEM OF INCOME WITHHOLDING FOR COLLECTION OF CHILD SUPPORT; AND TO PROVIDE LIABILITY FOR FAILURE TO WITHHOLD; AMENDING SECTION 56-203D, IDAHO CODE, TO PROVIDE FOR

WITHHOLDING AND SETTING OFF OF INCOME TAX REFUNDS FOR COLLECTION OF DELINQUENT CHILD SUPPORT AND ALLOW ESTABLISHMENT OF PROCEDURES FOR COLLECTION OF CHILD SUPPORT ARREARS FOR COUNTY PROSECUTING ATTORNEYS; REPEALING SECTION 7-1107, IDAHO CODE; AMENDING CHAPTER 11, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1107, IDAHO CODE, TO PROVIDE LIMITATIONS OF ACTIONS TO ESTABLISH PATERNITY; AMENDING SECTION 72-802, IDAHO CODE, TO ALLOW ATTACHMENT OF WORKMEN'S COMPENSATION BENEFITS FOR SUPPORT; AMENDING SECTION 72-1365, IDAHO CODE, TO PROVIDE FOR WITHHOLDING AND SETTING OFF UNEMPLOYMENT COMPENSATION FOR COLLECTION OF CHILD SUPPORT AND SPOUSAL SUPPORT AND ALLOW ESTABLISHMENT OF PROCEDURES FOR COLLECTIONS OF CHILD SUPPORT ARREARS FOR COUNTY PROSECUTING ATTORNEYS; AMENDING SECTIONS 11-603 AND 11-607, IDAHO CODE, TO ALLOW EXECUTION, GARNISHMENT, AND WAGE WITHHOLDING OF VETERAN'S BENEFITS, SOCIAL SECURITY BENEFITS, AND UNEMPLOYMENT BENEFITS TO ENFORCE CLAIMS FOR CHILD SUPPORT AND SPOUSAL SUPPORT.

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

SECTION 1. That Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 12, Title 7, Idaho Code, and to read as follows:

CHAPTER 12
ENFORCEMENT OF CHILD SUPPORT ORDERS

7-1201. STATEMENT OF LEGISLATIVE FINDINGS. The legislature of the state of Idaho finds that a significant number of people who are owed child support are not paid in accordance with the terms of their child support orders; that this causes a severe financial hardship upon custodial parents and constitutes a significant detriment to the rearing and support of minor children whom the orders intended to support. Further, P.L. 98-378 requires each state to implement statutorily prescribed procedures to improve the effectiveness of child support enforcement. The collection remedies required by federal law are enacted in section 7-1203, Idaho Code.

7-1202. DEFINITIONS. As used in this chapter:

(1) "Bureau" means the bureau of child support enforcement, department of health and welfare of the state of Idaho.

(2) "Current support" means the present month's required support pursuant to an order that is to be paid in increments, excluding amounts ordered to satisfy a delinquency.

(3) "Delinquency" means unpaid, court-ordered support for a minor child or spouse, the amount of which is at least equal to the support payable for one (1) month.

(4) "Obligee" means any person, state agency or bureau entitled by order to receive child support payments or child and spousal support payments.

(5) "Obligor" means any person obligated by order to pay child or spousal support.

(6) "Order" means a judgment, decree, order, or administrative

ruling entered by a court in the United States directing a person or persons to pay money for support of a minor child or a spouse.

(7) "Income" means any form of periodic payment to an individual, regardless of source, including, but not limited to, wages, salary, commission, compensation as an independent contractor, workers' compensation, disability, veteran's annuity and retirement benefits, and any other payments made by any person, private entity, federal or state government, any unit of local government, school district or any entity created by a public act.

(8) "Withholding order" means any order issued by the bureau ordering an employer to retain an amount of the obligor's income for child support or spousal support.

(9) "Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.

7-1203. AVAILABLE REMEDIES. In addition to other remedies available to the bureau or obligee, collection of any delinquency from an obligor on behalf of an obligee shall be accomplished through any of the following means:

(1) The bureau shall intercept and withhold tax refunds to satisfy child support obligations pursuant to section 56-203D, Idaho Code.

(2) The bureau shall intercept and withhold a portion of any unemployment benefit payable to an obligor pursuant to section 72-1365, Idaho Code.

(3) The bureau shall administer a program to withhold a portion of an obligor's income for the benefit of the obligee pursuant to this chapter.

(4) The bureau shall intercept and withhold a portion of any veteran's benefits payable to an obligor pursuant to state or federal law.

7-1204. WITHHOLDING OF INCOME -- APPLICATION, NOTICE AND HEARING. (1) Any obligee who is owed a delinquency as defined in section 7-1202(3), Idaho Code, may apply to the bureau to seek withholding of the obligor's income by the obligor's employer for payment of the delinquency and current support. Additionally, any obligor who is required by order to pay child or spousal support may request that the bureau obtain withholding of the obligor's income by the obligor's employer for payment of current support and delinquency, if any.

(2) If an obligor is employed in the state of Idaho, the bureau shall give notice to the obligor by certified mail that an application has been made to withhold from the obligor's income any delinquency and/or current support due and owing to the obligee. Such notice shall inform the obligor that he/she may file a protest in writing requesting a hearing before the department of health and welfare. No issues at that hearing may be considered that have been litigated previously.

(3) If the obligor is employed in any other state, the bureau shall forward to the state agency which has the responsibility for the administration of income withholding in the state in which the obligor

is employed, all information required by that state agency to enable withholding of the obligor's income.

(4) If the obligor requests a hearing, in writing, postmarked or received by the department of health and welfare within fourteen (14) days after such notice has been mailed (not to include Saturday, Sunday or holidays as the 14th day) to protest the withholding of income for the benefit of the obligee, the department of health and welfare shall hold a hearing within thirty-five (35) days after the initial notice to the obligor. Additionally, the department of health and welfare shall immediately notify the obligee of the date, time and place of hearing and of the obligee's right to attend the hearing. The issues to be considered at the hearing shall be limited to mistakes of fact. The department of health and welfare shall issue its decision within forty-five (45) days of the initial notice. The decision may confirm, modify or deny the amount of any delinquency to be withheld.

(5) If the obligor files no timely protest, or after a hearing is held and decision is entered, the obligor is found to be delinquent in child or spousal support payments, the bureau shall send an order by certified mail to the employer of the obligor. The employer shall immediately begin withholding the sum specified in the order from the obligor's income and shall remit the amount withheld to the entity designated on the notice at the same time the obligor is paid. The employer shall continue to withhold the sum specified in the order until the order is either released or modified by written order of the bureau.

(6) The employer may combine all amounts withheld for a particular entity in a pay period into a single payment for that pay period, as long as the portion thereof which is attributable to each individual employee is separately designated. The employer may deduct a fee, not to exceed five dollars ($5.00), to cover costs of each withholding. Such fee is to be withheld from the obligor's income in addition to the amount to be withheld to satisfy the withholding order.

(7) Income withholding for child support shall have priority over any other attachment against the same income.

(8) In no event shall the amount to be withheld from the income of the obligor exceed the amount specified in section 11-207, Idaho Code.

7-1205. EMPLOYER LIABLE -- EXCEPTION. (1) Any employer who fails to retain and remit to the bureau an amount pursuant to the withholding order shall be liable for the amount to be retained specified in the withholding order to the bureau unless:

(a) The employer notifies the bureau that the obligor is not in his employ and the bureau upon investigation verifies the obligor's nonemployment with the employer and withdraws its order; or

(b) The obligor's income is not sufficient and therefore the restrictions in section 11-207, Idaho Code, apply and a lesser amount must be withheld.

(2) Any employer who refuses to employ, or takes disciplinary action against any absent parent subject to income withholding required under this subsection because of the existence of such with-

holding and the obligations or additional obligations which it imposes upon the employer, shall be subject to a fine of one thousand dollars ($1,000), which is a debt due and owing to the bureau.

(3) The employer shall notify the state promptly of the termination of the obligor's employment and provide the individual's last known address and the name and address of the individual's new employer, if known.

SECTION 2. That Section 56-203D, Idaho Code, be, and the same is hereby amended to read as follows:

56-203D. SET-OFF PROCEDURE FOR CHILD SUPPORT DEBT ~~OWING TO THE STATE OF IDAHO~~. (1) The state tax commission shall withhold and set-off any income tax or tax credit refund of any taxpayer upon notification from the department of health and welfare to collect any ~~delinquent account or debt which has been assigned on behalf of any individual to the department of health and welfare under sections 56-203A and 56-203B, Idaho Code~~ unpaid, court-ordered support for a minor child. The set-off or withholding of a refund due a taxpayer ~~who is a debtor to the state of Idaho, pursuant to sections 56-203A and 56-203B, Idaho Code,~~ shall be ~~instituted~~ completed only after the following conditions have been met:

(a) The delinquant child support payments referred to the state tax commission ~~shall be a liquid debted claim, debt, or account owing to the department of health and welfare. Such liquidated claims must be established by court judgment, or a stipulation between the taxpayer and the department of health and welfare~~ for withholding and set-off must have accrued under a court order from this state or a court or administrative order of another state, and the amount of the delinquency must equal at least one (1) month's current support.

(b) All outstanding tax liabilities collectible by the state tax commission are satisfied.

(c) The department of health and welfare, bureau of child support enforcement, shall forward to the state tax commission the full name and social security number of the taxpayer. The tax commission shall notify the department of health and welfare of the amount of refund due the taxpayer and the taxpayer's address on the income tax return.

(d) Notice of the proposed set-off shall be sent by registered or certified mail to the taxpayer at the address listed on the income tax return. ~~Upon thirty (30)~~ Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday or state holidays as the ~~30~~14th day) the taxpayer may file a protest in writing requesting a hearing before the department of health and welfare. The hearing shall be held within thirty-five (35) days from the date of the mailing of the original notice. No issues at that hearing may be considered that have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or by mail to the taxpayer within ten (10) days of the hearing.

(e) When set-off is attempted on a joint return under the provi-

sions of this section the taxpayer not specified to be the obligor in the claim may protest under the provisions of subsection (1)(d) of this section, and the set-off will be limited to one-half of the joint refund.

(f) After the decision of the department of health and welfare is issued, or if the taxpayer has failed to file a timely protest on of the claim, the set-off procedure shall becomes final.

(2) The proceeds from the set-off shall be credited to an account designated by the department of health and welfare, and notice shall be given to the appropriate clerk of the district court.

(3) This procedure for set-off shall not be subject to section 67-1021, Idaho Code.

(4) Any information furnished by the state tax commission, its employees or agents, under this section shall not be subject to the restrictions and penalties enumerated in section 63-3076, Idaho Code.

(5) Upon request, the department of health and welfare, bureau of child support enforcement, shall make the procedures established in this section for collecting child support arrears available to county prosecuting attorneys. The provisions of this subsection apply only if appropriate arrangements have been made for reimbursement by the requesting prosecuting attorney for the administrative costs incurred by the bureau which are attributable to the request.

SECTION 3. That Section 7-1107, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 11, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1107, Idaho Code, and to read as follows:

7-1107. LIMITATION OF ACTION. Proceedings to establish paternity of the child may be instituted only after the birth of the child and must be instituted before the child reaches the age of majority as defined in section 32-101, Idaho Code.

SECTION 5. That Section 72-802, Idaho Code, be, and the same is hereby amended to read as follows:

72-802. COMPENSATION NOT ASSIGNABLE -- EXEMPT FROM EXECUTION. No claims for compensation under this law shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors, except the restrictions under this section shall not apply to enforcement of an order of any court for the support of any person by execution, garnishment or wage withholding under chapter 12, title 7, Idaho Code.

SECTION 6. That Section 72-1365, Idaho Code, be, and the same is hereby amended to read as follows:

72-1365. PAYMENT OF BENEFITS. (a) With respect to unemployment occurring after July 1, 1947, benefits shall be paid from the employ-

ment security fund to any unemployed individual who is eligible for benefits as provided by section 72-1366, Idaho Code.

(b) (1) ~~If asked,~~ ~~a~~An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes child support obligations as defined under subsection (7). If any such individual ~~discloses that he or she~~ owes child or spousal support obligations, and is determined to be eligible for unemployment compensation, the director shall notify the ~~state or local~~ department of health and welfare, bureau of child support enforcement, ~~agency enforcing such obligation~~ that the individual has been determined to be eligible for unemployment compensation. The director shall notify the department of health and welfare of the amount of unemployment compensation due the claimant and the claimant's address.

Periodically, the department of health and welfare, bureau of child support enforcement, shall forward to the director a list containing the full name and social security number of persons from whom it is seeking child or spousal support. The director shall match the names and social security numbers on the list with its records of individuals eligible for unemployment compensation, and shall notify the department of health and welfare, bureau of child support enforcement, of the address and amount of compensation due each individual.

(2) Voluntary withholding. The director shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations as defined under subsection (~~7~~8):

~~(A) The~~ the amount specified by the individual to the director to be deducted and withheld under this subsection, ~~if neither (B) nor (C) is applicable; or~~

~~(B) The amount, if any, determined pursuant to an agreement submitted to the director under section 454(20)(B)(i) of the social security act by the state or local child support enforcement agency, unless (C) is applicable; or~~

~~(C) Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of the social security act, properly served upon the director~~ if subsection (3) below is not applicable.

(3) Involuntary withholding. The director shall withhold preliminarily any unemployment compensation of any person within the limits established by section 11-207, Idaho Code, upon notification by the department of health and welfare, bureau of child support enforcement, to collect any delinquent account or debt which has been assigned on behalf of any individual to the department of health and welfare under sections 56-203A and 56-203B, Idaho Code, or child or spousal support which the department seeks to collect pursuant to chapter 12, title 7, Idaho Code. The set-off or withholding of any unemployment compensation of a claimant shall become final after the following conditions have been met:

(A) The child or spousal support payment to be set-off or withheld is an obligation established by order as defined in section 7-1202, Idaho Code.

(B) All liabilities owed by reason of the provisions of section 72-1369, Idaho Code, have been collected by the director.

(C) Notice of the proposed set-off or withholding has been mailed by registered or certified mail from the department of health and welfare, bureau of child support enforcement, to the claimant-obligor at the address listed on the claim.

Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday, or state holidays as the 14th day), the claimant-obligor may file a protest in writing, requesting a hearing before the department of health and welfare to determine his liability to the obligee. The hearing, if requested, shall be held within thirty-five (35) days from the date of the initial notice to the claimant-obligor of the proposed set-off. No issues at that hearing may be considered which have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or within ten (10) days of the hearing by mail to the claimant-obligor.

(D) In its decision, the department of health and welfare may order the withholding and set-off of any subsequent unemployment compensation payments which may be due the claimant-obligor until the debt for which set-off is sought and any additional debts which are incurred by the claimant's failure to make additional periodic payments based upon the same court order are satisfied.

(4) Any amount deducted and withheld under subsections (2) or (3) shall be paid by the director to the appropriate state or local child support enforcement agency.

(45) Any amount deducted and withheld under subsections (2) or (3) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local child support enforcement agency in satisfaction of the individual's child or spousal support obligations.

(56) For purposes of subsections (1) through (45), the term "unemployment compensation" means any compensation payable under this act, including amounts payable by the director pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(67) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the director under the provisions of this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(78) The term "child or spousal support obligations" is defined for the purposes of these provisions as including only obligations which are being enforced pursuant to a plan described in section 454 of the social security act which has been approved by the secretary of health and human services under part D of title IV of the social security act.

(~~8~~9) The term "state or local child support enforcement agency" as used in these provisions means any agency of this state or a political subdivision thereof operating pursuant to a plan described in subsection (~~7~~8).

(c) Benefits shall be paid only to the extent that moneys are available for such payments in the employment security fund.

(d) All benefits shall be paid at such times not less frequently than biweekly, and in such manner as the director shall by rules prescribe.

(e) Upon request, the department of health and welfare, bureau of child support enforcement, shall make the procedures established in this section for collecting child support available to county prosecuting attorneys. The provisions of this subsection apply only if appropriate arrangements have been made for reimbursement by the requesting prosecuting attorney for the administrative costs incurred by the bureau, which are attributable to the request.

SECTION 7. That Section 11-603, Idaho Code, be, and the same is hereby amended to read as follows:

11-603. PROPERTY EXEMPT WITHOUT LIMITATION. An individual is entitled to exemption of the following property:

(1) a burial plot for the individual and his family;

(2) health aids reasonably necessary to enable the individual or a dependent to work or to sustain health;

(3) benefits the individual is entitled to receive under federal social security, or veteran's benefits~~,--or--under--federal,--state,--or local--public--assistance--legislation~~, except the restrictions under this subsection shall not apply to enforcement of an order for the support of any person by execution, garnishment, or wage withholding under chapter 12, title 7, Idaho Code;

(4) benefits the individual is entitled to receive under federal, state, or local public assistance legislation;

(~~4~~5) benefits payable for medical, surgical, or hospital care;

(~~5~~6) ~~S~~state unemployment compensation to the extent provided for in section 72-1375, Idaho Code, except the restructions under this subsection shall not apply to enforcement of an order for the support of any person by execution, garnishment, or wage withholding under chapter 12, title 7, Idaho Code.

SECTION 8. That Section 11-607, Idaho Code, be, and the same is hereby amended to read as follows:

11-607. CLAIMS ENFORCEABLE AGAINST EXEMPT PROPERTY. (1) Notwithstanding other provisions of this act:

(a) A creditor may make a levy against exempt property except property described in section 11-603, Idaho Code, to enforce a claim for:

1. alimony, support, or maintenance;

2. unpaid earnings of up to one (1) month's compensation or the full-time equivalent of one (1) month's compensation for personal services of an employee;

3. state or local taxes;

4. civil damages for offenses punishable by imprisonment in the state penitentiary, or for malicious or intentional injury to persons or property, or for damages resulting from the operation of a motor vehicle for which the defendant is convicted of reckless driving, driving while under the influence of intoxicating liquor or drugs, or driving while operator's license has been suspended or revoked, or claims for obtaining money or property by false pretenses or on credit by intentionally making materially false statements in writing respecting financial condition; or

5. rent for any kind of dwelling place; claims for food and lodging; and

(b) A creditor may make a levy against exempt property to enforce a claim for:

1. the purchase price of the property or a loan made for the express purpose of enabling an individual to purchase property and used for that purpose; and

2. labor or materials furnished to make, repair, improve, preserve, store, or transport the property.

(c) A creditor may make a levy against exempt property described in subsections (3) and (6) of section 11-603, Idaho Code, to enforce a claim for child support or spousal support as defined in section 7-1201, Idaho Code.

(2) This act does not affect any statutory lien or security interest in exempt property. Such a security agreement shall not be invalidated in or affected by any legal proceedings, including those under the federal bankruptcy act, involving the debtor.

Approved March 22, 1985.

CHAPTER 160
(H.B. No. 172)

AN ACT

TO REORGANIZE THE EXECUTIVE DEPARTMENT OF STATE GOVERNMENT; AMENDING SECTION 59-904, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF A DIRECTOR OF THE DEPARTMENT OF COMMERCE; AMENDING SECTION 67-2402, IDAHO CODE, TO DESIGNATE THE DEPARTMENT OF COMMERCE AS AN EXECUTIVE DEPARTMENT OF STATE GOVERNMENT AND TO STRIKE REFERENCE TO THE BOARD OF EXAMINERS; AMENDING SECTION 67-2406, IDAHO CODE, TO PROVIDE FOR A DIRECTOR OF THE DEPARTMENT OF COMMERCE; AMENDING SECTION 67-4701, IDAHO CODE, TO CREATE THE DEPARTMENT OF COMMERCE; AMENDING SECTION 67-4702, IDAHO CODE, TO PROVIDE FOR NAME CHANGES; AMENDING SECTION 67-4703, IDAHO CODE, TO PROVIDE FOR NAME CHANGES AND TO ELIMINATE THE AUTHORITY FOR COORDINATION FOR CERTAIN FUNCTIONS; AMENDING SECTION 67-4704, TO PROVIDE FOR NAME CHANGES AND FOR APPROVAL OF PROJECTS, PLANS AND PROGRAMS BY THE ADVISORY COUNCIL; AMENDING SECTIONS 67-4705, 67-4706, 67-4707, 67-4711,

67-4712, 67-4713, 67-4714, 67-4715, 67-4716, 67-4717, AND 67-4718, IDAHO CODE, TO PROVIDE FOR NAME CHANGES.

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

SECTION 1. That Section 59-904, Idaho Code, be, and the same is hereby amended to read as follows:

59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED. (a) All vacancies in any state office, and in the supreme and district courts, unless otherwise provided for by law, shall be filled by appointment by the governor. Appointments to fill vacancies pursuant to this section shall be made as provided in subsections (b), (c), (d), (e), and (f) of this section, subject to the limitations prescribed in those subsections.

(b) Nominations and appointments to fill vacancies occurring in the office of lieutenant governor, state auditor, state treasurer, superintendent of public instruction, attorney general and secretary of state shall be made by the governor, subject to the advice and consent of the senate, for the balance of the term of office to which the predecessor of the person appointed was elected.

(c) Nominations and appointments to and vacancies in the following listed offices shall be made or filled by the governor subject to the advice and consent of the senate for the terms prescribed by law, or in case such terms are not prescribed by law, then to serve at the pleasure of the governor:

Director of the department of administration,
Director of the department of finance,
Director of the department of insurance,
Director, department of agriculture,
Director of the department of employment,
Director of the department of water resources,
Director of the department of law enforcement,
Director, department of labor and industrial services,
Director of the department of commerce,
Manager of the state insurance fund,
Member of the state tax commission,
Members of the board of regents of the university of Idaho and the state board of education,
Members of the Idaho water resources board,
Members of the state fish and game commission,
Members of the Idaho transportation board,
Members of the state board of health and welfare,
Members of the board of directors of state parks and recreation,
Members of the board of correction,
Members of the industrial commission,
Members of the Idaho public utilities commission,
Members of the Idaho personnel commission,
Members of the board of directors of the Idaho state retirement system.

(d) Appointments made by the state board of land commissioners to the office of director, department of lands, and appointments to fill

vacancies occurring in those offices shall be submitted by the president of the state board of land commissioners to the senate for the advice and consent of the senate in accordance with the procedure prescribed in this section.

(e) Appointments made pursuant to this section while the senate is in session shall he submitted to the senate forthwith for the advice and consent of that body. The appointment so made and submitted shall not be effective until the approval of the senate has been recorded in the journal of the senate. Appointments made pursuant to this section while the senate is not in session shall be effective until the appointment has been submitted to the senate for the advice and consent of the senate. Should the senate adjourn without granting its consent to such an interim appointment the appointment shall thereupon become void and a vacancy in the office to which the appointment was made shall exist.

All appointments made pursuant to subsection (c) of this section, except those appointments for which a term of office is fixed by law, shall terminate at the expiration of any gubernatorial term. Appointments to fill the vacancies thus created by the expiration of the term of office of the governor shall be forthwith submitted to the senate for the advice and consent of that body, and when so submitted shall be as expeditiously considered as possible.

Upon receipt of an appointment in the senate for the purpose of securing the advice and consent of the senate, the appointment shall be referred by the presiding officer to the appropriate committee of the senate for consideration and report prior to action thereon by the full senate.

(f) It is the intent of the legislature that the provisions of this section as amended by this act shall not apply to appointments which have been made prior to the effective date of this act ~~[April 7, 1969]~~. It is the further intent of the legislature that the provisions of this section shall apply to the offices listed in this section and to any office created by law or executive order which succeeds to the powers, duties, responsibilities and authorities of any of the offices listed in subsections (c) and (d) of this section.

SECTION 2. That Section 67-2402, Idaho Code, be, and the same is hereby amended to read as follows:

67-2402. STRUCTURE OF THE EXECUTIVE BRANCH OF IDAHO STATE GOVERNMENT. (1) Pursuant to section 20, article IV, Idaho constitution, all executive and administrative offices, agencies, and instrumentalities of the executive department of state, except for those assigned to the elected constitutional officers, are allocated among and within the following departments:

Department of administration
Department of agriculture
<u>Department of commerce</u>
Department of correction
Department of employment
~~Board of examiners~~
Department of finance

Department of fish and game
Department of health and welfare
Department of insurance
Idaho transportation department
Industrial commission
Department of labor and industrial services
Department of lands
Department of law enforcement
Department of parks and recreation
Department of revenue and taxation
Department of self-governing agencies
Department of water resources
State board of education

The public school districts of Idaho, having condemnation authority, shall be considered civil departments of state government for the purpose of and limited to the purchase of state endowment land at appraised prices.

(2) The governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general and superintendent of public instruction each heads a constitutional office.

(3) For its internal structure, unless specifically provided otherwise, each department shall adhere to the following standard terms:

(a) The principal unit of a department is a division. Each division shall be headed by an administrator. The administrator of any division may be exempt from the provisions of chapter 53, title 67, Idaho Code, if declared exempt by the director of the department at the time of the creation of the division.

(b) The principal unit of a division is a bureau. Each bureau shall be headed by a chief.

(c) The principal unit of a bureau is a section. Each section shall be headed by a supervisor.

SECTION 3. That Section 67-2406, Idaho Code, be, and the same is hereby amended to read as follows:

67-2406. DIRECTORS OF DEPARTMENTS ENUMERATED. The following department directors are created:

Director, department of administration
Director, department of agriculture
Director, department of commerce
Director, department of correction
Director, department of employment
Director, department of finance
Director, department of fish and game
Director, department of health and welfare
Director, department of insurance
Director, Idaho transportation department
Director, department of labor and industrial services
Director, department of lands
Director, department of law enforcement
Director, department of parks and recreation

Director, department of water resources.

SECTION 4. That Section 67-4701, Idaho Code, be, and the same is hereby amended to read as follows:

67-4701. ~~DIVISION-OF-ECONOMIC-AND-COMMUNITY-AFFAIRS~~ DEPARTMENT OF COMMERCE CREATED. There is hereby created in the ~~office-of-the--governor--a--division-of-economic-and-community-affairs~~ executive branch of the government, a department of commerce, hereinafter referred to as the ~~division~~ department, which shall have the duties, powers and authorities hereinafter provided.

SECTION 5. That Section 67-4702, Idaho Code, be, and the same is hereby amended to read as follows:

67-4702. ~~ADMINISTRATOR~~ DIRECTOR HAVING SUPERVISORY CONTROL OF ~~DIVISION~~ DEPARTMENT -- APPOINTMENT -- COMPENSATION. The ~~division~~ department shall be under the control and supervision of ~~an administrator~~ a director, who shall be appointed by the governor and who shall serve at the pleasure of the governor. His compensation shall be fixed by the governor within the limits of appropriations made therefor. The ~~division~~ department may employ, subject to the provisions of chapter 53, title 67, Idaho Code, such executive, technical, accounting, clerical or other assistants as may be necessary to carry out the duties imposed upon the ~~division~~ department by this act.

SECTION 6. That Section 67-4703, Idaho Code, be, and the same is hereby amended to read as follows:

67-4703. POWERS AND DUTIES. The ~~division~~ department of ~~economic and--community--affairs~~ commerce shall have the power and it shall be its duty to engage in advertising the state of Idaho, its resources, both developed and undeveloped, its tourist resources and attractions, its agricultural, mining, lumbering and manufacturing resources, its health conditions and advantages, its scenic beauty and its other attractions and advantages; and in general either directly, indirectly or by contract do anything and take any action which will promote and advertise the resources and products of the state of Idaho, develop its resources and industries, promote tourist travel to and within the state of Idaho, and further the welfare and prosperity of its citizens.

The ~~division~~ department shall also have the following duties when it deals with promoting economic development and tourism within the state:

(1) Survey and investigate the social, economic and physical resources of the state, including land, water, minerals, facilities for power, transportation, communications, recreation, health, education and other resources and facilities; endeavor to aid the legislature and the citizens of the state of Idaho in formulating a program for the development and utilization of these resources and facilities, and for balancing our agricultural, timber and mining economy with industrial capacity. ~~It--shall--coordinate-the-work-of-all-research;~~

~~fact-finding-and-development-agencies-established-by-the-laws--of--the state;--and-which-agencies-shall-make-such-facilities-available-to-the division;~~ It shall cooperate with~~;-and-coordinate-the-work--of;~~ local and regional agencies within the state. It shall cooperate with like agencies of other states, with agencies maintained by private persons or corporations, and with agencies established or employed by the United States to promote the development of the country and the welfare of its people.

(2) To develop and promote a comprehensive international marketing plan for Idaho's products.

(3) To collect and compile reliable data for general dissemination which will tend to the development of the state of Idaho by inducing people and capital to come within our borders.

(4) Keep accurate records and preserve all data collected by it, and from time to time prepare and submit to the governor and the legislature, reports, programs, recommendations and plans for the comprehensive, long-range development, conservation and use of all the resources of the state of Idaho. It shall make such special investigations as to resources, facilities, and other matters as may be required by the governor or the legislature.

(5) Coordinate those activities of local, state, federal and private agencies and departments when they deal with the promotion of Idaho's economic resources.

(6) To require and receive from the various executive departments and public officials of the state of Idaho such information as may be required by the division to enable it to fulfill its functions and carry out the purposes of this act.

(7) Administer and perform any other related functions or activities assigned ~~to-the-division~~ by the governor or the legislature.

(8) Enter into interagency agreements with other state agencies in developing economic and community plans and programs.

(9) Provide technical assistance to other state agencies upon request.

(10) Contract with universities, consultants and other public and private agencies to develop plans and programs.

(11) Serve as a clearinghouse for information, data, and other materials which may be used in developing Idaho's economy.

(12) Prepare a comprehensive economic development strategy.

(13) Collect and compile reliable economic data for general dissemination.

(14) Petition for and receive moneys such as grants or gifts, to be used for state or local planning and economic development activities.

SECTION 7. That Section 67-4704, Idaho Code, be, and the same is hereby amended to read as follows:

67-4704. ADVISORY COUNCIL -- APPOINTMENT OF MEMBERS -- QUALIFICATIONS. There shall be an advisory council in the ~~division~~ department of ~~economic-and-community-affairs~~ commerce to advise with the ~~division~~ department in the preparation and execution of plans, projects and programs in the furtherance of the power and duties conferred on~~--the~~

~~division~~ by section 67-4703, Idaho Code~~,--which-council-may-be-divided into-such-subcouncils-with-such-duties-as-may-be-deemed-necessary--and desirable--by--the--administrator,--with-the-advice-and-consent-of-the governor.~~ The Director of the department shall consult, confer and advise with the advisory council in connection with all decisions concerning the administration and development of plans, projects and programs of the department. The approval of the advisory council shall be a condition precedent to the undertaking of action in the implementation of plans, projects and programs by the department. The advisory council shall consist of six (6) persons, who shall be appointed by the governor, and who shall serve for three (3) year terms, with two (2) members' terms expiring each year. They shall serve and shall be compensated as provided by section 59-509(b), Idaho Code. One (1) person shall be appointed to represent each of the six (6) planning regions of the state. Membership shall be divided between political parties.

SECTION 8. That Section 67-4705, Idaho Code, be, and the same is hereby amended to read as follows:

67-4705. IDAHO DEVELOPMENT AND PUBLICITY ACCOUNT. There is hereby established an Idaho development and publicity account in the state operating fund and all of the moneys now or hereafter in said account are hereby appropriated to the use of the ~~division~~ department of economic~~--and--community--affairs~~ commerce for the purposes expressed in this act. The ~~division~~ department may accept contributions to said account from local units of government, and private persons or agencies. The account shall consist of such contributions and appropriations made thereto from time to time.

SECTION 9. That Section 67-4706, Idaho Code, be, and the same is hereby amended to read as follows:

67-4706. COMMUNITY AFFAIRS FUNCTIONS AND RESPONSIBILITIES OF THE ~~DIVISION~~ DEPARTMENT. The ~~division~~ department of ~~economic-and-community-affairs~~ commerce shall have the following community affairs functions and responsibilities:

(1) Administration or coordination of state programs and projects relating to community affairs planning. The programs and projects shall be consistent with local, regional and state comprehensive plans and policies.

(2) Upon request, cooperate with and provide technical and financial assistance to counties, cities, municipal corporations, governmental conferences or councils, regional planning commissions, parks or recreation boards, community development groups, community action agencies, Indian tribes and similar agencies created for the purposes of aiding and encouraging an orderly, productive and coordinated development of the state, and to strengthen local planning responsibility and capability.

SECTION 10. That Section 67-4707, Idaho Code, be, and the same is hereby amended to read as follows:

67-4707. FUNDS OF ~~DIVISION~~ DEPARTMENT. When federal or other funds are received by the ~~division~~ department, they shall be promptly transferred to the state treasurer and thereafter be expended only upon the approval of the ~~administrator~~ director.

SECTION 11. That Section 67-4711, Idaho Code, be, and the same is hereby amended to read as follows:

67-4711. DEFINITIONS. As used in this act, unless the context requires otherwise:

(1) "Campground" means any privately owned business which rents areas or places used for camping or parking campers, travel trailers, motorhomes or tents.

(2) "~~Committee~~ Council" means the state of Idaho travel and convention industry ~~committee~~ Council.

(3) "~~Division~~ Department" means the ~~division~~ department of ~~economic and community affairs, office of the governor~~ commerce.

(4) "Hotel/Motel" means an establishment which provides lodging to members of the public for a fee, and shall include condominiums, townhouses or any other establishment which makes a sale as herein defined.

(5) "Planning Regions" means those six (6) districts which shall be designated by number and shall embrace the several counties as follows:

No. 1. The counties of Benewah, Bonner, Boundary, Kootenai and Shoshone.

No. 2. The counties of Clearwater, Idaho, Latah, Lewis and Nez Perce.

No. 3. The counties of Adams, Canyon, Gem, Payette, Washington, Ada, Owyhee, Elmore, Boise and Valley.

No. 4. The counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls.

No. 5. The counties of Bannock, Caribou, Bear Lake, Franklin, Oneida, Power and Bingham.

No. 6. The counties of Lemhi, Custer, Butte, Clark, Jefferson, Fremont, Madison, Teton and Bonneville.

(6) "Sale" means the renting of a place to sleep, to an individual by a hotel, motel, or campground for a period of less than twenty-nine (29) continuous days.

SECTION 12. That Section 67-4712, Idaho Code, be, and the same is hereby amended to read as follows:

67-4712. IDAHO TRAVEL AND CONVENTION INDUSTRY ~~COMMITTEE~~ COUNCIL -- Created -- Appointment of members. There is hereby created an advisory ~~committee~~ council to advise, as provided by this act, the ~~division~~ department on matters related to the travel and convention industry. The ~~committee~~ council shall consist of seven (7) persons, who shall be appointed by the governor. Two (2) of the original members shall serve for one (1) year; two (2) of the original members shall serve for two (2) years; and three (3) of the original members

shall serve for three (3) years. The term of office of members of the committee thereafter shall be three (3) years commencing on July 1.

SECTION 13. That Section 67-4713, Idaho Code, be, and the same is hereby amended to read as follows:

67-4713. MEMBERS' QUALIFICATIONS -- TERM OF OFFICE. Members of the ~~committee~~ council shall be individuals actively involved in the state's travel and convention industry, as a career or as an investment. Their selection shall be made with regard to their ability and disposition to serve the state's interest, and their knowledge of the state's travel industry. There shall be one (1) member appointed from each of the six (6) planning regions of the state. One (1) member shall serve in a statewide capacity.

Members of the ~~committee~~ council may not serve more than two (2) terms, nor may they hold or file for any partisan elective political office while a member of the ~~committee~~ council.

A member of the ~~committee~~ council may be removed for inefficiency, neglect of duty, misconduct in office or if he is no longer a resident of the district from which he was appointed. Should a vacancy occur on the ~~committee~~ council, the governor shall appoint a person from the proper region, to fulfill the remaining term of the vacant position.

SECTION 14. That Section 67-4714, Idaho Code, be, and the same is hereby amended to read as follows:

67-4714. MEETINGS OF THE ~~COMMITTEE~~ COUNCIL. The ~~committee~~ council shall meet at least once every three (3) months and at such other times as called by the chairman of the ~~committee~~ council or ~~administrator~~ director of the ~~division~~ department. The chairman or ~~division administrator~~ director may call special meetings of the ~~committee~~ council at any time or place. Each member of the ~~committee~~ council shall be compensated as provided by section 59-509(h), Idaho Code. Each member shall be entitled to one (1) vote and a majority of the members of the ~~committee~~ council shall constitute a quorum.

SECTION 15. That Section 67-4715, Idaho Code, be, and the same is hereby amended to read as follows:

67-4715. DUTIES AND POWERS OF THE ~~COMMITTEE~~ COUNCIL. (1) Consistent with the general purposes of this chapter, ~~the committee~~ council shall advise the ~~division~~ department upon the establishment of policies to be followed in the accomplishments of the purposes of this act.

(2) In the administration of this act, the ~~committee~~ council shall have the following duties, authorities and powers:

(a) To review and recommend acceptance or denial of local grant requests submitted by nonprofit groups or organizations, for uses consistent with the purposes of this act. Such power shall include the right to approve disbursal of the ~~division~~ department moneys to such nonprofit groups under the grant program created by section 67-4717, Idaho Code.

(b) To counsel and advise the ~~division~~ department on matters concerning the promotion and marketing of Idaho tourism, including, but not limited to the following: (1) the type of promotion, (2) the media source of promotion, (3) market areas for promotion and (4) areas for travel and industry emphasis.
(c) To encourage and assist in the coordination of the activities of persons, firms, associations, corporations, civic groups and governmental agencies engaged in publicizing, developing and promoting the scenic attractions and tourist advantages of the state.
(d) To recommend such action as the ~~committee~~ council deems necessary and advisable in order to stabilize and promote the travel industry of the state so as to benefit the health and welfare of the public.
(e) To cooperate with any local, state, or national organization or agency, whether voluntary or created by the law of any state or by federal legislation, engaged in activities similar to the work of the ~~committee~~ council. The ~~committee~~ council may, through the ~~division~~ department, enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity.
(f) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of duties.
(g) To keep books, records and accounts of all its activities, which books, records and accounts shall be open to inspection and audit. Such books shall also be open to the public.
(h) To report annually its activities and expenditures to the development and publicity council as created by section 67-4704, Idaho Code.

SECTION 16. That Section 67-4716, Idaho Code, be, and the same is hereby amended to read as follows:

67-4716. ADMINISTRATIVE EXPENSES — LIMITATION. Not more than ten percent (10%) of all funds made available by this act shall be used by the ~~committee~~ council or ~~division~~ department for those administrative expenses necessarily incurred by the operation of this act.

SECTION 17. That Section 67-4717, Idaho Code, be, and the same is hereby amended to read as follows:

67-4717. REGIONAL AND STATEWIDE GRANT PROGRAM. There is hereby established within the state of Idaho a travel and convention industry grant program. Such program shall be administered jointly by the ~~committee~~ council and the ~~division~~ department. The source of funding for the program shall be from the assessment imposed by section 67-4718, Idaho Code.

Fifty percent (50%) of all funds derived from this act less one-half (1/2) of the administrative costs, shall be returned to local nonprofit organizations having as their primary purpose the promotion of travel and conventions within a planning region, to expend for the promotion of travel and conventions within their area. Each planning

region shall be awarded grants totaling an amount equal to the regional proportion of one-half (1/2) the total sum raised by the assessment imposed by section 67-4718, Idaho Code. No allocations to a planning region shall lapse, but shall be continuously available for use for promotion purposes within the planning region.

The remaining fifty percent (50%) of all funds derived from this act, less one-half (1/2) of the administrative costs, shall be expended by the ~~division~~ department for the promotion and development of statewide travel and convention programs. The ~~division~~ ~~department~~ shall be counseled and advised in its creation and execution of such programs by the ~~committee~~ council as provided by section 67-4712, Idaho Code.

SECTION 18. That Section 67-4718, Idaho Code, be, and the same is hereby amended to read as follows:

67-4718. ASSESSMENT -- ~~COMMITTEE~~ COUNCIL ACCOUNT. (1) From and after January 1, 1985, there is hereby levied and imposed an assessment at the rate of two percent (2%) of the 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~~ department to administer pursuant to the provisions of this act.

(3) The ~~committee~~ council may, by duly adopted resolution, determine that a lesser amount of assessment shall be imposed and the ~~division~~ department 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.

Approved March 22, 1985.

CHAPTER 161
(H.B. No. 314)

AN ACT
APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE DIVISION OF ECONOMIC AND COMMUNITY AFFAIRS FOR FISCAL YEAR 1986.

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, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
FROM:				
General Account	$280,200	$ 71,500		$ 351,700
Idaho Travel and Convention Account	166,700	1,036,700	$1,036,800	2,240,200
Idaho Development and Publicity Account		123,400		123,400
Economic and Community Affairs Account	152,700	88,900	8,623,000	8,864,600
TOTAL	$599,600	$1,320,500	$9,659,800	$11,579,900

Approved March 22, 1985.

CHAPTER 162
(S.B. No. 1193)

AN ACT
RELATING TO APPROPRIATIONS FOR THE SWAN FALLS AGREEMENT; APPROPRIATING MONEYS FOR DEPOSIT IN THE SWAN FALLS AGREEMENT ACCOUNT; APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR; APPROPRIATING MONEYS TO THE ATTORNEY GENERAL; 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 from the General Account for deposit in the Swan Falls Agreement Account the sum of $700,000.

SECTION 2. There is hereby appropriated to the Office of the Governor the following amount to be expended for the designated program from the listed account for the period July 1, 1985, through June 30, 1986:

FOR:
Swan Falls Agreement Project $700,000
FROM:
Swan Falls Agreement Account $700,000

SECTION 3. There is hereby appropriated to the Attorney General the following amount to be expended for the designated program according to the designated expenae classes from the listed account for the period July 1, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. STATEWIDE LEGAL SERVICES:			
FROM:			
General Account	$73,900	$26,100	$100,000

SECTION 4. It is legislative intent that of the amounts appropriated herein for the Swan Falls Agreement, legal services shall be exclusively provided by or sought from the Office of the Attorney General.

Law Without Signature.

CHAPTER 163
(H.B. No. 349)

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 1986; MAKING CERTAIN CODE PROVISIONS SPECIFICALLY AVAILABLE TO THE STATE BOARD OF EDUCATION FOR FISCAL YEAH 1986 ONLY; AND REAPPROPRIATING CERTAIN MONEYS TO THE STATE BOARD OF EDUCATION.

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 University, Lewis-Clark State College and the University of Idaho the following amounts, to be expended for designated programs for the period July 1, 1985, through June 30, 1986:

FOR:
General Education Programs $109,888,800
FROM:
General Account $ 88,000,000
State Endowment Funds 5,840,800
Interagency Billing and Receipts Account 16,048,000
TOTAL $109,888,800

The General Account appropriation in this section includes $1,975,300 for nonrecurring library acquisitions and equipment replacement.

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 1986 only, the provisions of Section 67-3516(1), (3) and (4), Idaho Code, notwithstanding.

SECTION 3. There is hereby reappropriated to the State Board of Education and the Board of Regents of the University of Idaho for Boise State University, Idaho State University, Lewis-Clark State College and the University of Idaho, any unexpended and unencumbered balances of the moneys appropriated by Section 1, Chapter 28B, Laws of 1984, for the period July 1, 1985, through June 30, 1986, to be used for nonrecurring expenditures.

Law Without Signature.

CHAPTER 164
(S.B. No. 1188)

AN ACT

APPROPRIATING MONEYS TO THE LEGISLATIVE COUNCIL FOR FISCAL YEAR 1986; APPROPRIATING MONEYS TO THE JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE FOR FISCAL YEAR 1986; EXPRESSING LEGISLATIVE INTENT; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE LEGISLATIVE BUDGET OFFICE; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE JOINT SENATE FINANCE - HOUSE APPROPRIATIONS COMMITTEE.

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

SECTION 1. There is hereby appropriated to the Legislative Council the following amounts from the listed accounts, to be expended according to designated expense classes for the period July 1, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$389,300	$231,300		$620,600
Interagency Billing and Receipts Account		42,000		42,000
TOTAL	$389,300	$273,300		$662,600

SECTION 2. 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, 1985, through June 30, 1986:

FOR:	
Legislative Auditor, Legislative Budget Office and Joint Senate Finance-House Appropriations Committee Programs	$1,305,300
FROM:	
General Account	$ 955,300
Interagency Billing and Receipts Account	350,000
TOTAL	$1,305,300

SECTION 3. It is legislative intent that the appropriation made in Section 2 of this act shall be expended as follows for the period July 1, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
A. LEGISLATIVE AUDITOR:			
FROM:			
General Account	$ 550,400		$ 550,400
Interagency Billing and Receipts Account	294,900	$ 55,100	350,000
TOTAL	$ 845,300	$ 55,100	$ 900,400
B. LEGISLATIVE BUDGET OFFICE:			
FROM:			
General Account	$ 351,400	$ 35,500	$ 386,900
C. JOINT SENATE FINANCE-HOUSE APPROPRIATIONS COMMITTEE:			
FROM:			
General Account	$ 6,000	$ 12,000	$ 18,000
GRAND TOTAL	$1,202,700	$102,600	$1,305,300

SECTION 4. There is hereby reappropriated to the Joint Senate Finance-House Appropriations Committee any unexpended and unencumbered balances of the General Account money appropriated by Section 3, Chapter 267, Laws of 1984, and designated in Section 4, for the Legislative Budget Office, to be expended for the Legislative Budget Office, for the period July 1, 1985 through June 30, 1986, for non-recurring expenditures only.

SECTION 5. There is hereby reappropriated to the Joint Senate Finance-House Appropriations Committee any unexpended and unencumbered balances of the General Account money appropriated by Section 3, Chapter 267, Laws of 1984, and designated in Section 4, for the Joint Senate Finance-House Appropriations Committee, to be expended for the Joint Senate Finance-House Appropriations Committee for the period July 1, 1985, through June 30, 1986.

Law Without Signature.

CHAPTER 165
(H.B. No. 350)

AN ACT

APPROPRIATING THE UNEXPENDED AND UNENCUMBERED BALANCE IN THE GENERAL ACCOUNT FOR DEPOSIT IN THE BUDGET RESERVE ACCOUNT; AND APPROPRIATING MONEYS FROM THE BUDGET RESERVE ACCOUNT FOR DEPOSIT IN THE GENERAL ACCOUNT.

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

SECTION 1. The balance of any unexpended and unencumbered moneys in the General Account as of June 30, 1985, as determined by the State Auditor, is hereby appropriated for deposit in the Budget Reserve Account.

SECTION 2. The amount of $8,110,800, is hereby appropriated from the Budget Reserve Account for deposit in the General Account.

Law Without Signature.

CHAPTER 166
(S.B. No. 1196, As Amended)

AN ACT

RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT FOR FISCAL YEAR 1986; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO EXPENDITURES FROM STATE SOURCES; APPROPRIATING MONEYS FOR DEPOSIT IN THE PUBLIC SCHOOL INCOME FUND; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR INSTRUCTIONAL MATERIAL ACQUISITION; 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; APPROPRIATING MONEYS FOR DEPOSIT IN THE SOCIAL SECURITY TRUST ACCOUNT; AMENDING SECTIONS 5 AND 6, CHAPTER 289, LAWS OF 1984, RELATING TO THE APPROPRIATION FOR PUBLIC SCHOOL SUPPORT TO CHANGE THE AMOUNT OF THE APPROPRIATION; AND DECLARING AN EMERGENCY FOR SECTION 8 OF THE ACT.

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 school support for the period July 1, 1985, through June 30, 1986:

FROM:		
General Account		$304,000,000
Dedicated Accounts:		
Endowment Fund Income	$16,900,000	
Department of Lands	5,250,000	
Liquor Account	1,200,000	
Miscellaneous Receipts	4,900,000	
Subtotal	$28,250,000	28,250,000
TOTAL		$332,250,000

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, 1985, through June 30, 1986:

FROM:	
General Account	$250,118,100

SECTION 3. There is hereby appropriated to the State Board of Education, the following amount, to be expended from the General Account for the designated purpose, for the period July 1, 1985, through June 30, 1986:

FOR:	
Public School Support	
Instructional Material Acquisition	$1,800,000

SECTION 4. 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 $278,368,100 of the moneys which may accrue to such fund for the period July 1, 1985, through June 30, 1986.

SECTION 5. There is hereby appropriated from the General Account for Public School Support an amount not to exceed $28,136,200 for deposit in the Public Employee Retirement Account to be expended according to Section 59-1332A, Idaho Code, for the period July 1, 1985, through June 30, 1986.

SECTION 6. There is hereby appropriated from the General Account for Public School Support an amount not to exceed $754,800 for the Unemployment Insurance Program to be expended according to Section 72-1349C, Idaho Code, for the period July 1, 1985, through June 30, 1986.

SECTION 7. There is hereby appropriated from the General Account for Public School Support an amount not to exceed $23,190,900 for deposit in the Social Security Trust Account to be expended according to Section 59-1115, Idaho Code, for the period July 1, 1985, through June 30, 1986.

SECTION 8. That Sections 5 and 6, Chapter 289, Laws of 1984, be, and the same are hereby amended to read as follows:

SECTION 5. There is hereby appropriated from the General Account for Public School Support an amount not to exceed ~~$1,000,000~~825,000 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~~21,777,300 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.

SECTION 9. An emergency existing therefor, which emergency is hereby declared to exist, Section 8 of this act shall be in full force and effect on and after its passage and approval.

Law Without Signature.

CHAPTER 167
(S.B. No. 1011)

AN ACT

RELATING TO THE SMALL CLAIMS DEPARTMENT OF THE MAGISTRATE'S DIVISION OF THE DISTRICT COURT; AMENDING SECTION 1-2311, IDAHO CODE, TO PROVIDE THAT AN APPEAL FROM THE SMALL CLAIMS DEPARTMENT SHALL BE TO A LAWYER MAGISTRATE OTHER THAN THE MAGISTRATE WHO ENTERED THE SMALL CLAIMS JUDGMENT AND THAT THE APPEAL SHALL BE HEARD IN THE COUNTY WHEREIN THE ORIGINAL SMALL CLAIM WAS FILED; AND AMENDING SECTION 1-2312, IDAHO CODE, TO PROVIDE THE FORM FOR APPEAL FROM THE SMALL CLAIMS DEPARTMENT TO A LAWYER MAGISTRATE AND TO ELIMINATE THE REQUIREMENT OF POSTING A BOND WITH SATISFACTORY SURETY TO SECURE PAYMENT OF A JUDGMENT ON APPEAL.

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

SECTION 1. That Section 1-2311, Idaho Code, be, and the same is hereby amended to read as follows:

1-2311. APPEAL TO ~~DISTRICT JUDGE~~ LAWYER MAGISTRATE. If either party is dissatisfied he may, within thirty (30) days from the entry of said judgment against him, appeal to a ~~district judge of the county in which said court is located~~ lawyer magistrate other than the magistrate who entered said judgment; and if the final judgment is rendered against him by such ~~district judge~~ lawyer magistrate, then he shall pay, in addition to any judgment rendered in the magistrate's division, an attorney's fee to the prevailing party in the sum of twenty-five dollars ($25.00), provided, however, that appeals from such small claims department shall only be allowed in such cases as appeals would be allowed if the action were instituted in the magistrate's division as is now provided, and further provided that the appeal shall be

heard in the county wherein the original small claim was filed.

SECTION 2. That Section 1-2312, Idaho Code, be, and the same is hereby amended to read as follows:

1-2312. FORM FOR APPEAL -- FILING AND DISPOSITION. An appeal from the ~~magistrate's division~~ small claims department may be in the following terms:

In the Magistrate's Division of the District Court for .... County, Idaho, ... Plaintiff, vs. ...., Defendant. Comes now ...., resident of .... County, Idaho and appeals from the decision of the small claims department of the magistrate's division for .... County, Idaho, wherein a judgment for .... dollars was awarded against him on the .... day of ...., 19...

..... (Signed)

Such appeal shall be filed with the magistrate's division and ~~accompanied by bond, with satisfactory surety, to secure the payment of such judgment, costs and attorney fees as provided for in section 1-2311.~~ Such appeal shall be tried in the ~~district court~~ magistrate's division without any other pleadings than those required in ~~the magistrate's division~~ small claims department originally trying the cause, all papers in the case shall be certified to said ~~district judge~~ lawyer magistrate as is now provided by law in other cases of appeals in civil actions in the magistrate's division, provided, however, that said ~~district judge~~ lawyer magistrate may require such other or further statements and information as he may deem necessary for the proper consideration of said controversy.

Approved March 21, 1985.

CHAPTER 168
(S.B. No. 1021)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO; AMENDING SECTION 59-1310, IDAHO CODE, TO PROVIDE SERVICE RETIREMENT ELIGIBILITY BASED ON AGE 65 REDUCED TO NOT LESS THAN AGE 60 ON THE BASIS OF A RATIO THE YEARS OF SERVICE CREDITED AS A POLICE OFFICER REPRESENTS IN RELATION TO YEARS OF TOTAL CREDITED SERVICE TO REPLACE THE PRESENT PROVISION WHICH PROVIDES A SERVICE RETIREMENT AGE BASED UPON MEMBERSHIP CLASSIFICATION AT THE TIME OF RETIREMENT; AMENDING SECTION 59-1319, IDAHO CODE, TO CLARIFY LANGUAGE RELATING TO CREDITED SERVICE, A DEFINED TERM, SERVED IN EACH MEMBER CLASSIFICATION; AMENDING SECTION 59-1321, IDAHO CODE, TO PROVIDE FOR AN UNREDUCED EARLY RETIREMENT ALLOWANCE WHEN THE SUM OF AGE AND SERVICE IN YEARS EQUALS NOT LESS THAN 80 AMD GRADUATED TO 90 BASED ON A RATIO OF YEARS OF SERVICE CREDITED AS A POLICE OFFICER TO YEARS OF TOTAL CREDITED SERVICE TO REPLACE THE PRESENT

PROVISION WHICH ESTABLISHES AN UNREDUCED ALLOWANCE WHEN THE TOTAL EQUALS EITHER 80 OR 90 DEPENDING UPON MEMBERSHIP CLASSIFICATION AT THE TIME OF RETIREMENT; AMENDING SECTION 59-1325, IDAHO CODE, TO PROVIDE A METHOD FOR PAYMENT OF A COURT-ORDERED DISTRIBUTION OF A MEMBER'S RETIREMENT ALLOWANCE; AND AMENDING SECTION 59-1331, IDAHO CODE, TO PROVIDE THAT MONEY REPRESENTING A MEMBER'S ENTITLEMENT WHICH IS UNCLAIMED SHALL REMAIN IN THE RETIREMENT FUND AVAILABLE FOR PAYMENT AT SUCH TIME AS PAYMENT CAN BE EFFECTED.

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

SECTION 1. That Section 59-1310, Idaho Code, be, and the same is hereby amended to read as follows:

59-1310. CONDITIONS OF ELIGIBILITY FOR RETIREMENT. (1) An active member ~~who--is-not-a-police-officer-or-a-fireman-is-eligible-for-service-retirement-if-he-has-attained-age-sixty-five-(65)~~ with at least five (5) years of credited service including six (6) months of membership service~~;--An-active-member-who-is-a-police-officer-or-fireman-is eligible-for-service-retirement-if-he-has-attained-age-sixty-(60)-with at-least-five-(5)-years-of-credited-service-including-six--(6)--months of--membership-service~~; is eligible for service retirement as indicated below, based upon his service retirement ratio. A member's service retirement ratio shall be equal to the ratio of (a) to (b) as follows:

(a) The number of years of credited service for which the member was classified as a police officer or fireman:

(b) The member's total number of years of credited service.

For service retirement ratio:	Service retirement eligibility age is:
0.000 to 0.100	65
0.101 to 0.300	64
0.301 to 0.500	63
0.501 to 0.700	62
0.701 to 0.900	61
0.901 to 1.000	60

A person who was an active member on June 30, 1985 shall be deemed to have a service retirement ratio of 1.000 either if the member was a police officer or fireman on that date and continuously thereafter to retirement or if the majority of the member's credited service has been that of a police officer or fireman.

(2) An active member who is not eligible for service retirement is eligible for disability retirement if he becomes disabled after at least ten (10) years of credited service including six (6) months of membership service.

(3) An active member who is not eligible for either service retirement or disability retirement is eligible for early retirement if he bas at least five (5) years of credited service including six (6) months of membership service and is within ten (10) years of being eligible for service retirement. Additionally an active member is eligible for early retirement on termination of disability retirement as provided by section 59-1313, Idaho Code.

(4) An inactive member who has at least five (5) years of member-

ship service is eligible for vested retirement within ten (10) years of the date he would have been eligible for service retirement had he remained an active member, except that an inactive member, who at the time of his separation from service held an office to which he had been elected by popular vote or having a term fixed by the constitution, statute or charter or was appointed to such office by an elected official or was the head or director of a department, division, agency, statutory section or bureau of the state, or was employed on or after July 1, 1965 by an elected official of the state of Idaho and occupied a position exempt from the provisions of chapter 53, title 67, Idaho Code, is eligible for vested retirement regardless of length and type of service, unless covered by a merit system for employees of the state of Idaho.

(5) An inactive member who is not eligible for service retirement is eligible for the separation benefit.

(6) The beneficiary of any member other than a retired member who elected option 1 or 2 under section 59-1317, Idaho Code, is eligible for the death benefit, if any, upon the member's death.

(7) By written notice on a form prescribed by the board, eligibility for early or vested retirement may be deferred by a member until the date he would have been eligible for service retirement had he remained an active member.

SECTION 2. That Section 59-1319, Idaho Code, be, and the same is hereby amended to read as follows:

59-1319. COMPUTATION OF SERVICE RETIREMENT ALLOWANCES -- MINIMUM BENEFITS. (1) The annual amount of accrued retirement allowance for each month of credited service ~~of~~ for which a member was not classified as a police officer or fireman shall equal one and two-thirds per cent (1 2/3%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) five dollars ($5.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(2) The annual amount of accrued retirement allowance for each month of credited service of for which a member was classified as a police officer or fireman shall equal two per cent (2%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) six dollars ($6.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(3) Provisions of this section shall be applicable to members and contingent annuitants of the employee system and to members, annuitants and beneficiaries of the teachers and city systems. In any recomputation of an initial retirement allowance for a person not

making a final contribution subsequent to 1974, the bridging factor referred to in subsections (1) and (2) shall be 1.000. Any recomputed retirement allowance shall be payable only prospectively from July 1, 1974.

(4) Benefits payable to a person who became a member prior to July 1, 1974, or to his beneficiaries shall never be less than they would have received under this act as in effect on June 30, 1974; provided, however, that the member shall have accrued the amount of accumulated contributions required thereby prior to payment of an initial retirement allowance.

SECTION 3. That Section 59-1321, Idaho Code, be, and the same is hereby amended to read as follows:

59-1321. COMPUTATION OF EARLY RETIREMENT ALLOWANCES. ~~(1)~~ The annual amount of initial early retirement allowance of a member ~~not classified as a police officer or fireman~~ shall be a percentage of his accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than ~~ninety (90) years~~ the sum indicated below. Otherwise, such percentage shall be one hundred percent (100%) reduced by one-fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date he would be eligible to receive his full accrued benefit without additional credited service, and further reduced by two-thirds of one percent (.6667%) for each additional month.

~~(2) The annual amount of initial early retirement allowance of a member classified as a police officer or fireman shall be a percentage of his accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than eighty (80) years. Otherwise, such percentage shall be one hundred percent (100%) reduced by one fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date he would be eligible to receive his full accrued benefit without additional credited service, and further reduced by two thirds of one percent (.6667%) for each additional month.~~

If a member's service retirement ratio as defined by section 59-1310, Idaho Code, is:	Then the sum of his credited service and age must be equal to or greater than:
0.000 to 0.050	90
0.051 to 0.150	89
0.151 to 0.250	88
0.251 to 0.350	87
0.351 to 0.450	86
0.451 to 0.550	85
0.551 to 0.650	84
0.651 to 0.750	83
0.751 to 0.850	82
0.851 to 0.950	81
0.951 to 1.000	80.

SECTION 4. That Section 59-1325, Idaho Code, be, and the same is hereby amended to read as follows:

59-1325. RIGHTS TO BENEFITS INALIENABLE. The right of a person to any benefits under this act and the money in any fund created by this act shall not be assignable or subject to execution, garnishment or attachment or to the operation of any bankruptcy or insolvency law. Should a court order direct distribution or partial distribution of a member benefit defined in either chapter 13, title 59, Idaho Code, or chapter 14, title 72, Idaho Code, be made to the member's spouse or former spouse, that member's full benefit entitlement will be forwarded to the court for distribution.

SECTION 5. That Section 59-1331, Idaho Code, be, and the same is hereby amended to read as follows:

59-1331. PUBLIC EMPLOYEE RETIREMENT FUND CREATED -- ADMINISTRATION -- PAYMENT OF BENEFITS -- PERPETUAL APPROPRIATION. (1) There is hereby established in the state treasury a special fund, the "Public Employee Retirement Fund," which shall be separate and apart from all public moneys or funds of this state, and shall be administered under the direction of the board exclusively for the purposes of this act. The state treasurer shall maintain within the fund a clearing account and an administration account. All moneys received from employers by the board on their account and on account of members shall be initially deposited in the clearing account. On or before the fifteenth of each month not more than one-twelfth (1/12) of the amonnt appropriated by the legislature to the board for that fiscal year shall be transferred to the administration account. Immediately after each transfer from the clearing account to the administration account, the remaining balance in the clearing account shall be forwarded to the funding agent for investment and payment of investment expenses under its contract with the hoard.

(2) All benefits for members shall be payable directly from the clearing account or by the funding agent as they come due. If the amount of such benefits payable at any time exceeds the amonnt in the clearing account, the payment of all or part of such benefits may be postponed until the clearing account becomes adequate to meet all such payments, or the board may require a refund from the funding agent sufficient to meet all such payments.

(3) All moneys payable to the funding agent are hereby perpetually appropriated to the board, and shall not be included in its departmental budget. All moneys transferred to the administration account shall be available to the board for the payment of administrative expenses only to the extent so appropriated by the legislatnre.

(4) Moneys representing member entitlements which remain unclaimed after reasonable attempts to effect payment shall remain in the retirement fund available for payment to the member or other established rightful payee.

Approved March 21, 1985.

CHAPTER 169
(S.B. No. 1022, As Amended)

AN ACT

RELATING TO PUBLICATION OF NOTICES; AMENDING CHAPTER 1, TITLE 60, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 60-113, IDAHO CODE, TO PROVIDE THAT ANY PUBLISHED NOTICE THAT AFFECTS OR MAY AFFECT AN INTEREST IN REAL PROPERTY MUST CONTAIN AN ADEQUATE DESCRIPTION OF THE PROPERTY.

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

SECTION 1. That Chapter 1, Title 60, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 60-113, Idaho Code, and to read as follows:

60-113. NOTICES AFFECTING INTERESTS IN REAL PROPERTY. Any published notice that affects or may affect any interest in real property must, in addition to the legal description, describe that real property in more particularity than the legal description of the property, if in fact such property has any more particular description. A street address or a designation commonly used and accepted in the community shall satisfy the requirements of this section.

Approved March 22, 1985.

CHAPTER 170
(S.B. No. 1027)

AN ACT

RELATING TO CUSTODIANSHIP OF PUBLIC FUNDS; AMENDING CHAPTER 13, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1304, IDAHO CODE, TO PROVIDE THAT THE STATE TREASURER SHALL APPOINT MULTIPLE CUSTODIANS TO MAXIMIZE THE AMOUNT OF INSURANCE UPON PUBLIC DEPOSITS PROVIDED BY FEDERAL PROGRAMS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 13, 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 67-1304, Idaho Code, and to read as follows:

67-1304. CUSTODIANS OF FEDERALLY INSURED DEPOSITS. Whenever the time deposits made by the state treasurer with financial institutions may be insured in whole or in part by the federal deposit insurance corporation, the federal savings and loan insurance corporation, or

other federal program, and the amount of insurance available may be affected by the appointment of multiple custodians, the state treasurer shall appoint multiple custodians in such a manner as to maximize the amount of insurance provided.

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 21, 1985.

CHAPTER 171
(S.B. No. 1028)

AN ACT

RELATING TO VEHICLE TITLE RECORDS; AMENDING SECTION 49-408, IDAHO CODE, TO STRIKE THE SEVEN YEAR RETENTION REQUIREMENT FOR ORIGINAL RECORDS FOR MOTOR VEHICLE TITLES AND TO PROVIDE THAT TITLE RECORDS MAY BE MINIATURIZED.

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

SECTION 1. That Section 49-408, Idaho Code, be, and the same is hereby amended to read as follows:

49-408. DESTRUCTION OF RECORDS. ~~All~~ rRecords pertaining to certificates of title shall be retained ~~and appropriately filed for a period of not less than seven (7) years~~ until appropriate records used to record each title transaction have been placed on miniaturized permanent records, including title records, title files, alphabetical and vehicle identification number (VIN) index files. Such miniaturized files shall be maintained so as to permit the tracing of title of the vehicles so designated therein. ~~On or after July 1, 1977, the department may destroy all records pertaining to certificates of title dated seven (7) or more years old.~~

Approved March 22, 1985.

CHAPTER 172
(S.B. No. 1029)

AN ACT

RELATING TO MOTOR VEHICLE OPERATOR LICENSE FEES; AMENDING SECTION 40-2210, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 236, LAWS OF 1984, TO CONFORM THE PROVISIONS OF THE SECTION WITH OTHER AMENDMENTS MADE IN 1984; AMENDING SECTION 49-312, IDAHO CODE, TO COM-

BINE ALL OPERATOR LICENSE AND FEE SCHEDULES INTO ONE SECTION, TO PROVIDE FOR THE DISTRIBUTION OF MONEYS RECEIVED FROM LICENSES AND FEES, AND TO STRIKE REFERENCE TO FEES FOR DRIVER TRAINER COURSES; AMENDING CHAPTER 3, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-312A, IDAHO CODE, TO PROVIDE AN ADDITIONAL FEE FOR DRIVER TRAINING COURSES; AMENDING SECTION 49-321, IDAHO CODE, TO PROVIDE CODE REFERENCES FOR FEES FOR DUPLICATE CERTIFICATES; AMENDING SECTION 49-322, IDAHO CODE, TO PROVIDE CODE REFERENCES FOR FEES FOR RENEWALS; AMENDING SECTION 49-346, IDAHO CODE, TO STRIKE REFERENCE TO SPECIFIC DOLLAR AMOUNTS TO BE DEPOSITED IN THE DRIVER TRAINING ACCOUNT; REPEALING SECTION 49-349, IDAHO CODE; AND PROVIDING AN EFFECTIVE DATE, AND CONFIRMING LEGISLATIVE INTENT.

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

SECTION 1. That Section 40-2210, Idaho Code, as amended by Section 1, Chapter 236, Laws of 1984, 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, two dollars and ninety-five cents ($2.95) for each operator's license issued, four dollars and ninety-five cents ($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 -- FEES. (a) Every application for an instruction permit, or for an operator's or license, for a chauffeur's license, for a license extension permitted under section 49-322, Idaho Code, or for a duplicate license or permit permitted under section 49-321, Idaho Code, 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 or before

officers and employees of the department and, or before sheriffs and their deputies ~~are hereby authorized to administer such oaths without charge.~~

(b) Every application for a permit, extension, duplicate or license shall be accompanied by the required fee, ~~to wit~~ none of which is refundable:

(1) ~~Application~~ The fee for an instruction permit, is four dollars ($4.00); ~~application~~

(2) The fee for an operator's license, is twelve dollars ($12.00); ~~application~~

(3) The fee for a chauffeur's license, is fourteen dollars ($14.00);

(4) The fee for a license extension permitted under section 49-322, Idaho Code, is three dollars ($3.00);

(5) The fee for a duplicate license or permit permitted under section 49-321, Idaho Code, is three dollars ($3.00).

~~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~~c) 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~~d) 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~~e) Whenever the department receives a request for an operator's record from another licensing jurisdiction, the record shall be forwarded without charge.

(f) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(1) Deposit an amount equal to two dollars and five cents ($2.05) from each operator's and chauffeur's license application fees in the current expense fund; and

(2) Deposit an amount equal to one dollar and fifty cents ($1.50) from each application for a duplicate license or permit in the current expense fund; and

(3) Remit the remainder to the state treasurer.

(g) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(h) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency, as follows:

(1) Forty percent (40%) shall be deposited in the driver training account; and

(2) Sixty percent (60%) shall be deposited in the highway distribution account.

SECTION 3. That Chapter 3, 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 49-312A, Idaho Code, and to read as follows:

49-312A. ADDITIONAL FEE FOR DRIVER TRAINING. (a) Every applicant for an instruction permit or an operator's license who is required to take or who elects to take a driver training course in a public school shall, in addition to the fee required in section 49-312, Idaho Code, pay an additional fee of twenty-five dollars ($25.00).

(b) Each application for a driver training course permit shall provide the type of information required in section 49-312, Idaho Code.

(c) All moneys received from the fee imposed in this section shall be deposited in the driver training account.

SECTION 4. That Section 49-321, Idaho Code, be, and the same is hereby amended to read as follows:

49-321. DUPLICATE CERTIFICATES. In the event that an instruction permit or operator's or chauffeur's license issued under the provisions of this ~~act~~ chapter is lost or destroyed, the person to whom the same was issued may, upon payment of the ~~reasonable cost and expenses thereof as fixed by the rules of the department~~ fee fixed in section 49-312, Idaho Code, obtain a duplicate, or substitute thereof, upon furnishing proof satisfactory to the department that such permit or license has been lost or destroyed.

SECTION 5. That Section 49-322, Idaho Code, be, and the same is hereby amended to read as follows:

49-322. EXPIRATION AND RENEWAL OF OPERATOR'S AND CHAUFFEUR'S LICENSE -- AUTOMATIC EXTENSION FOR ACTIVE MILITARY DUTY. (a) Every operator's and chauffeur's license originally issued to an operator or chauffeur shall expire on the licensee's birthday in the third year following the issuance of his license. Every such license shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight and hearing examination.

No written examination shall be required for renewal of a license.

(b) When a licensee's license has been expired for less than twelve (12) months, the renewal of the license shall start from the original date of expiration regardless of the year in which the appli-

cation for renewal is made. If the licensee's license is expired for more than twelve (12) months, the application shall expire on the licensee's birthday in the third year following issuance of his license.

(c) If a licensee's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the license has not, as provided by law, been suspended, revoked, or cancelled, the licensee may request in writing on a form prescribed by the department, accompanied by a the fee ~~of three dollars ($3.00) which shall be deposited to the state highway account~~ fixed in section 49-312, Idaho Code, an extension of the license, but the extension shall be less than a twelve (12) month period. If the department determines that an extension of the licensee's license is necessary, it may issue a certificate of extension showing the date to which the expired license is extended, and this certificate must be attached to the expired license. Certificates of extension are limited to one (1) per licensee. Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply as provided by other sections of this chapter, for a renewal of the expired license and surrender the certificate of extension. The certificate of extension shall not be valid beyond the date indicated on the certificate.

(d) An Idaho operator's or chauffeur's license issued to any person prior to serving on active duty in the armed forces of the United States, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall automatically, upon application, be renewed for a period of three (3) years so long as active duty continues, if the license is not suspended, cancelled or revoked, as provided by law, during the active duty, and the license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

SECTION 6. 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 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 7. That Section 49-349, Idaho Code, be, and the same is hereby repealed.

SECTION 8. This act shall be in full force and effect on and after July 1, 1985, and the specific legislative intent that additional moneys from operator's and chauffeur's licenses be placed in

the state highway account for the period September 1, 1984, through June 30, 1985, as enacted by Chapter 236, Laws of 1984, is hereby confirmed, approved and ratified.

Approved March 22, 1985.

CHAPTER 173
(S.B. No. 1040, As Amended)

AN ACT

RELATING TO DISTRICT COURT REPORTERS; AMENDING SECTION 1-1102, IDAHO CODE, TO PROVIDE THAT THE SALARY OF DISTRICT COURT REPORTERS SHALL BE TWENTY-SEVEN THOUSAND DOLLARS PER ANNUM.

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

SECTION 1. That Section 1-1102, Idaho Code, be, and the same is hereby amended to read as follows:

1-1102. OATH, BOND, SALARY AND EXPENSES -- COST OF LIVING ADJUSTMENTS. Said reporter shall take the oath required to be taken by the judicial officers; and be bonded to the state of Idaho in the form and manner prescribed by chapter 8, title 59, Idaho Code; hold his office during the pleasure of said judge, and shall receive a salary of ~~twenty-four~~ twenty-seven thousand dollars ($~~24~~27,000) per annum, to be paid on regular pay periods not less frequently than monthly as determined by order of the Supreme Court. There shall be paid in addition to said salary, to each of the court reporters of the district courts, out of the state treasury, for each term of district court held by the judge thereof, for the trial and disposition of causes and the transaction of business under the laws of the state, in other counties than that in which said court reporter resides, his actual and necessary expenses for traveling and attending each term: provided, however, that no stenographic reporter shall be paid his salary, or any portion thereof, unless he shall have first taken and subscribed an oath that he has prepared the transcript of the testimony on appeal either in a civil or criminal action, or specified portion thereof, in the order in which the copy of the order directing him to prepare the same has been served upon him: provided, however, that the estimated cost of transcribing such transcript shall have been paid to such reporter at the time of the service of the copy of the order upon him.

Approved March 22, 1985.

CHAPTER 174
(S.B. No. 1041)

AN ACT

RELATING TO THE INTIMIDATION, OBSTRUCTION OR PREVENTION OF WITNESS TESTIMONY IN A COURT PROCEEDING; REPEALING SECTION 18-2604, IDAHO CODE; AMENDING CHAPTER 26, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-2604, IDAHO CODE, TO PROVIDE FOR INTIMIDATION, OBSTRUCTION OR PREVENTION OF A WITNESS IN A COURT PROCEEDING, TO PROVIDE FELONY STATUS FOR SUCH INTIMIDATION, OBSTRUCTION OR PREVENTION OF A WITNESS IN ANY CRIMINAL PROCEEDING AND TO PROVIDE THAT IT SHALL NOT BE A DEFENSE THAT A WITNESS WAS NOT ACTUALLY PREVENTED FROM TESTIFYING.

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

SECTION 1. That Section 18-2604, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 26, 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 18-2604, Idaho Code, and to read as follows:

18-2604. INTIMIDATING, IMPEDING, INFLUENCING OR PREVENTING THE ATTENDANCE OF A WITNESS. (1) Any person who, by direct or indirect force, or by any threats to a person or property, or by any manner wilfully intimidates, influences, impedes, deters, threatens, harasses, obstructs or prevents or attempts to intimidate, influence, impede, deter, threaten, harass, obstruct or prevent a witness, or any person he believes has been or may be called as a witness in any civil proceeding from testifying freely, fully and truthfully in that civil proceeding is guilty of a misdemeanor.

(2) Any person who, by direct or indirect force, or by any threats to person or property, or by any manner wilfully intimidates, influences, impedes, deters, threatens, harasses, obstructs or prevents, or attempts to intimidate, influence, impede, deter, threaten, harass, obstruct or prevent a witness or any person he believes has been or may be called as a witness in any criminal proceeding from testifying freely, fully and truthfully in that criminal proceeding is guilty of a felony.

(3) The fact that a witness was not actually prevented from testifying shall not be a defense to a charge brought under subsection (1) or (2) of this section.

Approved March 22, 1985.

CHAPTER 175
(S.B. No. 1043, As Amended)

AN ACT

RELATING TO EXEMPTION OF PROPERTY FROM ATTACHMENT OR LEVY; AMENDING SECTION 11-605, IDAHO CODE, TO PROVIDE A LIMIT AS TO THE VALUE OF PERSONAL PROPERTY WHICH MAY BE EXEMPTED, AND TO DEFINE THE KIND OF ANIMALS THAT MAY BE INCLUDED IN THE EXEMPTION.

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

SECTION 1. That Section 11-605, Idaho Code, be, and the same is hereby amended to read as follows:

11-605. EXEMPTIONS OF PERSONAL PROPERTY SUBJECT TO VALUE LIMITATIONS. (1) An individual is entitled to exemption of the following property to the extent of a value not exceeding five hundred dollars ($500) on any one (1) item of property and not to exceed a total value of four thousand dollars ($4,000) per household for all items exempted under this subsection:

(a) furnishings and appliances reasonably necessary for one (1) household, including one (1) firearm;

(b) if reasonably held for the personal use of the individual or a dependent, wearing apparel, ~~animals~~ household pets, books, and musical instruments; and

(c) family portraits and heirlooms of particular sentimental value to the individual.

(2) An individual is entitled to exemption of jewelry, not exceeding two hundred fifty dollars ($250) in aggregate value, if held for the personal use of the individual.

(3) An individual is entitled to exemption, not exceeding one thousand dollars ($1,000) in aggregate value, of implements, professional books, and tools of the trade; and to an exemption of one (1) motor vehicle to the extent of a value not exceeding five hundred dollars ($500).

(4) All courthouses, jails, public offices and buildings, school houses, lots, grounds and personal property appertaining thereto, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this state, or for the use of schools, and all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by such town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this state. No article or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a mortgage thereon.

(5) All arms, uniforms and accouterments required for the use of an individual as a peace officer, a member of the national guard or

military service.

(6) A water right not to exceed one hundred sixty (160) inches of water used for the irrigation of lands actually cultivated by the individual, and the crop or crops growing or grown on fifty (50) acres of land, leased, owned or possessed by an individual cultivating the same, provided, that the amount of the crops so exempted shall not exceed the value of one thousand dollars ($1,000).

Approved March 22, 1985.

CHAPTER 176
(S.B. No. 1055, As Amended)

AN ACT

RELATING TO THE SEARCH AND RESCUE ACCOUNT; AMENDING CHAPTER 29, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2903, IDAHO CODE, TO CREATE THE SEARCH AND RESCUE ACCOUNT IN THE DEDICATED FUND, AND TO PROVIDE FOR THE PURPOSE OF USING MONEYS IN THE ACCOUNT, AND TRANSFERRING MONEYS FROM A CERTAIN ACCOUNT IN THE DEDICATED FUND TO THE SEARCH AND RESCUE ACCOUNT, AND PROVIDING FOR THE USES OF MONEYS IN THE ACCOUNT.

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

SECTION 1. 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 67-2903, Idaho Code, and to read as follows:

67-2903. SEARCH AND RESCUE ACCOUNT. There is hereby created in the dedicated fund the search and rescue account. Moneys in the account are perpetually appropriated to and shall be used by the director of the department of law enforcement for the purpose of defraying costs of search and rescue missions conducted by the county sheriff's office at a maximum of one thousand dollars ($1,000) per rescue mission.

SECTION 2. All moneys currently in account number 2266 in the dedicated fund are hereby transferred into and made a part of the search and rescue account established by section 67-2903, Idaho Code. Any moneya in the searcb and reacue account may be used to pay for costs incurred in search and rescue missions conducted after January 1, 1985.

Approved March 22, 1985.

CHAPTER 177
(S.B. No. 1067, As Amended in the House)

AN ACT

RELATING TO GUARDIANS AD LITEM FOR CHILDREN; AMENDING SECTION 16-1618, IDAHO CODE, TO PROVIDE THAT THE COURT SHALL APPOINT SEPARATE COUNSEL AND/OR A GUARDIAN AD LITEM TO SERVE AT EACH STAGE IN PROCEEDINGS UNDER THE CHILD PROTECTIVE ACT.

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

SECTION 1. That Section 16-1618, Idaho Code, be, and the same is hereby amended to read as follows:

16-1618. RIGHT TO COUNSEL -- GUARDIAN AD LITEM. (a) The court shall appoint separate counsel and/or in appropriate cases a guardian ad litem for the child or children to serve at each stage in proceedings under this chapter. The court may appoint independent counsel for a parent if the proceedings are complex, counsel is necessary to protect the parent's interests adequately and such interests are not represented adequately by another party.

(b) Counsel appointed under the provisions of this section for the child shall be paid for by the county unless the party for whom counsel is appointed has an independent estate sufficient to pay such costs.

Approved March 21, 1985.

CHAPTER 178
(S.B. No. 1087, As Amended)

AN ACT

RELATING TO FIRE PROTECTION SERVICES; AMENDING SECTION 31-868, IDAHO CODE, TO PROVIDE THAT COUNTIES MAY CONTRACT FOR LIFE PROTECTION SERVICES; AMENDING SECTION 31-1401, IDAHO CODE, TO CORRECT REFERENCES; AND AMENDING SECTION 31-1430A, IDAHO CODE, TO PROVIDE THAT FIRE PROTECTION DISTRICTS MAY CONTRACT WITH COUNTIES.

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

SECTION 1. That Section 31-868, Idaho Code, be, and the same is hereby amended to read as follows:

31-868. CONTRACTS FOR FIRE PROTECTION. The boards of county commissioners in their respective counties shall have the authority and power to enter into contracts with a city or a fire protection district for the provision of fire or life protectioo services, or both of them, in areas of the county not otherwise receiving fire or life

protection.

SECTION 2. That Section 31-1401, Idaho Code, be, and the same is hereby amended to read as follows:

31-1401. PURPOSE AND POLICY OF LAW -- SHORT TITLE. The protection of property against fire and the preservation of life, are hereby declared to be a public benefit, use and purpose. Any portion of a county not included in any other fire protection district may be organized into a fire protection district under the provisions of this ~~act~~ chapter. All taxable property within any fire protection district created under the provisions of this ~~act~~ chapter is and shall be benefited ratably in proportion to assessed valuation by the creation and maintenance of such district, and all taxable property within any such district shall be assessed equally in proportion to its assessed valuation for the purpose of and in accordance with the provisions of this ~~act~~ chapter. This ~~act~~ chapter shall be known as the "Fire Protection District Law," and whenever cited, enumerated, referred to or amended, may be designated as the "Fire Protection District Law," adding when necessary the code section number.

SECTION 3. That Section 31-1430A, Idaho Code, be, and the same is hereby amended to read as follows:

31-1430A. COOPERATION BETWEEN FIRE PROTECTION DISTRICTS IN IDAHO AND FIRE PROTECTION DISTRICTS AND MUNICIPALITIES OF OTHER STATES. Fire protection districts created under this chapter are hereby empowered to enter into written agreements with fire protection districts within the state of Idaho and of neighboring states and with counties, incorporated cities and privately funded organizationa or associations within the state of Idaho and of neighboring states for their mutual protection or for the protection of either of the contracting parties.

Agreements may provide for a consideration of mutual protection or for protection at a fixed monetary consideration or a monetary consideration based on the reasonable value of services actually rendered under the agreement. Any monetary consideration payable under such agreements by a fire protection district created under this chapter may be paid only out of the treasury of the fire protection district.

Approved March 22, 1985.

CHAPTER 179
(S.B. No. 1095)

AN ACT

RELATING TO IMPLEMENTS OF HUSBANDRY; AMENDING SECTION 49-101, IDAHO CODE, TO INCLUDE MINT TUBS AND MINT WAGONS UNDER THE DEFINITION OF "IMPLEMENTS OF HUSBANDRY"; AND DECLARING AN EMERGENCY.

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 rire 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 narural 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 aell new motor vehicles and who is engaged in the business of selling or exchanging three (3) or more new or new aud 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 tranaportation 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" ahall 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. 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, mint tubs and mint wagons 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 semitrailers, 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. 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, 1985.

CHAPTER 180
(S.B. No. 1098)

AN ACT

RELATING TO MOTOR VEHICLE LIENS AND ENCUMBRANCES; AMENDING SECTION 49-412, IDAHO CODE, TO PROVIDE THAT IF A TITLE APPLICATION IS RETURNED FOR CORRECTION AND IS NOT RETURNED WITHIN A SPECIFIED TIME THE ORIGINAL DATH AND HOUR OF RECEIPT SHALL BE VOID.

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

SECTION 1. 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 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 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 on the title application the date and hour received. 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, if the application is not resubmitted in a complete form, including completed supporting documents, to the department or to the agent of the department within twenty (20) days of their having been returned to the lienholder or his successor or assignee, 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 contaio 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.

Approved March 22, 1985.

CHAPTER 181
(S.B. No. 1099)

AN ACT

RELATING TO THE LIMITATIONS ON SALE OF TIMBER FROM STATE LANDS; AMENDING SECTION 58-403, IDAHO CODE, TO ELIMINATE THE PROVISION REQUIRING THE STATE BOARD OF LAND COMMISSIONERS TO PROVIDE IN STATE TIMBER SALE CONTRACTS THAT THE TIMBER CUT FROM STATE LANDS SHALL BE MANUFACTURED INTO LUMBER OR TIMBER PRODUCTS WITHIN THE STATE OF IDAHO.

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

SECTION 1. That Section 58-403, Idaho Code, be, and the same is hereby amended to read as follows:

58-403. APPLICATION TO PURCHASE TIMBER — LIMITATIONS ON SALE OF TIMBER. Any person desiring to purchase timber on any lands owned by the state, shall make application in writing to the director of the department of lands; which application shall contain a complete description by legal subdivisions of the lands upon which it is desired to purchase timber and a provision that if he is the successful bidder he will furnish such bond as may be required by the state board of land commissioners; conditioned, that he will comply with all rules and regulations made by the state board of land commissioners pertaining to the cutting and removal of said timber and the disposal of slashings and debris; the protection from fires or other damage of all trees or timber which are reserved from sale, and such other conditions as may be imposed by the state board of land commissioners with reference to any particular tract of timber sold; provided, however, that this provision does not prohibit the state board of land commissioners from offering for sale, or selling, timber without application having first been filed, and such authority is hereby expressly given to the state board of land commissioners. ~~The--state board--of--land-commissioners-are-hereby-required-when-contracting-for the-sale-of-timber-on-lands-owned-by-the-state-to-prescribe--that--the timber--cut--from-said-lands-under-said-contract-shall-be-manufactured into-lumber-or-timber-products-within-the-state--of--Idaho;--provided, that-the-sale-of-any-timber-to-be-used-in-the-manufacture-of-wood-pulp shall-be-excepted-from-the-above-provision.~~

Approved March 21, 1985.

CHAPTER 182
(S.B. No. 1103)

AN ACT

RELATING TO THE LEASING OF STATE LANDS; AMENDING SECTION 58-304, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS SHALL

NOTIFY THE LESSEE OF ANY INCREASE IN THE APPLICABLE RENTAL RATE SIX MONTHS IN ADVANCE OF THE DATE THE RENT IS DUE AND PAYABLE.

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

SECTION 1. That Section 58-304, Idaho Code, be, and the same is hereby amended to read as follows:

58-304. LEASES. The state board of land commissioners may lease any portion of the land of the state, at an annual rental the amount of which shall be fixed and determined by the state board. The state board of land commissioners shall notify the lessee of any increase in the applicable rental rate six (6) months in advance of the date the ~~increase is to take effect~~ rent is due and payable. The lessee shall pay the annual rental to the director of the department of lands, who shall receipt for the same on the lease in the name of the board, and file a duplicate receipt with the state auditor. Upon receiving such annual rental, the director shall immediately transmit the same to the state treasurer and take his receipt therefor in duplicate, filing one (1) receipt with the state auditor and preserving the other in the office of the state board of land commissioners: provided, that the state board of land commissioners may require that the lease of all lands acquired by virtue of a sheriff's deed or deed in lieu of foreclosure shall be made by the director on the terms and in accordance with such conditions as said board shall direct. Upon receiving the rental for such lands acquired by sheriff's deed or deed in lieu of foreclosure the director shall immediately transmit the same to the state treasurer to be placed in the farm mortgage fund, taking his receipt therefor in triplicate, filing one (1) receipt with the state auditor, one (1) receipt with the investment board, and the other receipt in the office of the director. The money so deposited in the farm mortgage fund shall be used for the payment of delinquent taxes, water assessments, fire insurance and expenses of foreclosure of mortgages; provided, that the provisions of this section shall not apply to lands leased for dormitory purposes, but said lands so leased shall be governed by the provisions of sections 58-326 to 58-328, Idaho Code.

Approved March 22, 1985.

CHAPTER 183
(S.B. No. 1111)

AN ACT

RELATING TO DISPOSAL OF PROPERTY IN AN URBAN RENEWAL AREA; AMENDING SECTION 50-2011, IDAHO CODE, TO PROVIDE CERTAIN LIMITATIONS ON DISPOSAL OF PROPERTY; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 50-2011, Idaho Code, be, and the same is

hereby amended to read as follows:

50-2011. DISPOSAL OF PROPERTY IN URBAN RENEWAL AREA. (a) An urban renewal agency may sell, lease, or otherwise transfer real property or any interest therein acquired by it for an urban renewal project, and may enter into contracts with respect thereto, in an urban renewal area for residential, recreational, commercial, industrial, educational or other uses or for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this act: Provided, that such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the urban renewal plan by the local governing body. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the urban renewal agency may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, an urban renewal agency shall take into account and give consideration to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee or by the urban renewal agency retaining the property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The urban renewal agency in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease or otherwise transfer the real property without the prior written consent of the urban renewal agency until he has completed the construction of any or all improvements which he has obligated himself to construct thereon. Real property acquired by an urban renewal agency which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban renewal plan. Any contract for such transfer and the urban renewal plan (or such part or parts of such contract or plan as the urban renewal agency may determine) may be recorded in the land records of the county in such manner as to afford actual or constructive notice thereof.

(b) An urban renewal agency may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as hereinafter provided in this subsection. An urban renewal agency may, by public notice by publication in a newspaper having a general circulation in the community (thirty (30) days prior to the execution of any contract

to sell, lease or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section) invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or any part thereof. Such notice shall identify the area, or portion thereof, and shall state that proposals shall be made by those interested within thirty (30) days after the date of publication of said notice, and that such further information as is available may be obtained at such office as shall be designated in said notice. The urban renewal agency shall consider all such redevelopment of rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out, and may negotiate with any persons for proposals for the purchase, lease or other transfer of any real property acquired by the agency in the urban renewal area. The urban renewal agency may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this act. The agency may execute such contract in accordance with the provisions of subsection (a) and deliver deeds, leases and other instruments and take all steps necessary to effectuate such contract.

(c) An urban renewal agency may temporarily operate and maintain real property acquired by it in an urban renewal area for or in connection with an urban renewal project pending the disposition of the property as authorized in this act, without regard to the provisions of subsection (a) above, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan.

(d) Any real property acquired pursuant to section 50-2007(d) may be disposed of without regard to other provisions of this section if the local governing body has consented to the disposal.

(e) Notwithstanding any other provisions of this act, where the municipality is situated in an area designated as a redevelopment area under the Federal Area Redevelopment Act (Public Law 87-27), land in an urban renewal project area designated under the urban renewal plan for industrial or commercial uses may be disposed of to any public body or nonprofit corporation for subsequent disposition as promptly as practicable by the public body or corporation for redevelopment in accordance with the urban renewal plan, and only the purchaser from or lessee of the public body or corporation, and their assignees, shall be required to assume the obligation of beginning the building of improvements within a reasonable time; provided, that no disposal of land or agreement to dispose of land pursuant to this subsection (e) shall be entered into prior to January 31, 1986. Any disposition of land to a public body or corporation under this subsection shall be made at its fair value for uses in accordance with the urban renewal plan.

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, 1985.

CHAPTER 184
(S.B. No. 1119)

AN ACT

RELATING TO RECREATIONAL VEHICLES; AMENDING SECTION 49-2802, IDAHO CODE, TO INCREASE THE ANNUAL FEE FOR RECREATIONAL VEHICLES; AMENDING SECTION 49-2805, IDAHO CODE, TO CREATE A STATE RECREATIONAL VEHICLE ACCOUNT AND TO PROVIDE A SOURCE OF REVENUE FOR THAT ACCOUNT; AND AMENDING SECTION 67-4223, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF A SIX-MEMBER ADVISORY COMMITTEE AND TO PROVIDE FOR THE ADMINISTRATION OF FUNDS IN THE RECREATIONAL VEHICLE ACCOUNT.

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

SECTION 1. That Section 49-2802, Idaho Code, be, and the same is hereby amended to read as follows:

49-2802. RECREATIONAL VEHICLE ANNUAL LICENSE. (1) There is hereby levied and there shall be collected an annual license fee on each recreational vehicle in Idaho, except recreational vehicles in possession of a manufacturer or dealer and offered for sale or resale. If the recreational vehicle is registered as a motor vehicle under the provisions of chapter 1, title 49, Idaho Code, the annual license fee imposed by this chapter shall be in addition to and not in lieu of the motor vehicle registration fees.

(2) The annual license fee imposed upon each recreational vehicle shall be determined according to the following schedule, but shall be not less than ~~five--dollars--($5.00)~~ eight dollars and fifty cents ($8.50):

Market Value of Recreational Vehicle	Annual License Fee	
Less than $1,001	$ ~~5.00~~	8.50
$1,001 to $2,000	~~$10.00~~	13.50
$2,001 to $3,000	~~$15.00~~	18.50
$3,001 to $4,000	~~$20.00~~	23.50
$4,001 to $5,000	~~$25.00~~	28.50
$5,001 to $6,000	~~$30.00~~	33.50
$6,001 to $7,000	~~$35.00~~	38.50
$7,001 to $8,000	~~$40.00~~	43.50
$8,001 to $9,000	~~$45.00~~	48.50
$9,001 to $10,000	~~$50.00~~	53.50
$10,001 to $11,000	~~$55.00~~	58.50
$11,001 to $12,000	~~$60.00~~	63.50
$12,001 to $13,000	~~$65.00~~	68.50
$13,001 to $14,000	~~$70.00~~	73.50
$14,001 to $15,000	~~$75.00~~	78.50
$15,001 to $16,000	~~$80.00~~	83.50
$16,001 to $17,000	~~$85.00~~	88.50
$17,001 to $18,000	~~$90.00~~	93.50
$18,001 to $19,000	~~$95.00~~	98.50

$19,001 to $20,000	~~$100.00~~ 103.50
Over $20,000	~~$100.00~~ 103.50

plus $5.00 for each additional $1,000 or portion thereof, of market value.

(3) Payment of the annual license fee shall license the recreational vehicle for a calendar year, irrespective of the month in which it is registered, change of ownership of the vehicle, or change of county of residence of the owner. The recreational vehicle annual license shall expire midnight December 31 of each year.

SECTION 2. 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) Three dollars and fifty cents ($3.50) from each recreational vehicle license sold shall be transmitted to the state treasurer for deposit in an account known as the "state recreational vehicle account," which is hereby created in the dedicated fund of the state treasury;

(c) 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 transmitted to the state treasurer for deposit in the highway distribution account, as created in section 40-405, Idaho Code.

SECTION 3. That Section 67-4223, Idaho Code, be, and the same is hereby amended to read as follows:

67-4223. POWERS OF BOARD. The park and recreation board shall ~~have the power to~~:

(a) Adopt, amend or rescind such rules and regulations as may be necessary for the proper administration of ~~this act~~ the provisions of sections 67-4218, et. seq., Idaho Code, and the use and protection of park and recreational areas subject to its jurisdiction.

(b) Make expenditures for the acquisition, care, control, supervision, improvement, development, extension and maintenance of all lands under the control of the department and to make such arrangements, agreements, contracts or commitments, which may or may not involve expenditures or transfer of funds, with the head of any state institution, department or agency for the improvement or development of lands or properties under the control of the board, or any other department or agency of the state of Idaho.

(c) Appoint advisory, local and regional park and recreational councils, to consider, study and advise in the work of the department for the extension, development, use and maintenance of any areas which are to be considered as future park or recreational sites or which are

designated as park recreational areas.

(d) Appoint a six (6) member recreational vehicle advisory committee, which shall serve without compensation or reimbursement of expenses, and act in an advisory capacity to the board on matters relating to the developmeot and improvement of recreational vehicle related facilities as provided in subsection (e) of this section. Each member of the advisory committee shall be representative of recreational vehicle users with one (1) from each of the districts described in section 67-4221, Idaho Code. The terms of appointment shall be concurrent with the incumbent park and recreation board member from the respective districts.

(e) Administer the funds derived from the recreational vehicle account created in section 49-2805, Idaho Code, to provide financial assistance in the form of grants to public entities for the acquisition, lease, development, improvement, and maintenance of sanitation and other facilities designed to promote the health, safety and enjoyment of recreational vehicle users. Up to twenty percent (20%) of the recreational vehicle account generated each year may be used by the department to defray administrative costs. Any moneys unused at the end of the fiscal year shall be returned to the state treasurer for deposit in the recreational vehicle account.

(f) Cooperate with the United States and its agencies and local governments of the state for the purpose of acquiring, supervising, improving, developing, extending or maintaining lands which are designated as state parks, state monuments or state recreational areas and to secure agreements or contracts with the United States and its agencies or local governments of the state for the accomplishment of the purposes of ~~this act~~ sections 67-4218, et. seq., Idaho Code.

(~~e~~g) Construct, lease or otherwise establish public park or recreational privileges, facilities and conveniences and to operate said recreational services and to make and collect reasonable charges for their use or to enter into contracts for their operation. The net proceeds derived ~~therefrom~~ shall be credited to the park and recreation fund ~~(hereinafter created)~~ created in section 67-4225, Idaho Code, and are hereby specifically appropriated to defray the cost of ~~said~~ the public park or recreational services. The department is specifically authorized to enter into contracts with the United States and its agencies which require that the state expend any excess of revenue above expenses for improvements of the recreational or park area from which ~~said~~ the excess was derived.

(~~f~~h) Prepare, maintain and keep up-to-date a comprehensive plan for the development of the outdoor recreational resources of the state; to develop, operate and maintain outdoor recreational areas and facilities of the state, and to acquire lands, waters and interests in lands and waters for such areas and facilities.

(~~g~~i) Apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation. It may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto and furnish to appropriate officials and agencies of the United States such reports and information as may be reasonably necessary to enable such offi-

cials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any such program, the park and recreation board shall coordinate its activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development and maintenance of outdoor recreational resources and facilities.

(~~h~~j) Obligate the state regarding the responsible management of any federal funds transferred to it for the purpose of any federal enactment and, in accordance with the exercise of this responsibility, the state hereby consents to be sued in any United States district court for the recovery of any federal funds that the responsible federal official, department or agency finds have been misused or disposed of contrary to the agreement with such the federal official, department or agency or contrary to the provisions of such federal enactment or applicable federal regulations.

(~~i~~k) Cooperate and contract with and receive and expend aid, donations and matching funds from the government of the United States and to receive and expend donations from other sources to acquire, develop, operate and maintain outdoor recreational areas and facilities of the state and, when authorized or directed by any act of congress or any rule or regulation of any agency of the government of the United States, to expend funds donated or granted to the state of Idaho by the federal government for such purposes.

Provided, however, the park and recreation board shall make no commitment or enter into any agreement pursuant to ~~an~~ exercise of authority under ~~this act~~ sections 67-4218, et. seq., Idaho Code, until it has determined that sufficient funds are available to it for meeting the state's share, if any, of project costs. It is the legislative intent that, to ~~such~~ the extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of ~~this act~~ sections 67-4218, et. seq., Idaho Code, such areas and facilities shall be publicly maintained for outdoor recreational purposes. The park and recreation board may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition and development projects involving participating federal-aid funds on behalf of any subdivision or subdivisions of this state. Provided, that such the subdivision or subdivisions give necessary assurances to the park and recreation board that they have available sufficient funds to meet their shares, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of such the subdivision or subdivisions for public outdoor recreational use.

(~~j~~l) Establish, develop, supervise and maintain through cooperative agreement, lease, purchase or other arrangement the Idaho recreation trail system, with the advice of the coordinator created in section 67-4233, Idaho Code, and consistent with the goals of recreation, transportation and public access to outdoor areas.

Approved March 22, 1985.

CHAPTER 185
(S.B. No. 1125)

AN ACT

RELATING TO THE ACQUISITION OF IDAHO FINANCIAL INSTITUTIONS OR IDAHO FINANCIAL INSTITUTION HOLDING COMPANIES BY OUT-OF-STATE FINANCIAL INSTITUTIONS AND OUT-OF-STATE FINANCIAL INSTITUTION HOLDING COMPANIES; AMENDING TITLE 26, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 26, TITLE 26, IDAHO CODE, TO PROVIDE A SHORT TITLE; TO PROVIDE A STATEMENT OF PURPOSE; TO PROVIDE DEFINITIONS; TO PROVIDE FOR THE PROHIBITION OF ACQUISITIONS BY OUT-OF-STATE FINANCIAL INSTITUTIONS; TO PROVIDE FOR ACQUISITIONS BY CERTAIN OUT-OF-STATE FINANCIAL INSTITUTIONS LOCATED IN STATES HAVING RECIPROCAL LEGISLATION; TO PROVIDE FOR THE ADMINISTRATION OF APPLICATION PROCEDURES BY THE DEPARTMENT OF FINANCE; TO PROVIDE FOR THE ACQUISITION OF FAILING FINANCIAL INSTITUTIONS AND THE ADMINISTRATION THEREOF BY THE DEPARTMENT OF FINANCE; TO PROVIDE FOR EQUALITY OF REGULATORY TREATMENT OF IDAHO AND OUT-OF-STATE REGULATORY AGENCIES, TO PROVIDE FOR PENALTIES FOR VIOLATION OF THE PROVISIONS OF THIS CHAPTER; AND TO PROVIDE THE EFFECT OF INVALIDITY OF PART OF THIS CHAPTER.

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

SECTION 1. That Title 26, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 26 Title 26, Idaho Code, and to read as follows:

26-2601. SHORT TITLE. This chapter shall be known as the "Financial Institution Acquisition Act."

26-2602. STATEMENT OF PURPOSE. It is the policy of the state of Idaho to allow reciprocal acquisitions between Idaho financial institutions or Idaho financial institution holding companies and out-of-state financial institutions or out-of-state financial institution holding companies located within this region, under the terms and conditions set forth in this chapter. It is an express purpose of this chapter to authorize the transactions of the type set forth in section 26-2605, Idaho Code, for purposes of 12 U.S.C. section 1842 and any successor legislation to that section.

26-2603. DEFINITIONS. As used in this chapter:

(1) "Applicant" means an out-of-state financial institution or an out-of-state financial institution holding company which has submitted an application under section 26-2605, Idaho Code.

(2) "Control." A person has "control" of a financial institution or financial institution holding company if the person:

(a) Directly or indirectly, owns, controls or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the financial institution or financial institution holding company;

(b) The person, directly or indirectly, controls the election of a majority of the directors or trustees of the financial institution or financial institution holding company; or

(c) The person, directly or indirectly, directs or exercises a controlling influence over the management or policies of the financial institution or financial institution holding company.

There is a rebuttable presumption that a person has control of a financial institution or financial institution holding company if the person owns, controls or has the power to vote five percent (5%) or more of the voting securities of the financial institution or financial institution holding company. Owning voting securities in a fiduciary capacity does not constitute "control" unless the director determines, after notice and an opportunity for hearing, that the person exercises a controlling influence over the management or policies of the financial institution or financial institution holding company. No person shall be deemed to have control of a financial institution or financial institution holding company by virtue of the person's ownership or control of shares acquired by him in connection with his underwriting of shares in the financial institution or financial institution holding company which are held only for such period of time as will permit the sale thereof on an orderly and reasonable basis, and no person shall be deemed to have control of a financial institution or financial institution holding company by virtue of his ownership or control of shares acquired and held in the ordinary course of securing or collecting a debt previously contracted in good faith and which is held only for such period of time as will permit the sale thereof on an orderly aod reasonable basis, which period of time shall have a duration of no more than two (2) years.

(3) "Director" means the director of the department of finance.

(4) "Fioancial institution" means any state bank, national bank, trust company, association, federal association, or credit union, as those terms are defined in title 26, Idaho Code, or any federal credit union organized under the federal credit union act (12 U.S.C. section 1751, et seq.). The term also includes any other institution which holds and receives deposits, savings or share accounts; issues certificates of deposit; or provides to its customers any deposit accounts which are subject to withdrawal by check, instrument, order or electronic means to effect third-party payments.

(5) "Financial institution holding company" means a person, other than an individual, that has or acquires control over any financial institution.

(6) "Idaho financial institution" means a financial institution whose operations are principally conducted in this state.

(7) "Idaho financial institution holding company" means a financial institution holding company whose principal place of business is, and whose operations are principally conducted in, this state. "Idaho financial institution holding company" also means an out-of-state financial institution holding company which lawfully has control of an Idaho financial institution on the effective date of this chapter.

(8) "Person" means a natural person, corporation, partnership, association, cooperative association, unincorporated association, trust or any other legal or commercial entity.

(9) "Principally conducted." The operations of a financial institution are "principally conducted" in the state in which the total deposits of the financial institution are largest. The operations of a financial institution holding company are principally conducted in the state in which the financial institution holding company's financial institution subsidiary having the largest percentage of the total deposits of all of the financial institution subsidiaries of the holding company is located.

(10) "Out-of-state financial institution" means a financial institution whose operations are principally conducted outside this state.

(11) "Out-of-state financial institution holding company" means a financial institution holding company whose principal place of business is, and whose operations are principally conducted, outside this state.

26-2604. PROHIBITED ACQUISITION. (1) Except as authorized in this chapter or by the laws of the United States, no out-of-state financial institution or out-of-state financial institution holding company, nor any subsidiary or affiliate thereof, may establish or maintain an office of, or conduct the business of, a financial institution in this state; nor may such out-of-state financial institutions or out-of-state financial institution holding companies, or any subsidiaries or affiliates thereof, directly or indirectly, acquire control of, acquire substantially all of the assets of, merge with, consolidate with, or assume the deposit liabilities of an Idaho financial institution or an Idaho financial institution holding company.

(2) The provisions of this chapter do not restrict the lawful exercise by any financial institution or financial institution holding company under the jurisdiction of the department or organized under the laws of the United States or of any other state and having an office in this state as of the effective date of this chapter of any authority, right, power, or privilege in effect and available to such financial institution or financial institution holding company as of that date under the laws of this state, the United States, or any other state.

(3) The provisions of this chapter do not prevent the consummation of transactions lawfully entered into prior to the effective date of this chapter nor does it prohibit foreign persons lawfully engaged in activities authorized under the laws of this state or of the United States prior to the effective date of this chapter from continuing to engage in such activities so long as they are lawful under any other laws of this state, the United States, or the laws of any other state.

26-2605. ACQUISITION BY OUT-OF-STATE COMPANY -- RECIPROCITY. (1) An out-of-state financial institution or an out-of-state financial institution holding company may:

(a) Acquire control of;

(b) Acquire all or substantially all of the assets of;

(c) Merge or consolidate with; or

(d) Assume the deposit liabilities of an Idaho financial insti-

tution or an Idaho financial institution holding company if all the conditions set forth in subsection (2) of this section are met.

(2) (a) An application has been submitted by such out-of-state financial institution or out-of-state financial institution holding company to, and prior written approval has been obtained from, the director, pursuant to section 26-2606, Idaho Code.

(b) (i) In the case of an applicant which is an out-of-state financial institution, its operation shall be principally conducted in Washington, Oregon, Nevada, Utah, Wyoming or Montana; and if that out-of-state financial institution is controlled, directly or indirectly, by one or more out-of-state financial institution holding companies, each such holding company shall also be in compliance with subsection (2)(b)(ii) of this section.

(ii) In the case of an applicant which is an out-of-state financial institution holding company, both its principal place of business is located in and its operations are principally conducted in one (1) of the following states: Washington, Oregon, Nevada, Utah, Wyoming or Montana and such out-of-state financial institution holding company is not controlled directly or indirectly by an out-of-state financial institution holding company the operations of which are not principally conducted in one of those states; and

(c) The director finds that the statutes of the state in which the operations of the out-of-state financial institution are principally conducted; or in the case of an out-of-state financial institution holding company, the one (1) state in which the operations are principally conducted and its principal business is located, expressly authorize an Idaho financial institution or Idaho financial institution holding company to:

(i) Acquire control of;

(ii) Acquire all of the assets of;

(iii) Merge or consolidate with; or

(iv) Assume the deposit liabilities of an out-of-state financial institution whose operations are principally conducted in such state or an out-of-state financial institution holding company whose operations are principally conducted in such state, under terms and conditions substantially comparable to those imposed in this chapter.

26-2606. REQUIREMENTS FOR ACQUISITION. No person shall effect any of the transactions described in section 26-2605, Idaho Code, or make any public offer to do so unless it shall first have complied with the provisions of this section.

(1) An applicant must request authorization to engage in any of the transactions described in section 26-2605, Idaho Code, shall pay such application fee as the director may prescribe for such transactions and shall file with the director:

(a) An application in such form as the director may prescribe;

(b) Such other information as the director may require pursuant to any rule or regulation, or which he determines to be necessary

to allow him to make the findings in the case of any specific transactions which are required in this section;

(c) Unless the applicant is an Idaho resident, a domestic corporation or a foreign corporation qualified to do business in this state, a written consent to service of process in any action or suit arising out of or in connection with said proposed action, said service to be on a resident of this state;

(d) A written undertaking on the part of the applicant to provide the director, if requested, the financial institution or financial institution holding company examination records, or such of them as may be requested by the director, of the primary administrative regulator and deposit insurance agency of the financial institution or financial institution holding company involved in the transaction.

(2) The director may, as a condition upon acceptance of an application as complete or upon approval of an application, require cooperation from the administrative regulator or regulators of the out-of-state financial institution or financial institution holding company involved in the transaction.

(3) Within thirty (30) days of acceptance of the application as complete, the director shall act upon the application by approving or disapproving it and shall state in writing his findings of fact, conclusions and order. The director may approve an application subject to such terms and conditions as he may consider necessary to protect the public interest and carry out the purposes of this chapter. The director may not approve an application for a transaction in which the applicant is a foreign corporation which has not qualified to do business in this state under title 30, Idaho Code, and which is required to do so.

(4) The director shall disapprove any application filed under this section if he finds:

(a) That the proposed transaction would be detrimental to the safety and soundness of the applicant or to any Idaho financial institution or Idaho financial institution holding company which is a party to the proposed transaction or to a subsidiary or affiliate of that institution or holding company;

(b) The applicant, its executive officers, directors or principal shareholders do not have a record of sound performance, efficient management, financial responsibility and integrity such that it would be against the interest of the depositors, other customers, creditors or shareholders of an Idaho financial institution or an Idaho financial institution holding company; or against the public interest to authorize the proposed transaction;

(c) The financial condition of the applicant or any Idaho financial institution or Idaho financial institution holding company which is a party to or participant in the proposed transaction is such that the financial stability of such applicant or other institution or holding company might be jeopardized or the interests of depositors or other customers of such applicant or other institutions or holding companies might be prejudiced;

(d) The Idaho financial institution or Idaho financial institution holding company to be acquired has been chartered and

actively engaged in business for less than four (4) years prior to the date of the application, provided, however, that this subsection (4) shall not be construed to prohibit the approval of the acquisition of any Idaho financial institution or Idaho financial institution holding company formed solely to facilitate the acquisition of all of the voting shares of an Idaho financial institution which itself has been chartered and actively engaged in business for four (4) years or more prior to the date of the application;

(e) The consummation of the proposed transaction will tend substantially to lessen competition within this state unless the director finds that the anticompetitive effects of the proposed transaction are clearly outweighed by the benefit of meeting the convenience and needs of the community to be served; or

(f) The applicant has not established a record of meeting the credit needs of the communities which it or its subsidiary financial institution(s) services.

26-2607. ACQUISITION OF FAILING FINANCIAL INSTITUTION. (1) Notwithstanding any provisinn of the laws of this state to the contrary, if the director takes possession of a failing Idaho financial institution pursuant to the provisions of title 26, Idaho Code, and if the director deems it to be in the public interest and necessary to protect depositors, creditors and other customers of that financial institution, the director may solicit offers from, and authorize or require the acquisition of such failing Idaho financial institution by an out-of-state financial institution or hy an out-of-state financial institution holding company. Acquisition may be through merger, consolidation, purchase of all or substantially all of the assets and assumption of liabilities, or purchase of all or a controlling part of the shares of the acquired institution.

(2) In applying the criteria set forth in subsection (3) of this section, and in evaluating the nffers for the acquisition of such failing Idaho financial institutions, the director shall adhere to the following order of preference in approving such acquisition subject to the determination required by subsection (3)(a) of this sectiou:

(a) First, Idaho financial institutions of the same class or their Idaho financial institution holding companies;

(b) Second, Idaho financial institutions of a different class or their Idaho financial institution holding companies;

(c) Third, out-of-state financial institutions of the same class or their out-of-state financial institution holding companies, if the operations of such institutions are principally conducted in Washington, Oregon, Nevada, Utah, Wyoming or Montana; or, in the case of their holding companies, both their principal place of business is located in and their operations are principally conducted in one (1) of those states.

(d) Fourth, out-of-state financial institutions of a different class or their out-of-state financial institution holding companies, if the operations of such institutions are principally conducted in Washington, Oregon, Nevada, Utah, Wyoming or Montana; or, in the case of their holding companies, both their principal

place of business is located in and their operations are principally conducted in one (1) of those states.

(3) The director may not accept any offers from, or authorize or require any acquisition by an out-of-state financial institution or out-of-state financial institution holding company under this section unless he finds that:

(a) No Idaho financial institution or Idaho financial institution holding company is willing to acquire the failing Idaho financial institution on at least as favorable terms as the out-of-state financial institution or out-of-state financial institution holding company is willing to offer;

(b) (i) The operations of the out-of-state financial institution are principally conducted in Washington, Oregon, Nevada, Utah, Wyoming or Montana; and if the out-of-state financial institution holding company is controlled directly or indirectly by one or more out-of-state financial institution holding companies, each such holding company shall also be in compliance with subsection (3)(b)(ii) of this section.

(ii) In the case of an out-of-state financial institution holding company, both its principal place of business is located in and its operations are principally conducted in Washington, Oregon, Nevada, Utah, Wyoming or Montana; and such out-of-state financial institution holding company is not controlled directly or indirectly, by an out-of-state financial institution holding company the operations of which are not principally conducted in one (1) of those states.

(c) The out-of-state financial institution or out-of-state financial institution holding company has demonstrated an acceptable record of meeting the credit needs of the communities it serves; and

(d) The out-of-state financial institution or out-of-state financial institution holding company has a record of sound performance, capital adequacy, financial capacity and efficient management such that the acquisition would not jeopardize the financial stability of the acquired institution and would not be detrimental to the interests of depositors, creditors, or other customers of the acquired institution or the public interest.

(4) To protect the interest of depositors, creditors and other customers of a failing Idaho financial institution, the director may waive any of the procedures set forth in section 26-2606, Idaho Code, or in any regulation of the department if he deems it necessary to implement the purposes of this section.

26-2608. CONDITIONS OF APPROVAL. The director may make the acquisition of an Idaho financial institution or Idaho financial institution holding company by an out-of-state fiuancial institution or out-of-state financial institution holding company subject to any conditions, restrictions, and requirements that would apply to the acquisition by an Idaho financial institution or Idaho financial institution holding company of a financial institution or a financial institution holding company in the state where such acquiring out-of-state financial institution or financial institution holding

company's operations are principally conducted, which conditions, restrictions and requirements would not apply to acquisitions by a financial institution or financial institution holding company all of whose financial institution subsidiaries are located in that state.

26-2609. PENALTIES. (1) Any person who willfully violates any provision of this chapter or any regulation or order issued by the director pursuant to this chapter shall forfeit and pay a civil penalty of not more than one thousand dollars ($1,000) per day for each day during which the violation continues. The director may assess the civil penalty after giving notice and an opportunity to the person to submit data, views and arguments, and after giving due consideration to the size, financial resources and good faith of the person charged, the gravity of the violation and any data, views and arguments submitted. The director shall collect the civil penalty by bringing an action in the district court of the county in which the office of the director is located. Any applicant for approval of an acquisition is considered to have consented to the jurisdiction and venue of the court by the filing of any application for approval.

(2) The director may secure injunctive relief in the district court of the county in which the office of the director is located to prevent any change in control pending completion of the procedures set forth in this chapter.

26-2610. COOPERATIVE AGREEMENTS. The director is authorized to enter into cooperative and reciprocal agreements with other financial institution regulatory agencies to facilitate the regulation of financial institutions and financial institution holding companies doing business in this state. The director may accept reports of examinations and other records from such other agencies in lieu of conducting his own examinations of financial institutions controlled by financial institution holding companies located in other states. The director may take any action jointly with other regulatory agencies having concurrent jurisdiction over financial institutions and financial institution holding companies doing business in this state or may take such actinns independently in order tn carry out his reaponsibilities.

26-2611. NO REPEAL BY IMPLICATION. Nothing contained in this chapter shall be construed to amend or modify the provisions of any other chapter of this title governing the supervision or regulation of financial institutions and financial institution holding companies or the organization and powers of the department of finance and the director with respect thereto as may be provided in such other chapter.

26-2612. EFFECT OF INVALIDITY OF PART OF THIS CHAPTER. (1) If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this chapter, except as provided in subsection (2) of this section, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this chapter, but the effect thereof shall be confined to

the clause, sentence, paragraph, section or part of this chapter so adjudged to be invalid or unconstitutional.

(2) In the event that a final judgment of the highest court to which an appeal may be taken as a matter of right in the state or the United States judicial system of which that court is a part should hold, adjudge or decree that any portion of this chapter is invalid by virtue of the requirement of substantial comparability in section 26-2605(2)(c), Idaho Code, or the limitations of sections 26-2605 and 26-2607, Idaho Code, to persons whose operations are principally conducted in or whose principal place of business is located in the states named in those sections, then the authority granted by this chapter to approve transactions involving out-of-state financial institutions and out-of-state financial institution holding companies shall cease, provided, however, that nothing contained in this section shall invalidate any transaction which has been approved prior to any such final judgment.

Approved March 21, 1985.

CHAPTER 186
(S.B. No. 1130)

AN ACT

RELATING TO THE IDAHO VETERANS AFFAIRS COMMISSION; AMENDING SECTION 65-201, IDAHO CODE, TO PROVIDE EXPIRATION DATES FOR TERMS OF CURRENT COMMISSION MEMBERS, TO PROVIDE TERMS OF THREE YEARS AND TO PROVIDE THAT A TERM EXPIRES ON THE THIRD MONDAY OF JANUARY IN THE APPROPRIATE YEAR.

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

SECTION 1. That Section 65-201, Idaho Code, be, and the same is hereby amended to read as follows:

65-201. DIVISION OF VETERANS' SERVICES -- CREATION OF COMMISSION -- APPOINTMENT OF MEMBERS -- DISCONTINUANCE OF COMMISSION. (1) There is hereby established in the department of health and welfare the division of veterans' services. The division shall be headed by an administrator who shall also serve as commandant of the veterans home, as provided in section 66-901, Idaho Code. The director of the department shall appoint the administrator of the division of veterans' services from a nomination list of eligible candidates for administrator submitted by the veterans affairs commission. The administrator may be removed from office by the director of the department of health and welfare only with the consent of the veterans affairs commission.

(2) There is hereby created an advisory commission to be known as the Idaho veterans affairs commission to consist of five (5) persons, all of whom shall be appointed by the governor of the state of Idaho not more than thirty (30) days after the effective date of this act.

Said appointees shall have had active service in any war or conflict officially engaged in by the government of the United States and have been honorably discharged from such service. No more than two (2) of said commission shall be residents of the same judicial district of the state of Idaho. ~~The members of the commission shall hold office during the pleasure of the governor and the~~ Of the members of the commission serving on the effective date of this act, the terms of three (3) such members shall expire on the third Monday in January, 1987, and the terms of the remaining members shall expire on the third Monday in January, 1988. Members of the commission serving on the effective date of this act shall draw lots to determine the length of term for each member. Thereafter, upon the expiration of a member's term, the subsequent appointment shall be made by the governor and shall be for a term of three (3) years. Such subsequent terms shall expire on the third Monday in January of the appropriate year. The governor shall have power to fill any and all vacancies occurring in said commission. The governor shall have the further full power to discontinue said commission by proclamation whenever the governor determines that the government of the United States, or the state of Idaho, shall have made adequate provision for the care and assistance of honorably discharged and destitute veterans of the armed forces.

Approved March 22, 1985.

CHAPTER 187
(S.B. No. 1137, As Amended)

AN ACT

RELATING TO THE CONTROL OF GRASSHOPPERS, CRICKETS OR OTHER SIMILAR PESTS ON STATE LANDS; AMENDING CHAPTER 1, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-155, IDAHO CODE, TO PROVIDE FOR THE CONTROL OF GRASSHOPPERS AND OTHER PESTS ON STATE LANDS, AND TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS MAY AUTHORIZE THE ISSUANCE OF DEFICIENCY WARRANTS IN THE EVENT THE ACTUAL COST OF PEST CONTROL WITHIN A ZONE OF INFESTATION AS ESTABLISHED BY THE DIRECTOR OF THE STATE DEPARTMENT OF AGRICULTURE EXCEEDS THE FUNDS PROVIDED FOR THAT PURPOSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 1, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-155, Idaho Code, and to read as follows:

58-155. PEST CONTROL ON STATE LANDS -- DEFICIENCY WARRANTS. Whenever the director of the state department of agriculture determines that there exists the threat of an infestation of grasshoppers, crickets or other similar pests on state-owned land and that the

infestation is of such a character as to be a menace to state and adjacent private rangeland or agricultural land, the director of the state department of agriculture may declare the existence of a zone of infestation, and may declare and fix the boundaries so as to definitely describe and identify the zone of infestation.

Thereupon, the state director of the department of lands or his agent shall have the power to go upon the state-owned land within the zone of infestation and shall cause the insect infestation to be suppressed and eradicated in the manner approved by the state board of land commissioners, using such funds as have been appropriated or may hereafter be made available for such purposes; provided, that whenever the cost of suppression and eradication of grasshoppers, crickets or other similar pests on state-owned lands exceeds the funds appropriated or otherwise available for that purpose, the state board of land commissioners may authorize the issuance of deficiency warrants against the general account for up to fifty thousand dollars ($50,000) in any one (1) year for such suppression and eradication. The director of the department of lands, in executing the provisions of this chapter insofar as it relates to state-owned lands, shall have the authority to cooperate with federal, county, municipal and private landowners in insect suppression and eradication projects; provided, that the state funds shall only be used to pay the state's pro rata share based on acreage of state-owned lands treated. Such moneys as the state shall thus become liable for shall be paid as a part of the expenses of the state board of land commissioners out of appropriations which shall be made by the legislature for that purpose.

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 21, 1985.

CHAPTER 188
(S.B. No. 1138)

AN ACT

RELATING TO PENALTIES FOR VIOLATIONS OF THE FISH AND GAME CODE AND RULES AND REGULATIONS PROMULGATED PURSUANT THERETO; AMENDING SECTION 36-501, IDAHO CODE, TO PROVIDE THAT A PERSON GUILTY OF A SECOND ILLEGAL SALE OF CERTAIN BIG GAME ANIMALS, BIRDS OR FISH OR PARTS THEREOF WITHIN A FIVE YEAR PERIOD SHALL BE A FELONY; AMENDING SECTION 36-1108, IDAHO CODE, TO DELETE REFERENCES TO DEER, BIGHORN SHEEP, MOUNTAIN GOAT, ANTELOPE, MOOSE, AND ELK AND TO INCREASE MAXIMUM FINES; AND AMENDING SECTION 36-1402, IDAHO CODE, TO INCREASE THE MAXIMUM FINE FOR CERTAIN MISDEMEANOR VIOLATIONS, TO INCREASE THE MINIMUM AND MAXIMUM FINES FOR THE ILLEGAL TAKING, POSSESSION OR WASTE OF BIG GAME ANIMALS, WILD TURKEYS, WHISTLING SWANS, CHINOOK SALMON AND STURGEON, TO PROVIDE THAT REVOCATION

PERIODS OF LICENSE PRIVILEGES FOR PERSONS FOUND GUILTY OR CONVICTED OF MULTIPLE OFFENSES MAY RUN CONSECUTIVELY, TO PROVIDE THAT HUNTING, FISHING OR TRAPPING PRIVILEGES SHALL BE REVOKED FOR A PERIOD OF NOT LESS THAN ONE YEAR FOR EACH BIG GAME ANIMAL TAKEN DURING CLOSED SEASONS OR FOR VIOLATIONS WHICH CAUSE THE DAILY BAG OR POSSESSION LIMIT OF BIG GAME TO BE EXCEEDED, TO PROVIDE THAT HUNTING, FISHING OR TRAPPING PRIVILEGES SHALL BE REVOKED FOR A PERIOD OF NOT LESS THAN ONE YEAR FOR THE ILLEGAL OR UNLAWFUL SALE OR PURCHASE OF WILDLIFE AND TO INCREASE THE MAXIMUM FINE FOR HUNTING, FISHING OR TRAPPING WITHOUT PRIVILEGES.

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

SECTION 1. That Section 36-501, Idaho Code, be, and the same is hereby amended to read as follows:

36-501. SALE AND PURCHASE OF WILDLIFE -- RESTRICTIONS -- EXCEPTIONS. It is a misdemeanor for any person to sell or buy any species of wildlife or parts thereof except as hereinafter provided.

(a) Sale of Unprotected Wildlife. The sale of legally taken species of wildlife classified as unprotected by law shall be lawful.

(b) Sale of Game Animals. The sale of legally taken hides, horns, or heads of game animals, when detached from the carcass, and mounted wildlife, where sale is not specifically prohibited by federal or state statutes or regulations, shall be lawful only when the wildlife to be sold is accompanied by a statement showing that the animals were lawfully taken.

(c) Sale of Furbearers. The sale of pelts and parts of furbearers when legally taken shall be lawful.

(d) Sale of Seized Wildlife. The sale and purchase of court confiscated, abandoned, or unclaimed wildlife shall be lawful when made in accordance with the provisions of section 36-1304, Idaho Code.

(e) Sale of Commercially Raised or Harvested Wildlife. The sale of wildlife legally raised or harvested commercially by properly licensed commercial operations shall be lawful.

(f) Commission May Permit Sales. The commission may, by regulation, permit the sale of other parts of wildlife when such sale will not injuriously affect the species permitted.

(g) Any person who pleads guilty to or is found guilty of two (2) or more violations of the provisions of this section, occurring within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), shall be guilty of a felony if the violations consisted of sales not permitted by regulation, or any other violation of the provisions of this section, involving bighorn sheep, mountain goat, moose, elk, deer, pronghorn antelope, wild turkey, whistling swan, sturgeon or chinook salmon or parts of any of the aforementioned animals, birds or fish.

SECTION 2. That Section 36-1108, Idaho Code, be, and the same is hereby amended to read as follows:

36-1108. PENALTIES. (a) Any person violating any of the provi-

sions of this title with respect to methods of take, seasons or limits relating to ~~deer,--bighorn--sheep,~~ mountain lion, ~~mountain--goat, antelope,~~ and bear, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not less than one hundred dollars ($100) nor more than ~~three--hundred~~ one thousand dollars ($31,000) for each offense and/or by commitment to jail for a period of not more than six (6) months.

(b) Any person violating the provisions of this chapter with respect to the protection of ~~moose,-elk,~~ buffalo and caribou shall be guilty of a misdemeanor and shall be fined in a sum of not less than one hundred fifty dollars ($150) nor more than ~~three-hundred~~ one thousand dollars ($31,000) and/or by commitment to jail for not more than six (6) months.

(c) Any person violating any of the provisions of this chapter for which no penalty is specified shall be guilty of a misdemeanor and subject to the penalty prescribed by section 36-1402, Idaho Code.

SECTION 3. 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~~ one thousand dollars ($31,000) and/or by commitment to jail for not more than six (6) months. The minimum and maximum fine, per animal, fish or bird, for the illegal taking, illegal possession or the illegal waste of the following animals, fish or birds shall be as indicated below:

Animal, Fish or Bird	Minimum Fine	Maximum Fine
Bighorn sheep, mountain goat and moose	$500	$1,000
Elk	$300	$1,000
Deer and pronghorn antelope	$200	$ 500
Wild turkey, whistling swan and sturgeon	$200	$ 500
Chinook salmon	$100	$ 500

(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.

6. The unlawful sale or purchase of wildlife as set forth in section 36-501, 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. In the case of persons convicted or found guilty of committing multiple offenses, the revocation periods may run consecutively. In the case of convictions or findings of guilt involving taking big game animals during closed season or exceeding the daily bag or possession limit of big game, the magistrate hearing the case shall revoke the hunting, fishing or trapping privileges of any person convicted or found guilty of those offenses for a period of not less than one (1) year for each big game animal illegally taken or possessed by the person convicted or found guilty.

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~~ one thousand dollars ($1,000) 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 22, 1985.

CHAPTER 189
(S.B. No. 1151)

AN ACT

RELATING TO ADMISSION TO THE PRACTICE OF LAW IN IDAHO; AMENDING SECTION 3-101, IDAHO CODE, BY STRIKING THE REQUIREMENT OF UNITED STATES CITIZENSHIP AND BY CHANGING THE AGE REQUIREMENT FROM TWENTY-ONE YEARS TO AGE OF MAJORITY; AMENDING SECTION 3-402, IDAHO CODE, BY CHANGING THE TERM "APPOINTMENT" TO "ELECTION" AND BY ADDING TO THOSE ELIGIBLE FOR ELECTION MEMBERS OF THE BAR WHO MAINTAIN AN OFFICE FROM WHICH THE MEMBER PRIMARILY PRACTICES LAW IN THE STATE OF IDAHO AND APPOINTS AN AGENT FOR SERVICE OF PROCESS;

AMENDING SECTION 3-403, IDAHO CODE, BY CHANGING THE TERM "APPOINTMENT" TO "ELECTION", THE TERM "SECRETARY" TO "EXECUTIVE DIRECTOR" AND BY ADDING TO THOSE ELIGIBLE TO VOTE IN ELECTIONS MEMBERS OF THE BAR WHO MAINTAIN AN OFFICE FROM WHICH THEY PRIMARILY PRACTICE LAW IN THE STATE OF IDAHO AND APPOINT AN AGENT FOR SERVICE OF PROCESS; AND AMENDING SECTION 3-406, IDAHO CODE, BY CHANGING THE TERM "SECRETARY" TO "EXECUTIVE DIRECTOR", BY ADDING TO THOSE ELIGIBLE TO NOMINATE TO THE OFFICE OF COMMISSIONER THOSE MEMBERS OF THE BAR WHO MAINTAIN AN OFFICE IN THE STATE OF IDAHO FROM WHICH THEY PRIMARILY PRACTICE LAW IN THE STATE OF IDAHO AND APPOINT AN AGENT FOR SERVICE OF PROCESS.

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

SECTION 1. That Section 3-101, Idaho Code, be, and the same is hereby amended to read as follows:

3-101. PERSONS ENTITLED TO ADMISSION. Any ~~resident of this state who is a citizen of the United States, or has bona fide declared his intention to become a citizen of the United States,~~ individual who is of the age of ~~twenty-one (21) years~~ majority, of good moral character, and who possesses the necessary qualifications of learning and ability may, under such rules as the Supreme Court may prescribe, be admitted as an attorney and counselor in all courts of this state.

SECTION 2. That Section 3-402, Idaho Code, be, and the same is hereby amended to read as follows:

3-402. ESTABLISHMENT OF BOARD -- MEMBERS -- TERM OF OFFICE -- ~~APPOINTMENT~~ ELECTION. In order to more effectively carry out the purposes and intents of this act, there is hereby established in the department of self-governing agencies a board of commissioners of the Idaho State Bar, consisting of five (5) members to hold office for a term of three (3) years each and until their successors are elected and qualify, and to be ~~appointed~~ elected in the manner hereinafter provided. There shall be one (1) member of the board of commissioners from each of the northern, eastern and western divisions of Idaho, and two (2) members of the board of commissioners from the central division. Each commissioner must be a member of the Idaho State Bar residing in or maintaining an office from which he primarily practices law in the state of Idaho, within the division from which he is selected at the time of his ~~appointment~~ election and during his term of office, and shall have appointed an agent for service of process within the state of Idaho.

SECTION 3. That Section 3-403, Idaho Code, be, and the same is hereby amended to read as follows:

3-403. TIME AND MANNER OF ~~APPOINTMENT~~ ELECTION. The board of commissioners shall be ~~appointed~~ elected by the ~~resident~~ members of the Idaho State Bar who are eligible to vote in the election and who shall vote by ballot. The candidate from any division receiving the greatest

number of votes of that division shall thereby be ~~appointed~~ elected commissioner from such division. Only residents of or members of the Idaho State Bar maintaining an office in a division may vote for candidates for commissioner of that division. The ballots shall be deposited in person or by mail with the ~~secretary~~ executive director of the board, or such other officer as it may designate. There shall be an annual election by the ~~resident~~ members of the Idaho State Bar eligible to vote for the purpose of ~~appointing~~ electing successors to the commissioners whose terms expire. A commissioner shall be ~~appointed~~ elected during 1974 and every third year thereafter from each of the northern and central divisions; during 1975 and every third year thereafter from each the western and central divisions; and during 1976 and every third year thereafter from the eastern division. The board shall fix the time for holding the annual election and prescribe rules and regulations in regard thereto not in conflict with the provisions of this act. The board shall, in accordance with its rules, give at least sixty (60) days' notice by mail of the time for holding the election each year. In the event a vacancy shall occur on said board otherwise than by expiration of the term of a commissioner, such vacancy shall be filled by appointment by the remaining members of said board. Such vacancy shall be so filled from the members of the bar ~~resident~~ residing, or maintaining an office from which they primarily practice law in the state of Idaho in the division where such vacancy occurs and who have appointed an agent for service of process within the state.

SECTION 4. That Section 3-406, Idaho Code, be, and the same is hereby amended to read as follows:

3-406. NOMINATIONS TO OFFICE OF COMMISSIONER. Nomination to the office of commissioner shall be by the written petition of not less than five (5) or more than ten (10) members of the Idaho State Bar in good standing. Any number of candidates may be nominated on a single petition. Such nominating petition shall be mailed to the ~~secretary~~ executive director within a period to be fixed by the rules made by the board of commissioners. Attorneys residing, or maintaining an office from which they primarily practice law in the state of Idaho and who have appointed an agent for service of process within the state of Idaho, in one division shall alone have the right to nominate persons for the office of commissioner from that division.

Approved March 22, 1985.

CHAPTER 190
(S.B. No. 1153)

AN ACT

RELATING TO LICENSE FEES FOR LAWYERS; AMENDING SECTION 3-409, IDAHO CODE, RELATING TO LICENSE FEES, BY CHANGING THE DATE FOR PAYMENT OF ANNUAL LICENSE FEES.

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

SECTION 1. That Section 3-409, Idaho Code, be, and the same is hereby amended to read as follows:

3-409. LICENSE FEES AND APPROPRIATIONS. Every person practicing, or holding himself out as practicing law within this state, or holding himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, except state and United States judges of the courts of record within this state, shall, prior to so doing and ~~prior to the first day of March~~ no later than January 10 of each year, commencing with the year 19~~7~~86, and thereafter, pay to the board of commissioners of the Idaho State Bar ~~Association~~ as a license fee the sum of twenty-five dollars ($25.00) for the calendar year of his admission to practice law in the state of Idaho, and one hundred dollars ($100) each year for the next three (3) calendar years following the calendar year of such admission~~;~~, and two hundred dollars ($200) for each year thereafter, until the calendar year following the lawyer's seventy-second birthday and for such calendar year and each year thereafter, the sum of thirty-five dollars ($35.00).

The moneys thus collected, together with other revenues shall be administered under the direction of the board of commissioners of the Idaho State Bar for the purpose of administering the Idaho State Bar ~~Association~~, encouraging local bar associations, promoting legal education seminars, fostering relations between the public and the bar and for the purpose of establishing and maintaining a clients' security fund which shall be administered by the Idaho State Bar commissioners under rules approved by the Supreme Court. All moneys received and expended by the commissioners of the Idaho State Bar shall be audited annually by a certified public accountant.

Approved March 22, 1985.

CHAPTER 191
(S.B. No. 1170)

AN ACT

RELATING TO EXTRATERRITORIAL AUTHORITY OF POLICE OFFICERS; AMENDING SECTION 67-2337, IDAHO CODE, TO PROVIDE THAT CITIES AND POLITICAL SUBDIVISIONS MAY ENTER INTO MUTUAL ASSISTANCE COMPACTS; TO AUTHORIZE COMMISSIONING OF POLICE OFFICERS BY THE DIRECTOR OF THE IDAHO DEPARTMENT OF LAW ENFORCEMENT; AND TO LIMIT STATE LIABILITY FOR PERSONS ACTING UNDER A MUTUAL AID COMPACT.

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

SECTION 1. That Section 67-2337, Idaho Code, be, and the same is

hereby amended to read as follows:

67-2337. EXTRATERRITORIAL AUTHORITY OF PEACE OFFICERS. (a) All authority that applies to peace officers (as defined in section 19-510, Idaho Code) when performing their functions and duties within the territorial limits of their respective city or political subdivisions, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially in response to a request for law enforcement assistance from the chief law enforcement officer of another city or political subdivision or his designee.

(b) Cities or political subdivisions may enter into mutual assistance compacts with other cities or political subdivisions of this state or of states immediately adjacent. The director of the Idaho department of law enforcement is authorized to commission as special deputies, police officers engaged in law enforcement duties within the scope of such mutual assistance compacts. Provided, however, that in the case of a mutual assistance compact between cities or political subdivisions, the original, employing agency shall be responsible for any liability arising from the acts of its employees participating in such compact. Any mutual assistance compact between a city or political subdivision of this state with a city or political subdivision of any other state shall include a written statement of assumption of liability consistent with the requirements of this section.

(c) The state of Idaho and its agencies or departments shall not be liable for the acts of police officers, other than its own employees, commissioned by the director of the department of law enforcement, for acts done under a mutual assistance compact created under this section.

Approved March 22, 1985.

CHAPTER 192
(S.B. No. 1179)

AN ACT

APPROPRIATING MONEYS FROM THE PUBLIC BUILDING ACCOUNT TO THE PERMANENT BUILDING FUND ADVISORY COUNCIL AND THE DIVISION OF PUBLIC WORKS FOR THE PURPOSE OF RENOVATING AND REPAIRING ROOMS AND SYSTEMS IN THE CAPITOL BUILDING, PROVIDING TIME LIMITS DURING WHICH THE APPROPRIATION SHALL BE AVAILABLE, AND PROVIDING FOR LEGISLATIVE OVERSIGHT; AND DECLARING AN EMERGENCY.

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

SECTION 1. There is hereby appropriated from the Public Building Account the sum of $169,000, or so much thereof as may be necessary, to the Permanent Building Fund Advisory Council and the Division of Public Works for the purpose of renovating and repairing legislative

rooms on the third and fourth floors of the Capitol Building, for replacing or refinishing furniture, carpet, woodwork and fixtures, in legislative rooms on the third and fourth floors of the Capitol Building, and for making basic repairs to the electrical, heating, ventilating, and air conditioning systems in the Capitol Building.

The appropriation made in this section shall be available from the effective date of this act through June 30, 1986.

No work on the legislative spaces of the Capitol Building shall be performed without the prior approval of the Legislative Council.

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, 1985.

CHAPTER 193
(S.B. No. 1182)

AN ACT

RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION 59-1319, IDAHO CODE, TO PROVIDE A METHOD FOR COMPUTATION OF SERVICE RETIREMENT FOR MEMBERS WHOSE MAJORITY SERVICE IS AS AN ELECTED OFFICIAL OR AS AN APPOINTED OFFICIAL; AND AMENDING SECTION 59-1321, IDAHO CODE, TO PROVIDE A METHOD FOR COMPUTATION OF EARLY RETIREMENT ALLOWANCES FOR MEMBERS WHOSE MAJORITY SERVICE IS AS AN ELECTED OFFICIAL OR AS AN APPOINTED OFFICIAL.

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

SECTION 1. That Section 59-1319, Idaho Code, be, and the same is hereby amended to read as follows:

59-1319. COMPUTATION OF SERVICE RETIREMENT ALLOWANCES -- MINIMUM BENEFITS. (1) The annual amount of accrued retirement allowance for each month of credited service of a member not classified as a police officer or fireman shall equal one and two-thirds per cent (1 2/3%) of his average monthly salary. The annual amount of initial service retirement allowance of such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) five dollars ($5.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(2) The annual amount of accrued retirement allowance for each month of credited service of a member classified as a police officer or fireman shall equal two per cent (2%) of his average monthly salary. The annual amount of initial service retirement allowance of

such a member shall equal (a) or (b), whichever is greater:

(a) his accrued retirement allowance; or

(b) six dollars ($6.00) multiplied by the number of months of credited service and by the bridging factor, as provided in section 59-1319A, Idaho Code, between July 1, 1974 and the first of the month following the member's final contribution.

(3) Provisions of this section shall be applicable to members and contingent annuitants of the employee system and to members, annuitants and beneficiaries of the teachers and city systems. In any recomputation of an initial retirement allowance for a person not making a final contributinn subsequent to 1974, the bridging factor referred to in subsections (1) and (2) shall be 1.000. Any recomputed retirement allowance shall be payable only prnspectively from July 1, 1974.

(4) Benefits payable to a person who became a member prior to July 1, 1974, or to his beneficiaries shall never be less than they would have received under this act as in effect on June 30, 1974; provided, however, that the member shall have accrued the amount of accumulated contributions required thereby prior to payment of an initial retirement allowance.

(5) If the majority of a member's credited service is as an elected official or as an appointed official, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer in excess of twenty (20) hours per week during the term of office, and that member's initial service retirement allowance for service credited only during that period would be computed under subsection (1)(b) and/or (2)(b) of this section, without consideration of any other credited service, then it will be so computed for that period of service.

If that member has credited service from any other employment, the accrued service retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

SECTION 2. That Section 59-1321, Idaho Code, be, and the same is hereby amended to read as follows:

59-1321. COMPUTATION OF EARLY RETIREMENT ALLOWANCES. (1) The annual amount of initial early retirement allowance of a member not classified as a police officer or fireman shall be a percentage of his accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than ninety (90) years. Otherwise, such percentage shall be one hundred percent (100%) reduced by one-fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date he would be eligible to receive his full accrned benefit without additional credited service, and further reduced by two-thirds of one percent (.6667%) for each additional month.

(2) The annual amount of initial early retirement allowance of a

member classified as a police officer or fireman shall be a percentage of his accrued retirement allowance. Such percentage shall be one hundred percent (100%) if the sum of the number of years and months of credited service and the age in years and months is equal to or greater than eighty (80) years. Otherwise, such percentage shall be one hundred percent (100%) reduced by one-fourth of one percent (.25%) for each month up to sixty (60) months that the member's retirement precedes the date he would be eligible to receive his full accrued benefit without additional credited service, and further reduced by two-thirds of one percent (.6667%) for each additional month.

(3) If the majority of a member's credited service is as an elected official or as an appointed official, and that official was normally in the administrative offices of the employer less than twenty (20) hours per week during the term of office, or was normally not required to be present at any particular work station for the employer in excess of twenty (20) hours per week during the term of office, that member's accrued retirement allowance for service credited only during that period shall be computed from an average monthly salary for salary received during that period of such employment only.

If that member has credited service from any other employment, the accrued retirement allowance for the credited service from such other employment shall be computed from an average monthly salary for salary received during the period of such other employment.

Approved March 21, 1985.

CHAPTER 194
(S.B. No. 1192)

AN ACT

RELATING TO THE IDAHO HORSE RACING ACT; AMENDING SECTION 54-2502, IDAHO CODE, TO PROVIDE A DEFINITION OF GROSS DAILY RECEIPTS AND OF POOL; AMENDING SECTION 54-2513, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF SUMS FROM DAILY DOUBLE, EXACTA AND TRIFECTA POOLS, AND TO CLARIFY THE METHOD FOR DETERMINING PAYMENTS TO THE PUBLIC SCHOOLS; CONFIRMING PAST PRACTICES AND DISTRIBUTIONS; 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.

"Gross daily receipts" shall mean the total of all sums deposited in all pools for each race day.

"Pool" shall mean the total sum of all moneys wagered in each race for each type of bet. Types of bets include win, place, show, quinella, daily double, exacta, trifecta, etc., and such other types as are approved by the commission from time to time.

SECTION 2. That Section 54-2513, Idaho Code, be, and the same is hereby amended to read as follows:

54-2513. DISTRIBUTIONS OF DEPOSITS -- BREAKAGE. (A) Each licensee conducting the pari-mutuel system shall distribute eighty percent (80%) of all sums deposited in any pool to the winner thereof, except for the daily double, exacta and trifecta pools, which shall be distributed seventy-nine and one-quarter per cent (79.25%) of all sums deposited in each of such pools to the winner thereof and three-quarters of one per cent (.75%) (for a total of eighty per cent (80%)) shall be distributed directly to the horse racing commission in addition to the sums provided and in accordance with subsection (B) of this section.

(B) Each licensee conducting the pari-mutuel system shall retain twenty percent (20%) of all sums deposited in any pool, for distribution and payment based upon gross daily receipts as follows:

(1) One and one-quarter per cent (1.25%) of gross daily receipts, separately stated, shall be paid to the Idaho state horse racing commission, for deposit in the horse racing commission account, which is hereby created in the dedicated fund.

(2) One-half of one per cent (.50%) of gross daily receipts, separately stated, shall be paid to the Idaho state horse racing commission for deposit in the track distribution account, which is hereby created in the dedicated fund, for further distribution to certain Idaho race tracks, defined as follows:

a. recipient tracks shall be those which, during the race meet year of distribution, have an average daily handle of less than sixty thousand dollars ($60,000);

b. distributions to recipient tracks shall be weighted proportionately on the number of days raced during the year of distribution.

All moneys in the track distribution account are hereby appropriated to the commission for payment as required by this section. Payments to tracks shall be made monthly.

(3) One-half of one per cent (.50%) of gross daily receipts, separately stated, shall be paid by the licensee to the commission for deposit in the breed distribution account, which is hereby created in the dedicated fund, for payment by the commission in proportion to the handle generated by each breed, to lawfully con-

stituted representatives of each breed, to benefit owners and/or breeders of Idaho bred racing thoroughbreds, racing quarter horses, racing Appaloosas, racing paints and racing Arabians, subject to the approval of the commission. Moneys in the breed distribution account on December 31 of each year which have not been distributed by the commission shall be paid to the public school income fund.

All moneys in the breed distribution account are hereby appropriated to the commission for payment as required by this section. Payments to representatives shall be made monthly.

(4) ~~The balance remaining after the payments required by paragraphs (1), (2) and (3) of this subsection shall be paid or retained as follows:~~

~~When the gross daily receipts are: The public schools' percentage shall be: The licensee's percent shall be:~~

~~Less than $20,000 — 0.00% — 17.75%~~

~~$20,000 to $30,000 — 0.25% — 17.50%~~

~~$30,000 to $40,000 — 1.25% — 16.50%~~

~~Over $40,000 — 2.25% — 15.50%~~

Seventeen and three-quarters per cent (17.75%) of gross daily receipts shall be paid or retained as follows:

a. From the first $20,000 of gross daily receipts, the licensee shall retain seventeen and three-quarters per cent (17.75%);

b. From the next $10,000 of gross daily receipts (gross daily receipts between $20,000 and $30,000), the public school income fund shall receive one-quarter of one per cent (.25%), and the licensee shall retain seventeen and one-half per cent (17.50%);

c. From the next $10,000 of gross daily receipts (gross daily receipts between $30,000 and $40,000), the public school income fund shall receive one and one-quarter per cent (1.25%), and the licensee shall retain sixteen and one-half per cent (16.50%);

d. From all amounts of over $40,000 of gross daily receipts, the public school income fund shall receive two and one-quarter per cent (2.25%), and the licensee shall retain fifteen and one-half per cent (15.50%).

The public schools' share shall be paid by the licensee to the horse racing commission for deposit in the public school income fund. The licensee's percentage shall be retained by the licensee.

(C) Such licensee may retain the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as breakage, and the total amount of unclaimed tickets at the termination of the time allowed by rule and regulation of the commission.

SECTION 3. All distributions of deposits made pursuant to section 54-2513, Idaho Code, as such section existed prior to the effective date of this act, are hereby ratified, confirmed and approved.

SECTION 4. An emergency existing therefor, which emergency is

hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

Approved March 21, 1985.

CHAPTER 195
(S.B. No. 1194)

AN ACT

RELATING TO STATE FUNDS AND ACCOUNTS; AMENDING SECTION 57-803, IDAHO CODE, TO PROVIDE THAT ACCOUNTS MAY BE ESTABLISHED ONLY BY LAW OR BY ORDER OF THE STATE AUDITOR; AND REPEALING SECTIONS 57-804, 57-805, 57-806, 57-807, 57-808, 57-809, 57-810 AND 57-811, IDAHO CODE.

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

SECTION 1. That Section 57-803, Idaho Code, be, and the same is hereby amended to read as follows:

57-803. FUNDS RECOGNIZED OR ESTABLISHED. (1) For all budget, accounting, appropriation, allotment, audit, and other financial report purposes, the following funds, and none other, are recognized and confirmed in existence, or are established. For all such purposes, the use of accounts within funds is authorized. Accounts may be established only by law or by the order of the state auditor.

(a) The state operating fund is hereby created and established in the state treasury. The state operating fund is to be used to account for moneys which are not necessarily restricted in use or purpose, and which are generally utilized to finance the ordinary functions of state government.

(b) The dedicated fund is hereby created and established in the state treasury. The dedicated fund is to be used to account for state revenue which is specially dedicated by law to defray the cost of a particular governmental unit, activity, or function of state government, except as otherwise provided by law.

(c) The trust and agency fund is hereby created and established in the state treasury. The trust and agency fund is to be used to account for money which the state administers as a trustee pursuant to law or trust agreement which restricts the use of the money to a specified purpose, and for money which the state holds and disburses as an agent. The trust and agency fund shall also be used by state agencies to account for cash bonds, suspense type items, to hold money pending distributioo to an individual, business or governmental agency, and to hold tax or other payments which are in dispute.

(d) The public school (endowment) fund, as required by the Idaho admission act and the constitution, and as defined by section 33-902, Idaho Code, is hereby recognized and coofirmed.

(e) The public school income fund, as defined by section 33-903, Idaho Code, is hereby recognized and confirmed.
(f) The agricultural college (endowment) fund, as defined by section 33-2913, Idaho Code, is hereby recognized and confirmed.
(g) The university (endowment) fund, as defined by section 33-2909, Idaho Code, is hereby recognized and confirmed.
(h) The institutions' endowment fund is hereby created and established in the state treasury. The institutions' endowment fund is to be used to account for the proceeds from the sale of such lands as have heretofore been granted, or may hereafter be granted, to the state by the federal government, pursuant to the provisions of sections 6, 9 and 11 of the Idaho admission act, and those lands granted in lieu of such; to account for the proceeds from the sale of timber growing on such lands; to account for the proceeds of royalties arising from the extraction of minerals on such lands; and to account for such other proceeds and avails as are required by law of the federal government or of the state of Idaho to be made a part of the institutions' endowment fund.
(i) The endowment earnings fund is hereby created and established in the state treasury. The endowment earnings fund is to be used to account for the income from investments of the agricultural college fund, the university fund, and the institutions' endowment fund; to account for any and all moneys which may be received on account of rentals of the lands specified in sections 6, 8, 9, 10 and 11 of the Idaho admission act; and to account fot any and all moneys which may be received on account of any interest charged upon deferred payments on such of the lands specified in sections 6, 8, 9, 10 and 11 of the Idaho admission act as may have been sold by the state. Moneys in the endowment earnings fund shall be allocated to the various institutions entitled thereto according to each institution's entitlement as ordered by the state board of land commissioners and/or by the investment boatd pursuant to any applicable law.
(j) The federal revenue sharing fund is hereby created and established in the state treasury. The federal revenue sharing fund is to be used to account for all moneys received by the state as the state's share of contributions made nnder the provisions of the state and local fiscal assistance act of 1972.
(k) The debt service fnnd is hereby created and established in the state treasury. The debt service fnnd is to be used to account for money deposited in the state treasury for the payment of principal and interest on state debt, and for the accumulation of reserves for bonded or other indebtedness.
(l) The employment securicy administration fund, as defined by section 72-1347, Idaho Code, is hereby recognized and confirmed.
(m) The employment security fund, as defined by section 72-1346, Idaho Code, is hereby recognized and confirmed.
(n) The agency asset fund is hereby created and established in the state treasury. The agency asset fund is to be used to account for moneys which are restricted in use or purpose, and which must be, or may be, invested and accounted for as separate entities, and are not accounted for in any other fund.

(o) The rotary fund is hereby created and established in the state treasury. The rotary fund is to be used to account for all rotary or petty cash accounts maintained by state agencies.
(p) The "1973 water pollution control refunding bond sinking fund," as defined by chapter 115, laws of 1973, is hereby recognized and confirmed.
(q) The "1970 water pollution control bond sinking fund," as defined by chapter 196, laws of 1970, is hereby recognized and confirmed.

SECTION 2. That Sections 57-804, 57-805, 57-806, 57-807, 57-808, 57-809, 57-810 and 57-811, Idaho Code, be, and the same are hereby repealed.

Approved March 21, 1985.

CHAPTER 196
(S.B. No. 1195)

AN ACT
APPROPRIATING MONEYS TO THE STATE AUDITOR, FINANCIAL IMPROVEMENT PRACTICES PROGRAM, FOR REDESIGN OF THE EMPLOYEE INFORMATION SYSTEM FOR FISCAL YEAR 1986.

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

SECTION 1. There is hereby appropriated to the State Auditor, Financial Improvement Practices Program, for redesign of the Employee Information System, the following amount to be expended according to the designated expense classes from the listed account for the period July 1, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$184,100
Operating Expenditures	64,900
Capital Outlay	1,000
Total	$250,000
FROM:	
General Account	$250,000

Approved March 21, 1985.

CHAPTER 197
(S.B. No. 1197)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE PUBLIC UTILITIES COMMISSION FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$1,520,800
Operating Expenditures	992,600
Capital Outlay	133,700
TOTAL	$2,647,100
FROM:	
General Account	$ 137,100
Public Utilities Commission Account	2,510,000
TOTAL	$2,647,100

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. UTILITIES REGULATION:				
FROM:				
Public Utilities Commission Account	$ 733,500	$691,100	$ 37,500	$1,462,100
B. REGULATED CARRIERS:				
FROM:				
Public Utilities Commission Account	$ 253,200	$169,900	$ 26,200	$ 449,300
C. ADMINISTRATION:				
FROM:				
General Account	$ 137,100			$ 137,100
Public Utilities Commission Account	397,000	$131,600	$ 70,000	598,600
TOTAL	$ 534,100	$131,600	$ 70,000	$ 735,700
GRAND TOTAL	$1,520,800	$992,600	$133,700	$2,647,100

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 $137,100 for fiscal year 1986 only.

Approved March 21, 1985.

CHAPTER 198
(S.B. No. 1198)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE SOCIAL SERVICES PROGRAM FOR FISCAL YEAR 1986; 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, the following amount, for the designated program, from the listed account for the period July 1, 1985, through June 30, 1986:

FOR:	
Social Services	$100,000
FROM:	
General Account	$100,000

SECTION 2. The State Auditor shall make transfers of the General Account moneys appropriated in 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 March 21, 1985.

CHAPTER 199
(S.B. No. 1199)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF HEALTH AND WELFARE FOR THE COMMUNITY DEVELOPMENTAL DISABILITIES SERVICES PROGRAM FOR FISCAL YEAR 1986; 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, the following amount, for the designated program, from the listed account for the period July 1, 1985, through June 30, 1986:

FOR:

Community Developmental Disability Services	$35,000
FROM:	
General Account	$35,000

SECTION 2. The State Auditor shall make transfers of the General Account moneys appropriated in 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 March 21, 1985.

CHAPTER 200
(S.B. No. 1200)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE COLLEGE OF SOUTHERN IDAHO AND NORTH IDAHO COLLEGE FOR FISCAL YEAR 1986.

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

SECTION 1. In addition to the appropriation contained in Senate Bill No. 1176, First Regular Session of the Forty-eighth Idaho Legislature, there is hereby appropriated from the General Account to the State Board of Education for the designated programs the following amounts, to be expended for the period July 1, 1985, through June 30, 1986:

College of Southern Idaho	$43,200
North Idaho College	46,800
TOTAL	$90,000

Approved March 21, 1985.

CHAPTER 201
(S.B. No. 1201)

AN ACT

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING ACCOUNT AND THE GENERAL 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 listed accounts 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.

FOR:

A. PREVENTIVE MAINTENANCE PROJECTS - STATEWIDE:

FROM:

Permanent Building Account	$1,830,000
General Account	2,000,000
SUBTOTAL	$3,830,000

FOR:

B. STATE BOARD OF EDUCATION:

Idaho State University: College of Pharmacy, Preliminary Programming and Design

FROM:

Permanent Building Account	$200,000

GRAND TOTAL $4,030,000

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 March 21, 1985.

CHAPTER 202
(S.B. No. 1202)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE TAX COMMISSION FOR FISCAL YEAR 1986, AND DESIGNATING PROGRAM LIMITS; AND APPROPRIATING MONEYS TO THE BOARD OF TAX APPEALS FOR FISCAL YEAR 1986.

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, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$ 7,802,700
Operating Expenditures	3,009,400
Capital Outlay	263,500
Trustee and Benefit Payments	3,188,000
TOTAL	$14,263,600
FROM:	
General Account	$13,105,500
Idaho Travel and Convention Account	22,900
Highway Suspense Account	856,400
Fish and Game Suspense Account	5,900
Hotel & Motel Tax Suspense Account	1,200
United States Olympic Account	11,000
Multi-State Tax Compact Account	82,500
Interagency Billing and Receipts Account	64,100
Abandoned Property Account	111,100
Drug Enforcement Account	3,000
TOTAL	$14,263,600

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION AND SUPPORT:					
FROM:					
General Account	$ 732,300	$ 342,000	$ 4,600		$ 1,078,900
Highway Suspense Account	72,300	45,700	400		118,400
Interagency Billing and Receipts Account		4,600	5,500		10,100
Idaho Travel and Convention Account		7,400			7,400
Fish and Game Suspense Account		4,200			4,200
United States Olympic Account		4,200			4,200
Drug Enforcement Account		1,500			1,500
TOTAL	$ 804,600	$ 409,600	$ 10,500		$ 1,224,700
B. AUDIT AND COLLECTIONS:					
FROM:					
General Account	$5,356,500	$1,782,500	$190,900		$ 7,329,900
Interagency Billing and Receipts Account		4,500	16,100		20,600
Highway Suspense Account	427,500	284,700	25,800		738,000
Hotel & Motel Tax Suspense Account		1,200			1,200
Fish and Game Suspense Account		1,700			1,700
United States Olympic Account		6,800			6,800
Idaho Travel and Convention Account		15,500			15,500
Abandoned Property Account	76,100	35,000			111,100
Drug Enforcement Account		1,500			1,500
TOTAL	$5,860,100	$2,133,400	$232,800		$ 8,226,300
C. AD VALOREM:					
FROM:					
General Account	$ 812,200	$ 161,300	$ 10,200		$ 983,700
Interagency Billing and Receipts Account		23,400	10,000		33,400
TOTAL	$ 812,200	$ 184,700	$ 20,200		$ 1,017,100
D. CIRCUIT BREAKER TAX RELIEF:					
FROM:					
General Account	$ 15,900	$ 4,300		$3,188,000	$ 3,208,200

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. MULTI-STATE TAX COMPACT:					
FROM:					
Multi-State Tax Compact Account		$ 82,500			$ 82,5
F. UNIFORM ASSESSMENT:					
FROM:					
General Account	$ 309,900	$ 194,900			$ 504,8
GRAND TOTAL	$7,802,700	$3,009,400	$263,500	$3,188,000	$14,263,6

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, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$37,700	$7,900	$45,600

Approved March 21, 1985.

CHAPTER 203
(S.B. No. 1204, As Amended)

AN ACT

RELATING TO THE TAXABLE WAGE BASE AND CONTRIBUTION RATES FOR EMPLOYMENT SECURITY PURPOSES; AMENDING SECTION 72-1350, IDAHO CODE, TO STRIKE REFERENCE TO OBSOLETE PROVISIONS, TO PROVIDE FOR THE SCHEDULE TO BE USED DURING CALENDAR YEARS 1985 AND 1986, AND TO PROVIDE FOR FUTURE SCHEDULES; AMENDING SECTION 72-1366, IDAHO CODE, TO REDUCE THE AMOUNT OF WAGES NECESSARY TO REESTABLISH ELIGIBILITY TO SIXTEEN TIMES THE WEEKLY BENEFIT AMOUNT; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 72-1350, Idaho Code, be, and the same is hereby amended to read as follows:

72-1350. TAXABLE WAGE BASE AND CONTRIBUTION RATES. (a) All remuneration for personal services as defined in section 72-1328, Idaho Code, equal to the average annual wage in covered employment for the penultimate calendar year, rounded to the nearest multiple of six hun-

dred dollars ($600), or the amount of taxable wage base specified in the federal unemployment tax act, whichever is higher, shall be the taxable wage base for purposes of this act.

(b) All covered employers, except those eligible and electing the cost reimbursement payment method, shall pay contribution rates as assigned annually by the director in accordance with the following, provided, however, and notwithstanding any other provision of the employment security law, ~~for the calendar year 1983, the contribution rates for all covered experience-rated employers shall be determined in accordance with schedule VI, and for the calendar year 1984, the contribution rates for all covered experience-rated employers shall be determined in accordance with schedule VII,~~ and for the calendar years 1985 and 1986, the contribution rates for all covered experience-rated employers shall be determined in accordance with schedule VIII.

(c) The ratio of unencumbered balance in the employment security fund to the total wages reported by covered employers for the penultimate calendar year will determine the appropriate rate schedule for the calendar year 1983~~7~~, and for each calendar year thereafter.

(d) The ratios at the top of each tax schedule in the tax table in subsection (f) of this section represent the minimum fund level required for a specific tax schedule to be in effect.

(e) Employer rates will be assigned with the rates provided in each schedule for eligible, standard-rated and deficit employers, based upon their experience as determined under the provisions of sections 72-1319, 72-1319A and 72-1351, Idaho Code.

(f) Schedules of Contribution Rates

Minimum Ratio of Fund to Total Wages			SCHED. I (.0500)	SCHED. II (.0450)	SCHED. III (.0400)	SCHED. IV (.0350)	SCHED. V (.0300)	SCHED. VI (.0250)	SCHED. VII (.0200)	SCHED. VIII (.0150)	SCHED. IX (...)
Cumulative Taxable Payroll Limits											
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)	Contribution Rates for Eligible Employers								
1	—	10	0.1%	0.5%	0.9%	1.3%	1.5%	1.7%	2.1%	2.5%	2.9%
2	10	22	0.4	0.8	1.2	1.6	1.8	2.0	2.4	2.8	3.2
3	22	37	0.7	1.1	1.5	1.9	2.1	2.3	2.7	3.1	3.5
4	37	52	1.0	1.4	1.8	2.2	2.4	2.6	3.0	3.4	3.8
5	52	67	1.3	1.7	2.1	2.5	2.7	2.9	3.3	3.7	4.1
6	67	82	1.6	2.0	2.4	2.8	3.0	3.2	3.6	4.0	4.4
7	82	—	1.9	2.3	2.7	3.1	3.3	3.5	3.9	4.3	4.7
Contribution Rates for Standard-Rated Employers:			2.1%	2.5%	2.9%	3.3%	3.5%	3.7%	4.1%	4.5%	4.9%
Cumulative Taxable Payroll Limits											
Rate Class	More Than (% of Total Taxable Payroll)	Equal to or Less Than (% of Total Taxable Payroll)	Contribution Rates for Deficit Employers								
1	—	20	2.4	2.8	3.2	3.6	3.8	4.0	4.4	4.8	5.2
2	20	40	2.8	3.2	3.6	4.0	4.2	4.4	4.8	5.2	5.6
3	40	60	3.2	3.6	4.0	4.4	4.6	4.8	5.2	5.6	6.0
4	60	80	3.6	4.0	4.4	4.8	5.0	5.2	5.6	6.0	6.4
5	80	—	4.0	4.4	4.8	5.2	5.4	5.6	6.0	6.4	6.8

(g) Each employer shall be notified of his rate of contribution as determined for any calendar year pursuant to this section and section 72-1351, Idaho Code. Such determination shall become conclusive and binding upon the employer, unless within fourteen (14) days after delivery or mailing of the notice thereof to his last known address, the employer files an application for redetermination, setting forth his reasons therefor. Reconsideration shall be limited to transactions occurring subsequent to any previous determination which has become final. The employer shall be promptly notified of the redetermination, which shall become final unless an appeal is filed within fourteen (14) days after delivery or mailing of notice to his last known address. Proceedings on the appeal shall be in accordance with the provisions of section 72-1361, Idaho Code.

SECTION 2. That Section 72-1366, Idaho Code, be, and the same is hereby amended to read as follows:

72-1366. PERSONAL ELIGIBILITY CONDITIONS. The personal eligibility conditions of a benefit claimant are that--

(a) In accordance with the provisions of this act, and such rules consistent therewith, as the director may prescribe--

(1) He shall have made a claim for benefits and provided all necessary information pertinent to eligibility.

(2) He shall have registered for work and thereafter reported at an employment office or other agency in a manner prescribed by the director.

(b) In some calendar quarter within his base period he shall have met the minimum wage requirements in his base period as provided in section 72-1367, Idaho Code.

(c) Claimant's unemployment is not due to having voluntarily left work to marry, or to perform the customary duties of maintaining a household, or to leave the locale to live with a spouse. The provisions of this subsection shall not apply after a change in conditions whereby claimant has become the main support of self or immediate family.

(d) During the whole of any week with respect to which he claims benefits or credit to his waiting period he was able to work, available for suitable work, and seeking work; provided, however, the director shall waive these provisions for each week he is attending training under provisions of section 72-1312(a), Idaho Code; and provided, that no claimant shall be considered ineligible in any week of unemployment for failure to comply with the provisions of this subsection if such failure is due to an illness or disability which occurs after he has filed a claim and registered for work and no suitable work has been aveilable for him after the beginning of such illness or disability; and, provided further, that no claimant shall he deemed to be unavailable for the whole of the week who, beceuse of compelling personal circumstance, is required to be absent from his normal market area, provided that such absence does not exceed a major portion of the week.

(e) His unemployment is not due to the fact that he left his employment voluntarily without good cause, or that he was discharged

for misconduct in connection with his employment.

(f) His unemployment is not due to his failure without good cause to apply for available suitable work or to accept suitable work when offered to him. The longer a claimant has been unemployed, the more willing he must be to seek types of work other than in his ordinary trade or occupation and to accept work at a lower rate of pay. The director shall waive these provisions for each week he is attending a training course to which he has been assigned by a representative of the director if the claimant has submitted with each claim a written certification from the training course that claimant is enrolled in and is attending and satisfactorily completing the training course. A claimant may be assigned to a training course under the following conditions:

(1) The claimant is lacking in skills which would make him competitive in the labor market and is in need of available training or retraining in skills required by demand occupations. A demand occupation is an occupation in which work opportunities are available and there is not a surplus of qualified applicants; and

(2) The claimant has been unemployed continuously for four (4) or more weeks and the lack of employment opportunities is expected to continue for an extended period of time, or if the claimant's occupation is one for which there is a seasonal variation in demand, that the lack of demand for his skills is the result of a decline in demand expected to continue for an extended period of time and is not the result of a seasonal fluctuation; and

(3) The training relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities in claimant's market area and there is not a substantial surplus of workers with requisite skills in the occupation in that area; and

(4) The training course is one approved by a representative of the director and can be completed within one (1) year; and

(5) The training course is prescribed for the purpose of training claimant in skills that will allow him to obtain immediate employment in a demand occupation and is not primarily intended to meet the requirements of a degree from a college or university; and

(6) The claimant can be reasonably expected to complete the training successfully.

(g) In determining for the purposes of this act, whether or not work is suitable for an individual, the degree of risk involved to his health, safety, morals, his physical fitness, experience, training, past earnings, length of unemployment and prospects for obtaining local employment in his customary occupation, the distance of the work from his residence, and other pertinent factors shall be considered. No employment shall, in any event, be deemed suitable and benefits shall not be denied to any otherwise eligible individual for refusing to accept new work or to hold himself available for work under any of the following conditions:

(1) If the vacancy of the position offered is due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those pre-

vailing for similar work in the locality of the work offered;

(3) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(h) A benefit claimant, otherwise eligible for benefits, shall not be eligible for any week in which he fails, without good cause, to attend a training course to which he has been assigned under the provisions of subsection (f) of this section, if such course is available at no cost to the claimant.

(i) Notwithstanding any other provisions of this section, no individual who is otherwise eligible shall be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the trade act of 1974, nor shall such individual be denied benefits by reason of leaving work to enter such training; provided, the work left is not suitable employment, or because of the application to any such week in training of provisions in this law, or any applicable federal unemployment compensation law relating to availability for work, active search for work, or refusal to accept work. For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the trade act of 1974, and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the trade act of 1974.

(j) A benefit claimant shall not be eligible to receive benefits for any week with respect to which it is found that his unemployment is due to a labor dispute; provided, that this subsection shall not apply if it is shown that--

(1) He is not participating, financing, aiding, abetting, or directly interested in the labor dispute; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the labor dispute, there were members employed at the premises at which the labor dispute occurs, any of whom are participating in or directly interested in the dispute.

(k) A benefit claimant shall not be entitled to benefits for any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation or insurance law of another state or of the United States; provided, that if the appropriate agency of such other state or of the United States shall finally determine that he is not entitled to such unemployment compensation or insurance benefits, he shall not by provisions of this subsection be denied benefits. For purposes of this section, a law of the United States providing any payments of any type and in any amounts for periods of unemployment due to involuntary unemployment shall be considered an unemployment compensation law of the United States.

(l) A benefit claimant shall not be entitled to benefits if it is determined that he has wilfully made a false statement or representation or wilfully failed to report a material fact in order to obtain said benefits for a period of fifty-two (52) weeks from the date of said determination and said claimant shall be liable to repay to the

fund any sums received as a result of said false statement, misrepresentation or failure to report a material fact.

(m) A benefit claimant shall not be entitled to benefits if his principal occupation is self-employment.

(n) A benefit claimant who has been found ineligible for benefits under the provisions of subsections (c), (e) ~~or~~, (f), (g) or (i) of this section may reestablish his eligibility by having obtained bona fide work and received wages therefor in an amount of at least ~~twenty~~ sixteen (~~20~~16) times his weekly benefit amount.

(o) Benefits based on service in employment defined in sections 72-1349A, 72-1349B, and 72-1352(c), Idaho Code, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this act.

(1) If the services performed during one-half (1/2) or more of any contract period by an individual for an educational institution as defined in section 72-1322B, Idaho Code, are in an instructional, research, or principal administrative capacity, all the service of such individual shall be deemed to be in such capacity.

(2) If the services performed during less than one-half (1/2) of any contract period by an individual for such an educational institution are in an instructional, research, or principal administrative capacity, none of the service of such individual shall be deemed to be in such capacity.

(3) As used in this section, "contract period" means the entire period for which the individual contracts to perform services, pursuant to the terms of the contract.

(p) No individual is eligible to receive benefits in two (2) successive benefit years unless subsequent to the beginning of the first of said benefit years during which he received benefits he performed service and earned remuneration for such service in an amount equal to not less than five and one-half (5 1/2) times his weekly benefit amount established during the first benefit year.

(q) (1) With respect to weeks of unemployment beginning after December 31, 1977, benefits based on wages earned for services performed in an instructional, research, or principal administrative capacity for an educational institution shall not be paid for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between two (2) terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performa such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(2) With respect to weeks of unemployment beginning after December 31, 1977, benefits based on wages earned for services performed in any other capacity for an educational institution shall not be paid to any individual for any week which commences during a period between two (2) successive school years or terms if such

individual performs such services in the first of such school years or terms, and there is a contract or reasonable assurance that such individual will perform such services in the second of such school years or terms, except that if compensation is denied to any individual under this subparagraph and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause.

(3) With respect to weeks of unemployment beginning after December 31, 1977, benefits shall not be paid nor "waiting week" credit given to an individual for wages earned for services for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(r) Benefits shall not be paid after December 31, 1977, based on services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(s) (1) Benefits shall not be paid after December 31, 1977, based on service performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for 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.

Approved March 22, 1985.

CHAPTER 204
(S.B. No. 1205)

AN ACT

RELATING TO THE STATE WATER PLAN; RATIFYING AND APPROVING AMENDMENTS TO POLICY 32 OF THE STATE WATER PLAN ADOPTED BY THE WATER RESOURCE BOARD ON MARCH 1, 1985; AND REPEALING SECTION 42-1736A, IDAHO CODE.

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

SECTION 1. That the amendments to Policy 32 of the Idaho State Water Plan, which amendments were adopted by Resolution of the Idaho Water Resource Board on March 1, 1985, be, and the same are hereby ratified and approved.

SECTION 2. That Section 42-1736A, Idaho Code, be, and the same is hereby repealed.

Approved March 22, 1985.

CHAPTER 205
(S.B. No. 1208)

AN ACT

APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1986.

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

SECTION 1. There is hereby appropriated to the Supreme Court the following amount from the listed account for the period July 1, 1985, through June 30, 1986:

FROM:

General Account $117,500

Approved March 22, 1985.

CHAPTER 206
(S.B. No. 1209)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF PARKS AND RECREATION FOR FISCAL YEAR 1986.

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

SECTION 1. There is hereby appropriated to the Department of Parks and Recreation the following amount from the listed account for the period July 1, 1985, through June 30, 1986:

FROM:	
Recreational Vehicle Account	$223,600

Approved March 22, 1985.

CHAPTER 207
(H.B. No. 326)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF AGRICULTURE FOR FISCAL YEAR 1986, AND DESIGNATING PROGRAM LIMITS; AND APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT TO THE NOXIOUS WEED 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 Agriculture not exceed the following amounts for the period July 1, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$7,618,900
Operating Expenditures	1,254,600
Capital Outlay	81,700
Trustee & Benefit Payments	372,200
TOTAL	$9,327,400
FROM:	
General Account	$1,344,400
Dedicated Accounts	7,972,800
Federal Accounts	10,200
TOTAL	$9,327,400

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$ 155,000	$ 72,900			$ 227,900
Agriculture Department Inspection Account	143,600				143,600

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
Rural Rehabilitation Account		20,400		$150,000	170,400
Egg Inspection Account	9,600				9,600
TOTAL	$ 308,200	$ 93,300		$150,000	$ 551,500
B. ANIMAL INDUSTRY:					
FROM:					
General Account	$ 274,900	$ 17,100			$ 292,000
Livestock Disease Control & T.B. Indemnity Account	308,200	137,100	$31,800		477,100
Dairy Industry and Inspection Account	202,700	57,600			260,300
Livestock Dealer License Account	2,100	2,400			4,500
TOTAL	$ 787,900	$ 214,200	$31,800		$1,033,900
C. PLANT INDUSTRY:					
FROM:					
General Account	$ 103,600	$ 61,900			$ 165,500
Agriculture Department Inspection Account	515,000	90,200	$ 4,300		609,500
Bee Inspection Account	15,000	800			15,800
Commercial Feed and Fertilizer Account	213,900	90,000			303,900
Pesticide Account	245,500	137,700	19,000		402,200
Noxious Weed Account	28,900	8,500			37,400
TOTAL	$1,121,900	$ 389,100	$23,300		$1,534,300
D. AGRICULTURAL INSPECTIONS:					
FROM:					
General Account	$ 495,600	$ 116,800	$17,600		$ 630,000
Agriculture Department Inspection Account	111,100	35,000		$ 3,200	149,300
Fresh Fruit and Vegetable Inspection Account	4,598,500	337,800	9,000	100,000	5,045,300
Egg Inspection Account	94,700	19,300			114,000
Public Livestock Market Account	2,400	4,000			6,400
Wheat Statistics Account	2,600	7,600			10,200
TOTAL	$5,304,900	$ 520,500	$26,600	$103,200	$5,955,200

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
E. SHEEP COMMISSION:					
FROM:					
General Account					
- For Animal Disease	$ 5,800	$ 9,200			$ 15,000
- For Animal Damage Control				$ 14,000	14,000
Sheep Commission Account	89,900	16,600		105,000	211,500
TOTAL	$ 95,700	$ 25,800		$119,000	$ 240,500
F. HONEY ADVERTISING COMMISSION:					
FROM:					
Idaho Honey Advertising Account	$ 300	$ 11,700			$ 12,000
GRAND TOTAL	$7,618,900	$1,254,600	$81,700	$372,200	$9,327,400

SECTION 3. There is hereby appropriated from the General Account to the Noxious Weed Account, the sum of $37,400.

Approved March 21, 1985.

CHAPTER 208
(H.B. No. 328)

AN ACT

EXPRESSING LEGISLATIVE INTENT; AND APPROPRIATING MONEYS TO THE DEPARTMENT OF CORRECTION FOR FISCAL YEAR 1986; 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 amount for the period July 1, 1985, through June 30, 1986:

FROM:	
General Account	$14,926,800
Interagency Billing and Receipts Account	319,600
Probation and Parole Receipts Account	599,100
Penitentiary Income Account	852,000
Job Training Partnership Account	180,100
TOTAL	$16,877,600

SECTION 2. There is hereby appropriated to the Department of Correction the following amounts, to be expended for designated pro-

grams according to designated expense classes from the listed accounts for the period July 1, 1985, through June 30, 1986:

A. ADMINISTRATION:	
FROM:	
General Account	$ 1,290,800
Probation and Parole Receipts Account	41,300
TOTAL	$ 1,332,100
B. IDAHO STATE CORRECTIONAL INSTITUTION:	
FROM:	
General Account	$ 8,430,800
Penitentiary Income Account	852,000
Job Training Partnership Account	180,100
Interagency Billing and Receipts Account	97,900
TOTAL	$ 9,560,800
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:	
FROM:	
General Account	$ 1,111,200
Interagency Billing and Receipts Account	80,000
TOTAL	$ 1,191,200
D. NORTH IDAHO CORRECTIONAL INSTITUTION:	
FROM:	
General Account	$ 1,258,200
E. PROBATION AND PAROLE:	
FROM:	
General Account	$ 2,752,100
Probation and Parole Receipts Account	557,800
Interagency Billing and Receipts Account	141,700
TOTAL	$ 3,451,600
F. PAROLE COMMISSION:	
FROM:	
General Account	$ 83,700
GRAND TOTAL	$16,877,600

Approved March 21, 1985.

CHAPTER 209
(H.B. No. 329)

AN ACT

RELATING TO ELECTION OF A MAYOR; AMENDING CHAPTER 6, TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 50-612, IDAHO CODE, TO PROVIDE THAT A CITY MAY BY ORDINANCE PROVIDE THAT A MAJORITY OF THE VOTES CAST SHALL BE REQUIRED TO ELECT THE MAYOR, AND TO PROVIDE FOR A RUNOFF ELECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 6, 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 50-612, Idaho Code, and to read as follows:

50-612. MAJORITY REQUIRED FOR ELECTION -- RUNOFF ELECTION. A city may, by ordinance, provide that a majority of the votes for any candidate running for the office of mayor shall be required for election to that office. In the event that no candidate receives a majority of the votes cast, there shall 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, within thirty (30) days of the general election, as prescribed by the city.

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 end approval.

Approved March 21, 1985.

CHAPTER 210
(H.B. No. 330)

AN ACT

RELATING TO RECORDS OF THE IDAHO POTATO COMMISSION; AMENDING CHAPTER 12, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-1215, IDAHO CODE, TO PROVIDE FOR ACCESS TO POTATO COMMISSION RECORDS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 12, 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 22-1215, Idaho Code, and to read as follows:

22-1215. ACCESS TO RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho potato commission shall be open and public except as provided otherwise by law and except for trade and commercial information provided to the commission on the basis that the information remain confidential, records of complaints to and investigations by the commission, and records pertaining to pending litigation involving the commission.

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

Approved March 21, 1985.

CHAPTER 211
(H.B. No. 332)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF ADMINISTRATION FOR FISCAL YEAR 1986 AND DESIGNATING PROGRAM LIMITS; AND STATING THE PURPOSE OF GENERAL ACCOUNT MONEYS APPROPRIATED AS TRUSTEE AND BENEFIT PAYMENTS.

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, 1985, through June 30,1986:

FOR:	
Personnel Costs	$ 4,152,800
Operating Expenditures	4,617,300
Capital Outlay	275,300
Trustee & Benefit Payments	2,376,200
TOTAL	$11,421,600
FROM:	
General Account	$ 1,935,500
Interagency Billing and Receipts Account	7,937,600
Permanent Building Fund Account	696,600
Federal Surplus Property Revolving Account	339,400
Risk Retention Account	265,400
Employee Group Insurance Account	247,100
TOTAL	$11,421,600

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, 1985, through June 30,1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 85,400	$ 62,900	$ 600		$ 148,[illegible]
Interagency Billing and Receipts Account	317,500	224,500	3,600	$ 25,800	571,[illegible]
TOTAL	$ 402,900	$ 287,400	$ 4,200	$ 25,800	$ 720,[illegible]
II. GENERAL SERVICES:					
FROM:					
General Account	$ 206,800	$ 45,500			$ 252,[illegible]
Interagency Billing aod Receipts Account	689,800	454,300	137,400		1,281,[illegible]
TOTAL	$ 896,600	$ 499,800	$137,400		$ 1,533,[illegible]

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. PUBLIC WORKS:					
FROM:					
General Account				$1,231,400	$ 1,231,400
Interagency Billing and Receipts Account	$ 749,500	$1,764,900	$ 18,000	1,119,000	3,651,400
Permanent Building Fund Account	490,700	202,100	3,800		696,600
TOTAL	$1,240,200	$1,967,000	$ 21,800	$2,350,400	$ 5,579,400
IV. PURCHASING:					
FROM:					
General Account	$ 236,300	$ 65,600	$ 1,000		$ 302,900
Interagency Billing and Receipts Account	872,200	1,455,200	$105,900		2,433,300
Federal Surplus Property Revolving Account	206,300	133,100			339,400
TOTAL	$1,314,800	$1,653,900	$106,900		$ 3,075,600
V. INSURANCE MANAGEMENT:					
FROM:					
Employee Group Insurance Account	$ 136,200	$ 108,400	$ 2,500		$ 247,100
Risk Retention Account	162,100	100,800	2,500		265,400
TOTAL	$ 298,300	$ 209,200	$ 5,000		$ 512,500
GRAND TOTAL	$4,152,800	$4,617,300	$275,300	$2,376,200	$11,421,600

SECTION 3. The General Account moneys appropriated as Trustee and Benefit Payments in Section 2 are intended to be used to pay principal and interest expense on state-owned buildings.

Approved March 21, 1985.

CHAPTER 212
(H.B. No. 335)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE DIVISION OF FINANCIAL MANAGEMENT, FOR FISCAL YEAR 1986; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE OFFICE OF THE GOVERNOR FOR THE DIVISION OF FINANCIAL MANAGEMENT.

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. ADMINISTRATION:					
FROM:					
General Account	$745,900	$168,000		$12,000	$ 925,900
Interagency Billing and Receipts Account	28,800	29,500	$12,000		70,300
State Planning Account		15,500			15,500
TOTAL	$774,700	$213,000	$12,000	$12,000	$1,011,700

SECTION 2. There is hereby reappropriated to the Office of the Governor for the Division of Financial Management any unexpended and unencumbered balance of the General Account appropriated by Chapter 270, Laws of 1984, for the period July 1, 1985, through June 30, 1986, to be used for nonrecurring expenditures only.

Approved March 21, 1985.

CHAPTER 213
(H.B. No. 339)

AN ACT
APPROPRIATING MONEYS TO THE SUPREME COURT FOR FISCAL YEAR 1986.

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

SECTION 1. There is hereby appropriated to the Supreme Court the following amount from the listed account for the period July 1, 1985, through June 30, 1986:

FROM:

General Account $579,200

Approved March 21, 1985.

CHAPTER 214
(H.B. No. 343, As Amended)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

FROM:

General Account	$ 2,279,200
Interagency Billing and Receipts Account	124,100
Professional Standards Commission Account	158,000
Driver Training Account	1,507,700
Commodity Distribution Account	396,200
SEPARS Account	520,000
Indian Education Account	250,300
Elementary-Secondary Education Act Account	17,215,700
Educational Block Grant Account	2,287,700
Food Services Account	13,092,100
TOTAL	$37,831,000

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, 1985, through June 30, 1986:

A. MANAGEMENT:

FROM:

General Account	$ 241,900
Educational Block Grant Account	61,600
TOTAL	$ 303,500

B. FINANCE AND ADMINISTRATION:

FROM:

General Account	$ 799,800
Interagency Billing and Receipts Account	90,800
Driver Training Account	1,507,700
Commodity Distribution Account	396,200
Educational Block Grant Account	86,800
Food Services Account	13,092,100
TOTAL	$15,973,400

C. STATE-FEDERAL INSTRUCTIONAL SERVICES:

FROM:

General Account	$ 797,100
Interagency Billing and Receipts Account	31,100
Professional Standards Commission Account	158,000

Indian Education Account	250,300
Elementary and Secondary Education Account	17,215,700
Educational Block Grant Account	2,139,300
TOTAL	$20,591,500
D. STATEWIDE EDUCATIONAL PLANNING AND REPORTING SYSTEM:	
FROM:	
General Account	$ 440,400
Interagency Billing and Receipts Account	2,200
SEPARS Account	520,000
TOTAL	$ 962,600
GRAND TOTAL	$37,831,000

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 2, Chapter 280, Laws of 1984, for the period July 1, 1985, through June 30, 1986, to be used for nonrecurring expenditures only.

Approved March 21, 1985.

CHAPTER 215
(H.B. No. 47)

AN ACT

RELATING TO CHILDREN UNDER TEN YEARS OF AGE APPEARING AS WITNESSES; AMENDING SECTION 9-202, IDAHO CODE, TO PROVIDE FOR A HEARING TO BE CONDUCTED BY THE TRIAL COURT IN CHAMBERS TO DETERMINE THE COMPETENCY OF A CHILD UNDER THE AGE OF TEN YEARS TO TESTIFY.

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

SECTION 1. That Section 9-202, Idaho Code, be, and the same is hereby amended to read as follows:

9-202. WHO MAY NOT TESTIFY. The following persons cannot be witnesses:

1. Those who are of unsound mind at the time of their production for examination.

2. Children under ten (10) years of age, who appear incapable of

receiving just impressions of the facts respecting which they are examined, or of relating them truly. At the time a child under the age of ten (10) years of age is called to testify in any court proceeding, the court shall conduct a hearing in chambers to determine whether the child qualifies as a witness under this section. In conducting such hearing the court shall take every reasonable means necessary to prevent intimidation or harassment of the child by the parties or their attorneys. The judge, rather than the parties, shall examine the child but he shall do so in the presence of the parties and he shall pose to the child any reasonable questions requested by the parties and previously submitted to the court. The judge may rephrase any questions so that the child is not intimidated.

3. Parties or assignors of parties to an action or proceeding, or persons in whose behalf an action or proceeding is prosecuted against an executor or administrator, upon a claim or demand against the estate of a deceased person, as to any communication or agreement, not in writing, occurring before the death of such deceased person.

Approved March 22, 1985.

CHAPTER 216
(H.B. No. 144)

AN ACT

RELATING TO THE LAWS REGARDING THEFT; AMENDING SECTION 18-2403, IDAHO CODE, TO PROVIDE AN ADDITIONAL DEFINITION OF THEFT OF LABOR OR SERVICES OR USE OF PROPERTY.

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

SECTION 1. That Section 18-2403, Idaho Code, be, and the same is hereby amended to read as follows:

18-2403. THEFT. (1) A person steals property and commits theft when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof.

(2) Theft includes a wrongful taking, obtaining or withholding of another's property, with the intent prescribed in subsection (1) of this section, committed in any of the following ways:

(a) By deception obtains or exerts control over property of the owner;

(b) By conduct heretofore defined or known as larceny; common law larceny by trick; embezzlement; extortion; obtaining property, money or labor under false pretenses; or receiving stolen goods;

(c) By acquiring lost property. A person acquires lost property when he exercises control over property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or the nature or

amount of the property, without taking reasonable measures to return such property to the owner; or a person commits theft of lost or mislaid property when he:

1. Knows or learns the identity of the owner or knows, or is aware of, or learns of a reasonable method of identifying the owner; and

2. Fails to take reasonable measures to restore the property to the owner; and

3. Intends to deprive the owner permanently of the use or benefit of the property.

(d) By false promise:

1. A person obtains property by false promise when pursuant to a scheme to defraud, he obtains property of another by means of a representation, express or implied, that he or a third person will in the future engage in particular conduct, and when he does not intend to engage in such conduct or, as the case may be, does not believe that the third person intends to engage in such conduct.

2. In any prosecution for theft based upon a false promise, the defendant's intention or belief that the promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed. Such a finding may be based only upon evidence establishing that the facts and circumstances of the case are consistent with guilty intent or belief and inconsistent with innocent intent or belief, and excluding to a moral certainty every reasonable hypothesis except that of the defendant's intention or belief that the promise would not be perfotmed;

(e) By extortion. A person obtains property by extortion when he compels or induces another person to deliver such property to himself or to a third person by means of instilling in him a fear that, if the property is not so delivered, the actor or another will:

1. Cause physical injury to some person in the futnre; or

2. Cause damage to property; or

3. Engage in other conduct constituting a crime; or

4. Accuse some person of a crime or cause criminal charges to be instituted against him; or

5. Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

6. Cause a strike, boycott or other collective labor group action injurious to some person's business; except that snch a threat shall not be deemed extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act; or

7. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

8. Uae or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty, in such man-

ner as to affect some person adversely; or

9. Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships.

(3) A person commits theft when he knowingly takes or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another person, with the intent of depriving the owner thereof.

(4) A person commits theft when he knowingly receives, retains, conceals, obtains control over, possesses, or disposes of stolen property, knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen, and

(a) Intends to deprive the owner permanently of the use or benefit of the property; or

(b) Knowingly uses, conceals or abandons the property in such manner as to deprive the owner permanently of such use or benefit; or

(c) Uses, conceals, or abandons the property knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(5) Theft of labor or services or use of property.

(a) A person commits theft when he obtains the temporary use of property, labor or services of another which are available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the property, labor or services.

(b) A person commits theft when after renting or leasing a motor vehicle under an agreement in writing which provides for the return of the vehicle to a particular place at a particular time, he wilfully or intentionally fails to return the vehicle to that place within forty-eight (48) hours after the time specified.

(c) A person commits theft if, having control over the disposition of services of others, to which he is not entitled, he knowingly diverts such services to his own benefit or to the benefit of another not entitled thereto.

Approved March 21, 1985.

CHAPTER 217
(H.B. No. 145)

AN ACT

RELATING TO ASSESSMENT OF JURY FEES; AMENDING CHAPTER 1, TITLE 12, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 12-116, IDAHO CODE, TO PROVIDE THAT A JUDGE MAY ASSESS JURY FEES IF A CIVIL LAWSUIT IS SETTLED WITHIN TWENTY-FOUR HOURS OF THE APPOINTED TRIAL DATE OR IF

NOTICE OF SETTLEMENT IS NOT GIVEN TO THE COURT AT LEAST TWENTY-FOUR HOURS BEFORE TRIAL DATE, TO PROVIDE THAT JURY COSTS ARE IN ADDITION TO OTHER COSTS AND TO REQUIRE MONEY COLLECTED BE DEPOSITED IN THE PROPER COUNTY TREASURY.

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 12-116, Idaho Code, and to read as follows:

12-116. ASSIGNMENT OF JURY COSTS. (1) If a civil action is settled by the parties involved therein within twenty-four (24) hours of the time for which the civil action is scheduled for trial, and/or notice of settlement is not given to the court at least twenty-four (24) hours before the scheduled trial time, the court may, based upon the circumstaoces of such settlement, assess and apportion as costs between and among the parties to the action, in the sound discretion of the court, all jury fees and expenses incurred by the county arising from impaneling or furnishing jurors for the civil action.

(2) The costs provided for in subsection (1) of this section shall be in addition to any costs which may be assessed pursuant to the Idaho rules of civil procedure.

(3) Moneys collected by the court pursuant to this section shall be deposited in the county treasury from which the jurors were paid.

Approved March 21, 1985.

CHAPTER 218
(H.B. No. 164)

AN ACT

RELATING TO TAXES FOR THE SUPPORT OF JUNIOR COLLEGES; AMENDING SECTION 33-2110A, IDAHO CODE, TO PROVIDE THAT LEVIES TO PROVIDE TUITION FOR OUT OF DISTRICT JUNIOR COLLEGE STUDENTS, AND THE MONEYS DERIVED FROM THOSE LEVIES SHALL BE EXEMPT FROM THE ONE PER CENT TAX LIMITATION.

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

SECTION 1. That Section 33-2110A, Idaho Code, be, and the same is hereby amended to read as follows:

33-2110A. TUITION OF OUT OF DISTRICT IDAHO STUDENTS, COUNTY TAXES AND OTHER FINANCIAL SUPPORT. (1) Any student residing in the area of a county outside of a junior college district or in a county without a junior college district, who has been a resident of the county and state as defined by section 33-2110B, Idaho Code, immedi-

ately prior to the date of his first enrollment in a junior college, which residence may not be acquired while attending and enrolled in a junior college, may enroll in any junior college in the state, and the county of his residence shall pay that portion of his tuition as hereinafter set out. The tuition which shall be paid by the resident county shall be that portion of the tuition uniformly established by a junior college district for all out of district students, both in state as well as out of state, pursuant to section 33-2110, Idaho Code, after deducting therefrom the amount of tuition paid by a resident student at the junior college; however, the liability of the resident county shall not exceed two-thirds (2/3) the total tuition and fees charged and in no instance shall it exceed five hundred dollars ($500) each semester for a two-semester year for a full-time student. The student shall pay the tuition and fees charged a student resident in the district, and the balance, if any, of the nonresident student tuition above the maximum liability of the county of his residence. No county shall be liable for out of district tuition unless the board of county commissioners of that county has first verified to the junior college in writing the fact that the student is a resident of the county. The verification shall be made to the college not less than ten (10) days prior to the first day of enrollment. The county shall thereafter be liable for the out of district tuition so long as the student is duly enrolled and attending the college subject to the following limitations:

(a) Liability shall be for six (6) semesters or the term of the curriculum for which the student is enrolled, whichever is lesser.

(b) Liability shall terminate if the student's domiciliary residence changes and that change continues for twelve (12) months.

(2) The nonresident tuition shall be established annually not later than August 1st and shall be forthwith filed with the state board of education, together with a statement supporting the computation thereof. Each junior college, by September 30 and March 1 of each year, shall bill the county of residence of each nonresident student enrolled at the commencement of each semester, and each board of county commissioners shall allow and order paid any bill for tuition at the first regular meeting following receipt of the bill, but not exceeding forty-five (45) days after receipt. Upon failure of a county to pay the tuition, a junior college district may commence action in the district court of the state of Idaho for the county to collect the same.

(3) For the payment of tuition of nonresident students as herein provided, there shall be allocated in each county without a junior college district to a county junior college fund, and paid to the county treasurer to be held in that fund, fifty per cent (50%) of all moneys apportioned to the county out of liquor funds of the state of Idaho as set forth in chapter 4, title 23, Idaho Code, and that amount shall be deducted from the amount that would otherwise be allocated to the county; and if liquor funds are not sufficient to pay the tuition, commencing for the calendar year 1966, the board of county commissioners shall levy upon the taxable property within each county without a junior college district, and, in a county with such a district, upon the taxable property within the county lying outside of the junior

college district, an ad valorem tax not to exceed six hundredths per cent (.0600%) of market value for assessment purposes, to be certified as set out in section 33-2111, Idaho Code. Such levy shall be exempt from the limitation imposed by section 63-923(1), Idaho Code, and the moneys derived from such levy shall be exempt from the limitation imposed by section 63-2220, Idaho Code. The proceeds of the levy shall be placed in the county junior college fund. Apportionment of liquor funds herein provided shall commence for the fiscal quarter ending September 30, 1965, and accruing during that quarter.

(4) Based upon the enrollment established by the first semester's tuition bills received by September 30, the board of county commissioners shall establish immediately a total junior college annual tuition budget for two (2) semesters which shall be equal to twice the amount of the tuition bills plus a contingency factor of ten per cent (10%). This budget shall be adjusted after March 1 based on any change of enrollment shown by the second semester tuition bills. If enrollment is from none to not more than four (4) students, a minimum budget of five (5) students at five hundred dollars ($500) each shall be established. In the event all tuition bills received have been paid, notwithstanding any other provision hereof, (a) any liquor funds received, which in the quarter when received to any extent are in excess of the budget, to the extent of that excess shall not be paid over to the county treasurer to be held in the junior college fund, and (b) any funds received from the levy on taxable property, which when received to any extent are in excess of the budget after the application of liquor funds thereto, to the extent of that excess shall not be paid over to the junior college fund. Excess liquor funds shall be paid pursuant to law as if this section were not applicable and excess funds shall be paid to the general fund of the county. In the event the total liquor fund payable hereunder to the county junior college fund together with the receipts from the levy on taxable property for each fiscal year are insufficient to pay tuition bills, which deficiency is caused by a levy of less than the maximum allowed hereunder, or by enrollment in excess of the budget herein provided, the budget for each following year shall be increased to the maximum allowed by the maximum tax levy authorized to pay any deficiency at the earliest time. If the deficiency is due to the lack of funds in a fiscal year when the maximum levy authorized shall have been made, for the next fiscal year thereafter the number of students from that county shall be limited by the board of county commissioners to the extent necessary to pay the deficiency not later than the end of the following year. Provided nevertheless, for the two (2) semesters commencing September, 1965 the board of county commissioners shall limit the junior college budget and total students to estimated liquor funds available on quarterly disbursements through June 30, 1966. Any limitacion of students authorized shall be accomplished (a) on the basis of student grades and financial need, and (b) by each junior college notifying the county of residence of each student's application and the county shall accept or reject the application at least five (5) days prior to the tuition billing dates set out herein. A junior college shall nevertheless have a right to require any student residing outside the district to pay nonresident tuition if the county

of his residence is more than twenty-five per cent (25%) in arrears of a total county tuition bill for one (1) year as of the beginning of the subsequent semester, but tuition shall be refunded to such students when paid by the county.

Approved March 21, 1985.

CHAPTER 219
(H.B. No. 159)

AN ACT

RELATING TO PROPERTY TAX APPEALS FROM COUNTY BOARDS OF EQUALIZATION; AMENDING SECTION 63-2210, IDAHO CODE, TO PROVIDE FOR DIRECT APPEALS TO THE DISTRICT COURT FROM COUNTY BOARDS OF EQUALIZATION IN ACTIONS INVOLVING PROPERTIES IN THAT COUNTY.

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

SECTION 1. That Section 63-2210, Idaho Code, be, and the same is hereby amended to read as follows:

63-2210. APPEALS FROM COUNTY BOARD OF EQUALIZATION. (1) Any time within thirty (30) days after mailing of notice of a decision of the board of county commissioners, sitting as a board of equalization, or pronouncement of a decision if this is announced at a hearing, upon a complaint by a taxpayer, the assessor or the state tax commission in relation to the property valuation, an appeal may be taken from any act, order or proceeding of the board, or the failure of the board to act before adjournment of the board as a board of equalization, to the board of tax appeals, by any person aggrieved thereby, or by the state tax commission or by any taxpayer of the county when he deems any such act, or failure to act, order or proceeding illegal or prejudicial to the public interest, but nothing in this section shall be construed so as to suspend the payment of taxes pending said appeal.

(2) Notice of such appeal stating the grounds therefor shall be filed, in duplicate, with the county auditor, who shall forthwith transmit to the board of tax appeals one (1) of said notices, together with a certified copy of the minutes of the proceedings of the board resulting in such act, order or proceeding, or a certificate to be furnished by the clerk of the board that said board has failed to act in the time required by law on any complaint, protest, objection, application or petition in regard to assessment of the complainant's property, or a petition of the state tax commission. The county auditor shall also forthwith transmit all evidence taken in connection with the matter appealed. The board of tax appeals may receive further evidence, and shall make such order as in its judgment is just and proper. The board of tax appeals will hear the appeal as provided in the act establishing such board.

(3) Any appeal that may be taken to the board of tax appeals may, during the same time period, be taken to the district court for the county in which the property is located.

Approved March 21, 1985.

CHAPTER 220
(H.B. No. 165)

AN ACT

RELATING TO THE IDAHO TRAVEL AND CONVENTION INDUSTRY COMMITTEE; AMENDING SECTION 67-4713, IDAHO CODE, TO PROVIDE THAT A MEMBER OF THE COMMITTEE MUST DISCLOSE ANY DIRECT INTEREST IN GRANT APPLICATIONS BEFORE THE COMMITTEE.

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

SECTION 1. That Section 67-4713, Idaho Code, be, and the same is hereby amended to read as follows:

67-4713. MEMBERS' QUALIFICATIONS -- TERM OF OFFICE -- CONFLICT OF INTEREST. (1) Members of the committee shall be individuals actively involved in the state's travel and convention industry, as a career or as an investment. Their selection shall be made with regard to their ability and disposition to serve the state's interest, and their knowledge of the state's travel industry. There shall be one (1) member appointed from each of the six (6) planning regions of the state. One (1) member shall serve in a statewide capacity.

(2) Members of the committee may not serve more than two (2) terms, nor may they hold or file for any partisan elective political office while a member of the committee.

(3) A member of the committee may be removed for inefficiency, neglect of duty, misconduct in office or if he is no longer a resident of the district from which he was appointed. Should a vacancy occur on the committee, the governor shall appoint a person from the proper region, to fulfill the remaining term of the vacant position.

(4) Any member of the committee who has a direct interest in any grant application or proposal being considered by the committee, must disclose such interest, and must refrain from voting on the application or proposal.

Approved March 21, 1985.

CHAPTER 221
(H.B. No. 173)

AN ACT

RELATING TO PUBLIC LIBRARIES FOR THE DEPOSIT OF ADMINISTRATIVE RULES; AMENDING SECTION 67-5205, IDAHO CODE, TO STRIKE REFERENCE TO THE COLLEGE OF SOUTHERN IDAHO LIBRARY, AND TO INCLUDE THE TWIN FALLS PUBLIC LIBRARY.

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

SECTION 1. That Section 67-5205, Idaho Code, be, and the same is hereby amended to read as follows:

67-5205. PUBLICATION OF RULES. (a) Each agency shall compile, index and publish all effective rules adopted by such agency. Compilations shall be supplemented or revised as often as necessary and at least once every two (2) years.

(b) Compilations shall be made available upon request to officials of this state free of charge, and to other persons at prices fixed by each agency to cover mailing and publication cost.

(c) Each agency shall provide a complete set of rules, and furnish materials to keep the rules current, to the following libraries: Boise public library, Boise State University library, Bonners Ferry public library, Burley public library, College of Idaho library, ~~College of Southern Idaho library,~~ Idaho County Court House law library, Hailey public library, Idaho Falls public library, Idaho State law library, Idaho State University library, Lewis-Clark State College library, McCall public library, Mountain Home public library, North Idaho College library, Northwest Nazarene College library, Pocatello public library, Ricks College library, Salmon public library, Sandpoint public library, Soda Springs public library, Twin Falls public library, University of Idaho law library, University of Idaho library, Wallace public library and the Weiser public library. These compilations of rules shall be maintained by the libraries for use by the public. The compilation maintained at the Idaho State law library shall, along with the rules filed as required in section 67-5204, Idaho Code, constitute the official rules of the agency.

(d) Judicial notice shall be taken of rules filed and proposed as provided in this section.

(e) The word "publish" as used herein shall mean to bring before the public, to print or cause to be printed, to issue, to disseminate, to put into circulation, but shall not be construed to require publication in a newspaper.

Approved March 21, 1985.

CHAPTER 222
(H.B. No. 178)

AN ACT

RELATING TO CORRESPONDENCE AND OTHER PRIVATE COURSES; AMENDING SECTION 33-2402, IDAHO CODE, TO EXCEPT FROM THE PROVISIONS OF CHAPTER 24, TITLE 33, IDAHO CODE, RELIGIOUS COURSES AND AVOCATIONAL AND RECREATIONAL COURSES; AMENDING SECTION 33-2404, IDAHO CODE, TO INCREASE THE REGISTHATION AND CERTIFICATE OF COMPLIANCE FEE TO ONE HUNDRED DOLLARS ANNUALLY; AMENDING SECTION 33-2407, IDAHO CODE, TO INCREASE THE ANNUAL FEE FOR AN AGENT PERMIT TO TEN DOLLARS, TO PERMIT POSTING OF CASH OR OTHER NECOTIABLE SECURITY IN LIEU OF THE TEN THOUSAND DOLLAR SURETY BOND, AND TO BROADEN THE CONDITIONS OF INDEMNIFICATION.

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

SECTION 1. That Section 33-2402, Idaho Code, be, and the same is hereby amended to read as follows:

33-2402. COURSES EXCEPTED. The following courses are excepted from the provisions and limitations herein prescribed:

1. Courses recognized by the state board of education, which comply in whole or in part with the compulsory education law;

2. Courses offered by an educational institution accredited by the state board of education;

3. Courses offered by an educational institution accredited by a national or regional accrediting agency recognized by the state board of education;

4. Courses offered by any school, the requirements for which are prescribed in title 54, Idaho Code;

5. Courses offered by an employer solely for his employees as a part of an in-service training program;

6. Courses offering instruction or training solely avocational or recreational in nature;

7. Courses offered by a parochial or denominational institution providing instruction or training relating solely to religion and for which degrees are not granted.

SECTION 2. That Section 33-2404, Idaho Code, be, and the same is hereby amended to read as follows:

33-2404. FEE -- CERTIFICATE OF COMPLIANCE -- STATE SUPERINTENDENT PROCESS AGENT. Each person applying for registration and for a certificate of compliance, and for each renewal thereof, shall at the time of such application pay to the state board of education a fee of ~~twenty-five~~ one hundred dollars (~~$25.00~~100).

Before any certificate of compliance is issued to any nonresident person, such person shall, at the time of the initial application, appoint the state superintendent of public instruction, and his successor in office, as its attorney to receive service of legal process

issued against it in this state. The appointment shall be made in a form designated and furnished by the state board of education. The appointment shall be irrevocable, shall bind such person and any successor in interest or to the assets or liabilities of the person, and shall remain in effect so long as there is in force any contract or obligation arising out of its operations in this state.

Service of such process against any nonresident registrant shall be made only by service thereof upon the state superintendent of public instruction, or other person in charge of his office during his absence.

At the time of initial application for registration and for a certificate of compliance, the nonresident applicant shall file the appointment of the state superintendent of public instruction, together with the designation of the individual, and his address, to whom process against it served upon the said state superintendent is to be forwarded. Any nonresident registrant may change such designation by a new filing.

Any registration, or any certificate of compliance, shall not be deemed approval by the state board of education of the registrant or of any course offered by such registrant. Any statement made by a registrant, or by the agent of a registrant, that the registrant or any course offered by it, has been approved by the state board of education, or any statement or representation made in such manner as to imply such approval, shall constitute a misrepresentation.

SECTION 3. That Section 33-2407, Idaho Code, be, and the same is hereby amended to read as follows:

33-2407. SOLICITING AND SELLING COURSES -- AGENT -- BOND. No person, or agent of a person, shall solicit students for courses, or sell courses, within this state or from a place of business in this state, for a consideration or remuneration unless he shall have first secured a permit from the state board of education. Said permit shall be evidenced by a pocket card issued to said person or agent by the state board of education, and all permits shall be renewed annually on the first day of July. If courses are solicited or sold for more than one (1) person, a separate permit is required for each.

Application for permits shall be upon forms provided by the state board of education. The pocket cards shall bear the name and address of the bearer, the name and address of the principal, and a statement that the bearer is an authorized agent of the principal, and may solicit and sell courses for the principal. The annual fee for each permit shall be ~~five~~ ten dollars ($~~5~~10.00).

Before any such permit be issued, the applicant shall have posted with the board of education an acceptable surety bond, cash or other negotiable security in the ~~penal~~ sum of ten thousand dollars ($10,000). Such bond may be continuous and shall be conditioned to provide indemnification to any student suffering loss as a result of fraud or misrepresentation in procuring his enrollment on the part of a registrant or agent. Or, the principal may provide proof that each agent seeking a permit hereunder is included in a blanket bond not less than the amount required herein. The liability of the surety of

any agent shall in no event exceed ten thousand dollars ($10,000) as an aggregate for any or all students for all breaches of conditions of the bond. The surety of any such bond may cancel the same upon giving thirty (30) days' notice in writing to the state board of education and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of such cancellation. The state board of education shall give notice in writing to any agent, when the board has been notified that the bond of such agenc ia to be canceled, and when such agent shall not post another acceptable bond before the effective date of cancellation, his permit shall be revoked.

The fact that a bond is in force pursuant to this section shall neither limit nor impair recovery otherwise available under the provisions of law; nor ahall the amount of such bond be relevant in determining the amount of damages or other relief to which any plaintiff may be entitled.

No recovery shall be had on any contract for or in connection with any course by a person selling or conducting such course if the person was not registered, or the person or agent was not in possession of a pocket card herein prescribed, at the time such course was sold or contracts therefor were negotiated.

Approved March 21, 1985.

CHAPTER 223
(H.B. No. 183)

AN ACT

RELATING TO THE POLICEMAN'S RETIREMENT FUND; AMENDING SECTION 50-1512, IDAHO CODE, TO PROVIDE THAT THE LEVY FOR A POLICEMAN'S RETIREMENT FUND SHALL NOT BE SUBJECT TO THE LIMITATIONS OF SECTION 63-2220, IDAHO CODE, UNDER CERTAIN CONDITIONS.

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

SECTION 1. That Section 50-1512, Idaho Code, be, and the same is hereby amended to read as follows:

50-1512. TAX LEVY -- SALARY DEDUCTIONS. Any city having established a policeman's retirement fund may levy a tax of not to exceed ~~four (4) mills on all assessed~~ eight hundredchs per cent (.08%) of market value for assessment purposes of property within the corporate limits of the city, except where pursuant to aection 50-1525, Idaho Code, it is found that the levy is not sufficient to meet the fund's future liability, in which case the levy may be increased to provide for the actuarial soundness of the fund. The levy, as authorized herein, shall be exempt from the provisions of section 63-2220, Idaho Code. Said taxes shall be placed by the city treasurer in a fund to be known as the "policeman's retirement fund." Sums certain, as deter-

mined by the governing body, not to exceed eight per cent (8%) per month, may be deducted from the salary of each police officer and placed in said "policeman's retirement fund" by the treasurer. When all claims against the fund have been satisfied, the authority to levy according to this section shall terminate.

Approved March 21, 1985.

CHAPTER 224
(H.B. No. 186, As Amended)

AN ACT

RELATING TO WATER RIGHTS FOR HYDROPOWER PURPOSES; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-203B, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES SHALL HAVE THE AUTHORITY TO SUBORDINATE RIGHTS GRANTED FOR POWER PURPOSES TO SUBSEQUENT UPSTREAM RIGHTS, TO LIMIT PERMITS OR LICENSES GRANTED FOR POWER PURPOSES TO A SPECIFIC TERM, AND TO PROVIDE FACTORS THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES IS TO CONSIDER IN LIMITING PERMITS OR LICENSES FOR POWER PURPOSES TO A SPECIFIC TERM.

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

SECTION 1. That Chapter 2, 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 42-203B, Idaho Code, and to read as follows:

42-203B. AUTHORITY TO SUBORDINATE RIGHTS -- NATURE OF SUBORDINATED WATER RIGHT AND AUTHORITY TO ESTABLISH A SUBORDINATION CONDITION -- AUTHORITY TO LIMIT TERM OF PERMIT OR LICENSE. (1) The legislature finds and declares that it is in the public interest to specifically implement the state's power to regulate and limit the use of water for power purposes and to define the relationship between the state and the holder of a water right for power purposes to the extent such right exceeds an established minimum flow. The purposes of the trust established by subsections (2) and (3) of this section are to assure an adequate supply of water for all future beneficial uses and to clarify and protect the right of a user of water for power purposes to continue using the water pending approval of depletionary future beneficial uses.

(2) A water right for power purposes which is defined by agreement with the state as unsubordinated to the extent of a minimum flow established by state action shall remain unsubordinated as defined by the agreement. Any portion of the water rights for power purposes in excess of the level so established shall be held in trust by the state of Idaho, by and through the governor, for the use and benefit of the user of the water for power purposes, and of the people of the state

of Idaho. The rights held in trust shall be subject to subordination to and depletion by future upstream beneficial users whose rights are acquired pursuant to state law.

(3) Water rights for power purposes not defined by agreement with the state shall not be subject to depletion below any applicable minimum stream flow established by state action. Water rights for power purposes in excess of such minimum stream flow shall be held in trust by the state of Idaho, by and through the governor, for the use and benefit of the users of water for power purposes and of the people of the state of Idaho. The rights held in trust shall be subject to subordination to and depletion by future consumptive upstream beneficial users whose rights are acquired pursuant to state law.

(4) The user of water for power purposes as beneficiary of the trust established in subsections (2) and (3) of this section shall be entitled to use water available at its facilities to the extent of the water right, and to protect its rights to the use of the water as provided by state law against depletions or claims not in accordance with state law.

(5) The governor or his designee is hereby authorized and empowered to enter into agreements with holders of water rights for power purposes to define that portion of their water rights at or below the level of the applicable minimum stream flow as being unsubordinated to upstream beneficial uses and depletions, and to define such rights in excess thereof as being held in trnst by the state under subsection (2) of this section. Such agreements shall be subject to ratification by law. The contract entered into by the governor and the Idaho Power Company on October 25, 1984, is hereby found and declared to be such an agreement, and the legislature hereby ratifies the governor's authority and power to enter into this agreement.

(6) The director shall have the authority to subordinate the rights granted in a permit or license for power purposes to subsequent upstream beneficial depletionary uses. A subordinated water right for power use does not give rise to any claim against, or right to interfere with, the holder of subsequent upstream rights established pursuant to state law. The director shall also have the authority to limit a permit or license for power purposes to a specific term.

Subsection (6) of this section shall not apply to licenses which have already been issued as of the effective date of this act.

(7) The director in the exercise of the anthority to limit a permit or license for power purposes to a specific term of years shall designate the number of years through which the term of the license shall extend and for purposes of determining such date shall consider among other factors:

(a) The term of any power purchase contract which is, or reasonably may become, applicable to, such permit or license;

(b) The policy of the Idaho public utilities commission (IPUC) regarding the term of power purchase contracts as administered by the IPUC under and pursuant to the authority of the pnblic utility regulatory policy act of 1978 (PURPA);

(c) The term of any federal energy regulatory commission (FERC) license granted, or which reasonably may be granted, with respect to any particular permit or license for power purpose;

(d) Existing downstream water uses established pursuant to state law.

The term of years shall be determined at the time of issuance of the permit, or as soon thereafter as practicable if adequate information is not then available. The term of years shall commence upon application of water to beneficial use. The term of years, once established, shall not thereafter be modified except in accordance with due process of law.

Approved March 21, 1985.

CHAPTER 225
(H.B. No. 190)

AN ACT

RELATING TO A FREE FISHING DAY; AMENDING SECTION 36-401, IDAHO CODE, TO PROVIDE THAT NO FISHING LICENSE SHALL BE REQUIRED FOR ANY PERSON TO FISH ON A FREE FISHING DAY AS MAY BE DESIGNATED BY THE FISH AND GAME COMMISSION.

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

SECTION 1. That Section 36-401, Idaho Code, be, and the same is hereby amended to read as follows:

36-401. HUNTING, TRAPPING, FISHING OR CARRYING UNCASED FIREARM -- LICENSE REQUIREMENT -- EXCEPTIONS. It is a misdemeanor for any person to hunt, trap, or fish for or take any wild animal, bird or fish of this state or have in his possession any uncased firearm while in the fields or forests of the state, without first having procured a license as hereinafter provided. Provided that no license shall be required:

(a) Uncased Firearms. For residents of this state to carry uncased firearms on property owned, leased or controlled by them or on adjoining property for the purpose of taking predatory animals.

(b) 1. For children under the age of fourteen (14) years who are residents of this state to fish during the open season therefor.

2. For nonresident children under the age of fourteen (14) years to fish during the open season therefor provided they are accompanied by the holder of a valid fishing license, and provided further that any fish caught by such nonresident children shall be included in the bag and possession limit of such license holder.

3. For resident children under the age of twelve (12) years to hunt, take or kill predatory, unprotected birds and animals by means other than with firearms.

4. For resident children under the age of fourteen (14) years to trap muskrats from irrigation ditches or property on which they live during the open season.

(c) For any person to fish on a "free fishing day" as may be

designated by the commission.

(d) Senior Residents. For "senior residents" age seventy (70) years or older who are holders of a "senior resident permit" to hunt and fish during the open season.

(~~d~~e) Blind Persons. For resident blind persons who are holders of a "permit for the blind" to fish during the open season.

(~~e~~f) Institutional Inmates. For any inmate of the state hospital north, state hospital south, Idaho state school and hospital, and state veteran's home to fish during open seasons, provided said inmate has a permit therefor from the director. The director is authorized to issue such permits upon the request of the head of the respective institution having custody of said inmate upon a showing that the institution recommends the issuance of such permit and will assume full responsibility for and control over said inmate while using said permit.

(~~f~~g) Resident Military Personnel. For resident persons engaged in the military service of the United States, while on temporary furlough or leave, upon receipt of a temporary permit from the director, to hunt and fish during the open season.

(~~g~~h) Disabled Persons. For any resident person who is permanently and totally disabled as certified by a physician licensed to practice in the state of Idaho, to hunt and fish during the open season, providing such person has obtained a permit from the director.

(~~h~~i) Youth Training Center Students. For students of the Idaho ~~Y~~youth ~~T~~training ~~C~~center, under the supervision of an officer of said school, to fish during the open season.

(~~i~~j) Boy Scouts. For boy scouts who are official participants in attendance at national or international encampments at Farragut State Park to take fish during the encampment period from Lake Pend Oreille in such areas and such numbers as may be designated by the commission.

(~~j~~k) Nothing contained herein shall be construed to prohibit citizens of the United States who are residents of the state of Idaho from carrying arms for the protection of life and property.

Approved March 21, 1985.

CHAPTER 226
(H.B. No. 191)

AN ACT

RELATING TO THE REQUIREMENT FOR CLAIMING PREVIOUSLY UNRECORDED WATER RIGHTS; AMENDING SECTION 42-221, IDAHO CODE, TO EXTEND THE LAST DATE THAT LATE CLAIMS MAY BE FILED; AND AMENDING SECTION 42-243, IDAHO CODE, TO EXTEND THE LAST DATE THAT LATE CLAIMS MAY BE FILED.

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

SECTION 1. That Section 42-221, Idaho Code, be, and the same is hereby amended to read as follows:

42-221. FEES OF DEPARTMENT. The department of water resources shall collect the following fees which shall constitute a fund to pay for legal advertising, the publication of public notices and for investigations required of the department in connection with the issuance of permits and licenses as provided in this chapter:

A. For filing an application for a permit to appropriate the public waters of this state:

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less $30.00

2. For a quantity greater than 0.2 c.f.s. but not exceeding 1.0 c.f.s. or for a storage volume greater than 20 acre feet but not exceeding 100 acre feet $45.00

3. For a quantity greater than 1.0 c.f.s. but not exceeding 20 c.f.s., or for a storage volume greater than 100 acre feet but not exceeding 2,000 acre feet ..... $45.00 plus $20.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 1.0 c.f.s. or 100 acre feet.

4. For a quantity greater than 20.0 c.f.s. but not exceeding 100 c.f.s. or for a storage volume greater than 2,000 acre feet but not exceeding 10,000 acre feet ..... $425.00 plus $10.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 20.0 c.f.s. or 2,000 acre feet.

5. For a quantity greater than 100.0 c.f.s. but not exceeding 500.0 c.f.s., or for a storage volume greater than 10,000 acre feet but not exceeding 50,000 acre feet ..... $1,225.00 plus $5.00 for each additional c.f.s. or part thereof or 100 acre feet or part thereof over the first 100 c.f.s. or 10,000 acre feet.

6. For a quantity greater than 500 c.f.s., or for a storage volume greater than 50,000 acre feet ..... $3,225.00 plus $1.00 for each additional 1.0 c.f.s. or part thereof or 100 acre feet or part thereof over the first 500.0 c.f.s. or 50,000 acre feet.

B. For filing application for change of point of diversion, place, period, or nature of use of water of established rights; for exchange of water; or for an extension of time within which to resume the use of water under a vested right:

1. For a quantity of 0.2 c.f.s. or less or for a storage volume of 20 acre feet or less $30.00

2. For all other amounts $50.00

C. For filing application for amendment of permit $20.00

D. For filing claim to use right under section 42-243, Idaho Code $30.00

E. For filing a late claim to use a right under section 42-243, Idaho Code, where the date filed with the department of water resources, or if mailed to the department of water resources the postmark is:

1. After June 30, 1983, but not later than June 30, 1984..$100.00

2. After June 30, 1984, but not later than June 30, 1985..$200.00

F. For readvertising application for permit, change, exchange, or

extension to resume use $20.00

G. For certification, each document $1.00

H. For making photo copies of office records, maps and documents for public use .... A reasonable charge as determined by the department.

I. For filing request for extension of time within which to submit proof of beneficial use on a water right permit $15.00

J. For tasks requiring in excess of one (1) hour research or for computerized data provided for public use .... A reasonable charge as determined by the department.

All fees received by the department of water resources under the provisions of this chapter shall be transmitted to the state treasurer for deposit in the water administration account.

SECTION 2. That Section 42-243, Idaho Code, be, and the same is hereby amended to read as follows:

42-243. FILING OF CLAIMS OF RIGHTS ESTABLISHED BY DIVERSION AND USE -- FORM AND CONTENT OF CLAIM. In order to allow for the recording of historic uses of the waters of this state, any person using or claiming rights to the use of water for uses other than domestic purposes as defined in section 42-230(d), Idaho Code, which have heretofore been established by diversion and application to a beneficial use shall file a claim of such right with the department of water resources not later than June 30, 1983, or if mailed, shall be postmarked not later than June 30, 1983. Such claim shall be in affidavit form on forms furnished by the department of water resources and shall set forth:

a. The name and post-office address of the claimant.

b. The quantity of water claimed to have been used.

c. The source of the water supply.

d. The location of the point or points of diversion.

e. The nature of the use and the period during each year when the water is used for such purposes.

f. The priority of the right claimed which shall be determined by the date when the water was first applied to a beneficial use provided there has been no period of abandonment or nonuse or forfeiture of the water right since that date.

g. If water is claimed for irrigation, the legal description of the lands irrigated.

h. Such other information as shall be required by the blank form furnished by the department.

Such claim may be accompanied by maps showing the place of use, affidavits of witnesses familiar with the uses claimed, measurements of the water diverted and used, and such other information as the claimant may wish to submit.

If the claim is filed with the department of water resources later than June 30, 1983, or if it is mailed to the department of water resources and the postmark is later than June 30, 1983, the claim shall be classified as follows:

a. If the only use identified on the claim is domestic purposes as defined in subsection (d) of section 42-230, Idaho Code, then

the claim will be considered to be filed in a timely manner.

b. If the use(s) identified on the claim includes other than domestic purposes as defined in subsection (d) of section 42-230, Idaho Code, then the claim shall be considered to be a late claim, with a unique filing fee as set forth in section 42-221, Idaho Code. Late claims shall not be accepted if filed with the department of water resources later than June 30, 1985, or if mailed to the department of water resources with a postmark later than June 30, 1985.

This section shall not apply to any water rights which are based on the authority of a permit or license issued by the department of water resources or one of its predecessors or water rights which have previously been adjudicated by a court having jurisdiction of such matters.

Approved March 21, 1985.

CHAPTER 227
(H.B. No. 192)

AN ACT

RELATING TO PRIVATE ACTIVITY BONDS; AMENDING TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 28, TITLE 50, IDAHO CODE, TO PROVIDE AN ALLOCATION FORMULA FOR THE CEILING IMPOSED ON PRIVATE ACTIVITY BONDS BY THE FEDERAL GOVERNMENT FOR FEDERAL INCOME TAX PURPOSES, TO PROVIDE AUTHORITY FOR THE GOVERNOR TO IMPLEMENT AND ADMINISTER THE ALLOCATION FORMULA; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 28, Title 50, Idaho Code, and to read as follows:

CHAPTER 28
IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

50-2801. DEFINITIONS. As used in sections 50-2801 through 50-2805, Idaho Code:

(1) "Bond" means "private activity bond" as defined in section 103(n)(7) of the code, but only to the extent subject to an allocation of the state ceiling.

(2) "Code" means the Internal Revenue Code of 1954, as amended, and any related treasury regulations.

(3) "Executive order" means an executive order or other administrative action of the governor pursuant to section 50-2804, Idaho Code, and any amendments thereto.

(4) "Governmental unit" means (i) any county, city or port dis-

trict, (ii) any public corporation created pursuant to section 50-2703, Idaho Code, or other entity acting on behalf of one or more counties, cities, or both, (iii) the state, or (iv) any other entity authorized to issue bonds.

(5) "Project" means the facility or facilities to be financed in whole or in part with the proceeds of the bonds, or a program in which the proceeds of the bonds are used directly or indirectly to finance loans to individuals for educational expenses.

(6) "State" means the state of Idaho, any of its agencies, and any of its institutions of higher education.

(7) "State ceiling" means the ceiling for the state as computed under section 103(n)(4) of the code.

(8) "Year" means each calendar year beginning calendar year 1986.

50-2802. FINDING AND DECLARATION OF NECESSITY. The legislature hereby finds and declares that the Tax Reform Act of 1984 enacted by the United States congress, P.L. 98-369, imposes an annual state ceiling on the amount of bonds that may be issued, the interest on which is exempt from federal income taxation; that section 103(n)(6) of the code provides that the legislature may enact a different formula for allocating the state ceiling among the governmental units different from the formula contained in the code; and that a different formula is necessary to allocate the state ceiling by the least complicated method possible and to insure an efficient use of the state ceiling.

50-2803. ALLOCATION FORMULA. The entire state ceiling for the year, including any carry-forward under section 103(n)(10) of the code, shall be allocated by the following formula. The state ceiling shall be allocated by the state to governmental units, as needed to finance specific projects, on the basis of the chronological order in which applications from governmental units for an allocation of the state ceiling are received by the agency designated in the executive order. The allocation formula established by this section shall be implemented and administered by the governor pursuant to the terms and provisions of the executive order.

50-2804. AUTHORITY OF THE GOVERNOR. The governor is authorized and directed to provide for the implementation and administration of the allocation formula established in section 50-2803, Idaho Code, by executive order. The executive order shall (i) establish rules and procedures for the form, contents, submission, processing and approval of applications for allocations of the state ceiling, (ii) designate an agency for receipt, verification and approval of applications and for authorization of allocations, (iii) provide for the carry-forward of an allocation under section 103(n)(10) of the code, (iv) provide for the issuance to governmental units of certificates evidencing an allocation of the state ceiling, (v) establish a period of time within which allocations must be used, (vi) provide for a means of reallocating portions of the state ceiling with respect to allocations for bonds that are not actually issued or are issued in a lesser amount than that portion of the state ceiling which was allocated to the bonds, and (vii) provide for, through the establishment of rules

and procedures or otherwise, any other matters necessary or desirable to implement and administer the allocation formula and to provide for an efficient use of the state ceiling.

50-2805. MISCELLANEOUS. (1) No action taken pursuant to this chapter shall be deemed to create an obligation, debt or liability of any governmental unit or be deemed to constitute an approval of any obligations issued or to be issued hereunder.

(2) If any provision of this chapter shall be held to be or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this chapter or render it invalid, inoperative or unconstitutional. To the extent this chapter shall be held to be or shall, in fact, be invalid, inoperative or unconstitutional, all allocations of the state ceiling previously made under this chapter shall be treated as allocations made by the legislature.

(3) The state pledges and agrees with the holders of any bonds with respect to a project for which an allocation of the state ceiling was applied for by a governmental unit and which has been granted under this chapter that the state will not retroactively alter the allocation of the state ceiling to the governmental unit for such bonds.

SECTION 2. This act shall be in full force and effect on and after January 1, 1986.

Approved March 21, 1985.

CHAPTER 228
(H.B. No. 194)

AN ACT

RELATING TO REAL ESTATE BROKERS AND SALESMEN; AMENDING SECTION 54-2035B, IDAHO CODE, TO STRIKE PROCEDURES APPLICABLE PRIOR TO JANUARY 1, 1973, TO PROVIDE THAT THE MAXIMUM LIABILITY OF THE REAL ESTATE RECOVERY ACCOUNT SHALL BE IN THE AMOUNT OF TWO THOUSAND DOLLARS PER LICENSEE PER CALENDAR YEAR REGARDLESS OF THE NUMBER OF PERSONS DAMAGED OR TOTAL DAMAGE CAUSED, TO PROVIDE FOR INTERPLEADER ACTION IN THE EVENT THE REAL ESTATE COMMISSION HAS ACTUAL KNOWLEDGE THAT MULTIPLE PARTIES HAVE BEEN DAMAGED, TO PROVIDE A CORRECT REFERENCE, AND TO STRIKE AN ALTERNATIVE PROCEDURE ALLOWING JOINDER OF THE REAL ESTATE RECOVERY ACCOUNT AS A LIMITED THIRD PARTY DEFENDANT PRIOR TO OBTAINING JUDGMENT AGAINST THE LICENSEE; AMENDING SECTION 54-2035C, IDAHO CODE, TO CHANGE THE TERM FUND TO RECOVERY ACCOUNT AND TO PROVIDE A CORRECT REFERENCE; AMENDING SECTION 54-2035D, IDAHO CODE, TO CHANGE THE TERM FUND TO RECOVERY ACCOUNT AND TO STRIKE LANGUAGE PROVIDING THAT A COURT CAN ENTER AN ORDER DIRECTED TO THE REAL ESTATE COMMISSION REQUIRING PAYMENT FROM THE REAL ESTATE RECOVERY ACCOUNT IN ACCORDANCE WITH LIMITA-

TIONS PROVIDED BY LAW; AMENDING SECTION 54-2035E, IDAHO CODE, TO PROVIDE THAT NO SPECIAL COMMISSION ACTION IS REQUIRED FOR SUSPENSION OF A LICENSE AFTER THE REAL ESTATE COMMISSION PAYS FROM THE REAL ESTATE RECOVERY ACCOUNT PURSUANT TO ORDER, TO PROVIDE FOR REPAYMENT TO THE REAL ESTATE RECOVERY ACCOUNT BEFORE THE LICENSE CAN BE REINSTATED AND TO CHANGE THE TERM FUND TO RECOVERY ACCOUNT; AMENDING SECTION 54-2035F, IDAHO CODE, TO CHANGE THE TERM FUND TO RECOVERY ACCOUNT; AMENDING SECTION 54-2035G, IDAHO CODE, TO CHANGE THE TERM FUND TO RECOVERY ACCOUNT; AMENDING SECTION 54-2035J, IDAHO CODE, TO REDESIGNATE THE SECTION AND TO CHANGE THE TERM FUND TO RECOVERY ACCOUNT; AND REPEALING SECTION 54-2035I, IDAHO CODE.

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

SECTION 1. That Section 54-2035B, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035B. RECOVERY FROM ACCOUNT -- PROCEDURE -- GROUNDS -- AMOUNT --HEARING---BOND. 1. When any person obtains a final judgment in any court of competent jurisdiction against any licensee under this chapter, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required under this chapter and which cause of action arose on or after January 1, 1971, such person may, upon termination of all proceedings, including appeals in connection with any judgment, file a verified petition in the court in which the judgment was entered for an order directing payment out of the real estate recovery account in the amount of actual damages included in the judgment and unpaid, but not more than ~~one thousand dollars ($1,000) per licensee per calendar year until and after January 1, 1973, at which time recovery shall be in the amount of actual damages included in the judgment and unpaid, but not more than~~ two thousand dollars ($2,000) per licensee per calendar year. The recovery account's liability for all claims arising from the acts or omissions of any one (1) licensee in any calendar year shall be limited to a payment of not more than two thousand dollars ($2,000), regardless of the number of persons damaged by the acts or omissions of a licensee, or the total amount of damage caused by such licensee, in any one (1) calendar year. If a claim is made against the account and the commission has actual knowledge of any other claims against the recovery account which have been filed or asserted against the same licensee and arise from acts or omissions of the licensee in the same calendar year, then the commission shall file an interpleader action in accordance with the applicable statutes and the Idaho rules of civil procedure against all known parties who may claim a right to payment from the account. Unless the commission has actual knowledge of other potential claims, as stated above, and so files said interpleader action, the first person who obtains a final judgment against a licensee shall be entitled to the payment of that amount equal to the lesser of the judgment or two thousand dollars ($2,000), providing the claimant meets the other criteria set forth herein.

2. A copy of the petition shall be served upon the commission and an affidavit of such service shall be filed with the court.

3. The court shall act upon such petition within thirty (30) days after such service and, upon the hearing thereof, the petitioner shall be required to show that:

(a) He is not the spouse of the debtor, or the personal representative of such spouse.

(b) He has complied with all the requirements of sections 54-2035 through 54-2035~~J~~I, Idaho Code, inclusive.

(c) He has obtained a judgment of the kind described in subsection 1 of this section, stating the amount thereof and the amount owing thereon at the date of the petition.

(d) He has caused to be issued a writ of execution upon said judgment and the officer executing the same has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of them or of such of them as were found, under said execution, was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application thereon of the amount realized.

(e) He has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets liable to be sold or applied in satisfaction of the judgment.

(f) That by such search he has discovered no personal or real property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(g) Whenever the aggrieved person satisfies the court that it is not practicable to comply with one or more of the requirements enumerated in paragraphs (d), (e) and (f) of subsection 3 of this section and that the aggrieved person has taken all reasonable steps to collect that amount of the judgment or the unsatisfied part thereof and has been unable to collect the same, the court may in its discretion dispense with the necessity for complying with such requirements.

~~4.--In--any--action--against-any-licensee-under-this-chapter,-upon grounds-of-fraud,-misrepresentation-or-deceit-with--reference--to--any transaction--for--which--a--license-is-required-under-this-chapter-and which-cause-of-action-arose-on-or-after-January-1,-1971,--such--person may,-in-lieu-of-the-proceedings-for-recovery-outlined-in-subsections-1 through--3-of-this-section,-join-the-real-estate-recovery-account-as-a limited-third-party-defendant--and--have--judgment--rendered--directly against--the-account-in-the-amount-provided-in-1-above,-provided-that:~~

~~(a)--Service-of-summons-and-complaint-shall-be-made-on-the--executive-secretary-of-the-Idaho-real-estate-commission.~~

~~(b)--That--said--account-may-assert-any-and-all-defenses-available to-the-defendant-licensee.~~

~~(c)--Plaintiff has posted a bond to guarantee costs in the amount of ten per cent (10%) of the actual damages he seeks from the account.~~

SECTION 2. That Section 54-2035C, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035C. COMMISSION MAY ANSWER PETITION -- COMPROMISE OF CLAIMS. 1. Whenever the court proceeds upon a petition ~~or complaint~~ as provided in section 54-2035B, Idaho Code, the commission may answer and defend any such action against the ~~fund~~ recovery account on behalf of the ~~fund~~ recovery account and in the name of the defendant and may use any appropriate method of review on behalf of the ~~fund~~ recovery account.

2. The judgment set forth in the petition shall be considered as prima facie evidence only, and the findings of fact therein shall not be conclusive for the purposes of section 54-2035 through section 54-2035~~K~~I, Idaho Code, inclusive.

3. The commission may, subject to court approval, compromise a claim based upon the application of a petitioner.

SECTION 3. That Section 54-2035D, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035D. COURT ORDER REQUIRING PAYMENT FROM ~~FUND~~ RECOVERY ACCOUNT. If the court finds, after hearing that the claim should be levied against the portion of the ~~fund~~ recovery account allocated for the purpose of carrying out the provisions of section 54-2035 through 54-2035B, Idaho Code, inclusive, the court shall enter an order directed to the commission requiring payment from the ~~fund~~ recovery account of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in section 54-2035B, Idaho Code~~, inclusive, the court shall enter an order directed to the commission requiring payment from the fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in section 54-2035 through 54-2035B, Idaho Code, inclusive.~~

SECTION 4. That Section 54-2035E, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035E. AUTOMATIC SUSPENSION OF BROKER'S, ASSOCIATE BROKER'S, OR SALESMAN'S LICENSE ON PAYMENT BY COMMISSION -- CONDITION FOR LICENSE REINSTATEMENT. If pursuant to court order the commission pays from the ~~fund~~ recovery account any amount in settlement of a claim or towards satisfaction of a judgment against a licensed broker, associate broker, or salesman, the license of such broker, associate broker, or salesman shall be automatically suspended without further order of the commission upon the effective date of any order by the court as set forth herein authorizing payment from the ~~fund~~ recovery account. No such broker, associate broker, or salesman shall be granted reinstatement until he has repaid in full, the amount so paid from the

recovery account plus interest at the ~~highest~~ legal rate of interest allowable by law ~~per annum, the amount paid from the fund on his account~~ for judgments.

SECTION 5. That Section 54-2035F, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035F. ORDER OF PAYMENT OF CLAIMS IF ~~FUND~~ RECOVERY ACCOUNT BALANCE INSUFFICIENT -- INTEREST. If, at any time, the money deposited in the ~~fund~~ recovery account and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the ~~fund~~ recovery account, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of five per cent (5%) per annum.

SECTION 6. That Section 54-2035G, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035G. COMMISSION'S RIGHT TO SUBROGATION. When the commission has paid from the ~~fund~~ recovery account any sum to the judgment creditor, the commission has subrogated all other rights of the judgment creditor and the judgment creditor shall assign all his right, title and interest in the judgment to the commission and any amount and interest so recovered by the commission on the judgment shall be deposited to the ~~fund~~ recovery account.

SECTION 7. That Section 54-2035J, Idaho Code, be, and the same is hereby amended to read as follows:

54-2035~~J~~I. DISCIPLINARY ACTION AGAINST LICENSEES NOT RESTRICTED FOR VIOLATIONS OF LAW, REGULATIONS. Nothing contained in sections 54-2035 through 54-2035~~K~~I, Idaho Code, inclusive, limits the authority of the commission to take disciplinary action against a licensee for a violation of any of the provisions of the chapter, or of the rules and regulations of the commission, nor shall the repayment in full of all obligations to the ~~fund~~ recovery account by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of this chapter or the rules and regulations promulgated thereunder.

SECTION 8. That Section 54-2035I, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 1985.

CHAPTER 229
(H.B. No. 195)

AN ACT

RELATING TO SECURITY INTERESTS IN EXEMPT PROPERTY; REPEALING SECTION 45-1102, IDAHO CODE.

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

SECTION 1. That Section 45-1102, Idaho Code, be, and the same is hereby repealed.

Approved March 21, 1985.

CHAPTER 230
(H.B. No. 196, As Amended)

AN ACT

RELATING TO INSURANCE COMPANIES; AMENDING SECTION 41-403, IDAHO CODE, TO INCREASE THE RATE OF IDAHO INVESTMENTS BY INSURANCE COMPANIES TO BE QUALIFIED TO RECEIVE A REDUCED PREMIUM PAY RATE, AND TO ELIMINATE CERTAIN QUALIFYING INVESTMENTS.

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

SECTION 1. That Section 41-403, Idaho Code, be, and the same is hereby amended to read as follows:

41-403. REDUCED TAX BASED ON IDAHO INVESTMENTS. Provided that it shall comply with rules and standards duly promulgated by the director of insurance for the purposes of assuring the establishment and maintenance in this state of services and facilities consistent with the nature and extent of its operations, any insurer, other than a life insurance company, having at all times throughout the year with respect to which the tax is payable twenty-five per cent (25%) or more of its assets, or seventy-five per cent (75%) of the amount of gross direct premiums written on policies covering subject of insurance resident, located or performed in this state invested in the investments set forth below, shall, with respect to premiums on which taxes are to be computed under section 41-402, Idaho Code, compute and pay such tax at the rate of one per cent (1%) instead of at any higher rate provided for under such section 41-402, Idaho Code; and provided further, any life insurance company, in order to qualify for a tax rate of one per cent (1%) instead of any higher rate provided for under section 41-402, Idaho Code, shall maintain throughout the year with respect to which tax is payable at least ~~twenty~~seventy-five per cent (~~2~~75%) of the reserve required under section 41-706 (4), Idaho Code, on direct risks resident in this state, invested in the designated investments set forth below:

(1) Bonds or warrants of this state, or of any county, city or incorporated town or district within this state authorized by law to be issued, or

(2) Taxable real estate within this state, or

(3) First mortgages upon improved, unencumbered real estate situated within this state, or

(4) Stocks or bonds of corporations organized under the laws of, or maintaining their home office and principal administrative records in this state if such stocks or bonds are lawful investments of the insurer under chapter 7 (investments) of this code, or

(5) Bonds authorized by law to be issued against the revenues derived from the operation in this state of domestic water and sewage systems or off-street parking facilities~~;-or~~

~~(6)--Time--deposits--with--Idaho--banks;--or--trust--companies;-or savings-and-loan-associations;-or-building-and-loan-associations-or-on deposit-for-interest-income-purposes-with-any--legally--organized--and approved-financial-institution-domiciled-within-this-state-and-insured by-any-instrumentality-of-the-United-States-government.~~ The provisions of section 41-340, Idaho Code, to the extent of the premium tax burden, shall not apply to any insurer qualifying for and paying a reduced rate of premium tax under this section.

Approved March 21, 1985.

CHAPTER 231
(H.B. No. 197)

AN ACT

RELATING TO INSURANCE COMPANIES; AMENDING SECTION 41-703, IDAHO CODE, TO PERMIT INSURANCE COMPANIES TO INVEST IN DISCOUNTED AND ZERO INTEREST CERTIFICATES OF ACCRUAL ON PUBLIC AND CORPORATE OBLIGATIONS.

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

SECTION 1. That Section 41-703, Idaho Code, be, and the same is hereby amended to read as follows:

41-703. ~~ELIGIBLE---INVESTMENTS~~ GENERAL QUALIFICATIONS. (1) No security or investment (other than real and personal property acquired under section 41-728, Idaho Code, ~~(real property owned) of--this chapter)~~ shall be eligible for acquisition unless it is interest bearing or interest accruing or by its character entitled to receive dividends or income when declared or paid, including discounted and zero interest certificates of accrual on public and corporate obligations, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit the interest or income accruing thereon.

(2) No security or investment shall be eligible for purchase at a price above its market value.

(3) No provision of this chapter shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or under a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any investment so acquired which is not otherwise eligible under this chapter shall be disposed of pursuant to section 41-730, Idaho Code, if personal property or securities, or pursuant to section 41-729, Idaho Code, if real property.

Approved March 21, 1985.

CHAPTER 232
(H.B. No. 199)

AN ACT
RELATING TO A MOTOR VEHICLE OWNER'S TORT LIABILITY FOR NEGLIGENCE OF ANOTHER; AMENDING SECTION 49-1404, IDAHO CODE, TO INCREASE THE AMOUNTS OF LIABILITY OF AN OWNER FOR IMPUTED NEGLIGENCE.

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

SECTION 1. That Section 49-1404, Idaho Code, be, and the same is hereby amended to read as follows:

49-1404. OWNER'S TORT LIABILITY FOR NEGLIGENCE OF ANOTHER -- SUBROGATION. 1. Responsibility of owner for negligent operation by person using vehicle with permission--Imputation of negligence. Every owner of a motor vehicle is liable and responsible for the death of or injury to a person or property resulting from negligence in the operation of such motor vehicle, in the business of such owner or otherwise, by any person using or operating the same with the permission, expressed or implied, of such owner, and the negligence of such person shall be imputed to the owner for all purposes of civil damages.

2. Limitation of liability. The liability of an owner for imputed negligence imposed by this section and not arising through the relationship of principal and agent or master and servant is limited to the amount of ~~$10,000~~ twenty-five thousand dollars ($25,000) for the death or injury to one (1) person in any one (1) accident and subject to said limit as to one (1) person is limited to the amount of ~~$20,000~~ fifty thousand dollars ($50,000) with respect to the death or injury to more than one (1) person in any one (1) accident and is limited to the sum of ~~$5,000~~ fifteen thousand dollars ($15,000) for damage to property of others in any one (1) accident.

3. Operator to be made party defendant--Recourse to operator's property. In any action against an owner on account of imputed negligence as imposed by this section the operator of said vehicle whose negligence is imputed to the owner shall be made a party defendant if personal service of process can be had upon said operator within this state. Upon recovery of judgment, recourse shall first be had against

the property of said operator so served.

4. Subrogation of owner to rights of person injured--Recovery from operator--Bailee and driver deemed operators. In the event a recovery is had under the provisions of this section against an owner on account of imputed negligence such owner is subrogated to all the rights of the person injured and may recover from such operator the total amount of any judgment and costs recovered against such owner. If the bailee of an owner with the permission, expressed or implied, of the owner, permits another to operate the motor vehicle of the owner, then such bailee and such driver shall both be deemed operators of the vehicle of the owner, within the meaning of subdivisions 3 and 4 of this section.

5. Settlement and payment of claims where two (2) or more are injured or killed in one (1) accident--Diminution or extinguishment of owners' liability. Where two (2) or more persons are injured or killed in one (1) accident, the owner may settle or pay any bona fide claim or claims for damages arising out of personal injuries or death, whether reduced to a judgment or not, and such payments shall diminish to the extent thereof the owners' total liability on account of such accident; and payments so made aggregating the full sum of twenty thousand dollars ($20,000) shall extinguish all liability of the owner hereunder to said claimants and all other persons on account of such accident; which liability may exist by reason of imputed negligence, pursuant to this section, and not arising through the negligence of the owner nor through the relationship of principal and agent nor master and servant.

6. Vendee or assignee not deemed owner until possession retaken--Chattel mortgagee not deemed owner. If a motor vehicle is sold under a contract of conditional sale whereby the title to such motor vehicle remains in the vendor, such vendor or his assignee shall not be deemed an owner within the provisions of this section, but the vendee or his assignee, shall be deemed the owner notwithstanding the terms of such contract, until the vendor or his assignee retake possession of such motor vehicle. A chattel mortgagee of a motor vehicle out of possession shall not be deemed an owner within the provisions of this section.

Approved March 21, 1985.

CHAPTER 233
(H.B. No. 202)

AN ACT

RELATING TO ACCESS TO THE RECORDS OF THE IDAHO STATE BOARD OF MEDICINE; AMENDING CHAPTER 18, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-1820, IDAHO CODE, TO PROVIDE THAT CERTAIN RECORDS OF THE BOARD ARE NOT SUBJECT TO SUBPOENA OR DISCOVERY PROCEEDINGS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 18, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-1820, Idaho Code, and to read as follows:

54-1820. ACCESS TO RECORDS. All papers, records, correspondence, communications and proceedings of the Idaho state board of medicine shall be open and public except as otherwise provided by statute; provided, however, the following shall be confidential and not be subject, directly or indirectly, to subpoena or discovery proceedings from the board of medicine:

(1) Information provided to or obtained by the board for evaluation of applications for licensure or registration including test forms and questions which are made available to the board on the basis that such information shall be confidential.

(2) Information provided to or obtained by the board in investigation of reports or complaints of misconduct or unprofessional behavior.

Nothing herein shall prohibit the board of medicine from disclosing information obtained by it to law enforcement agencies.

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 21, 1985.

CHAPTER 234
(H.B. No. 208)

AN ACT

RELATING TO PUBLICATION OF STATEMENTS OF FINANCIAL CONDITION OF SCHOOL DISTRICTS; AMENDING SECTION 33-701, IDAHO CODE, TO CLARIFY THE REQUIREMENTS FOR PUBLICATION OF SCHOOL DISTRICTS' FINANCIAL STATEMENTS.

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

SECTION 1. That Section 33-701, Idaho Code, be, and the same is hereby amended to read as follows:

33-701. FISCAL YEAR — PAYMENT AND ACCOUNTING OF FUNDS. The fiscal year of each school district shall be a period of twelve (12) months commencing on the first day of July in each year.

The board of trustees of each school district shall have the following powers and duties:

1. To determine and order paid all lawful expenses for salaries,

wages and purchases, whether or not there be money in the treasury for payment of warrants drawn against any fund of the district.

Whenever any school district other than an elementary school district with less than six (6) teachers within the district has sufficient funds on deposit so to do, it may pay any allowed claim for salaries, wages or purchases by regular bank check signed by the treasurer of the district and countersigned by the chairman, or vice-chairman, of the board of trustees.

The total amount of warrants or orders for warrants drawn on any fund, together with disbursements from such fund in any other manner made, shall not exceed ninety-five percent (95%) of the estimated income and revenue accrued or accruing to such fund for the same school year, until such income and revenue shall have been paid into the treasury to the credit of the district.

2. To invest all or part of any plant facilities reserve fund, or any fund accumulated for the payment of interest on, and the redemption of, outstanding bonds, or other obligations of the district in bonds or certificates of indebtedness of the United States of America, or in bonds or warrants of the state of Idaho, or in warrants or tax anticipation notes of any county or school district of the state of Idaho, when such investments shall be due and payeble on or before the date any plant facilities reserve fund shall be required to be expended or any bonds or other obligations, or interest thereon, of the investing district shall become payable.

Whenever in the judgment of the board of trustees, the proceeds of any bond issue should be temporarily invested pending the expenditure of such proceeds for the purposes for which such bonds were issued, the proceeds may be invested in the manner and form hereinabove prescribed. Any interest, or profits accruing from such investments shall be used for the purposes for which the bonds were issued. Unleas otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district;

3. To insure any school house and other property, and the district, against any loss by fire, casualty, or liability, and the board, its officers and employees, and to preserve its property for the benefit of the district. In case of loss of any insured property, any proceeds from insurance:

(a) may be expended in constructing a temporary or permanent structure, but no sum greater than the insurance proceeds shall be sn expended except upon approval of a majority of the school district electors voting in an election called for that purpose; or

(b) may be placed in and made a part of the achool plant facilities reserve fund of the district, if the district has such a fund; or

(c) may be placed in a separate account in the bond interest and redemption fund of the district to repay any kind of obligation incurred by the district in replacing or restoring the property for which the insurance proceeds were received, and shall not be included in the computations of bond and bond interest levies as provided in section 33-802A, Idaho Code.

If the proceeds of any insurance received by a school district by

reason of loss on real property shall be less than five thousand dollars ($5,000), such proceeds may be credited to the general fund of the district;

4. To pay from the general fund of the district the expense of any member of the board incurred while traveling on the business of the board, or attending any meeting called by the state board of education or by the state superintendent of public instruction, or attending any annual or special meetings of the state school trustees association, and to pay the membership fee of the board of trustees in said association. Whenever any member of the board of trustees resides at such distance from the meeting place of the board as to require, in the judgment of the board, such member to incur extraordinary expense in traveling from his home to and from said meeting place, the board may approve payment to such member of the extraordinary expense incurred in attending any meeting of the board.

For the purpose of this paragraph, the term "expense" or "extraordinary expense" shall include allowance for mileage or actual travel expense incurred;

5. To prepare, or cause to be prepared and published, in the manner hereinafter prescribed, within one hundred twenty (120) days from the last day of each fiscal year, an annual statement of financial condition and report of the school district as of the end of such fiscal year in a form prescribed by the state board of education. Such annual statement shall include, but not be limited to the amounts of money budgeted and received and from what sonrces, and the amounts budgeted and expended for salaries and other expenses by category. Salaries may be reported in gross amonnt. Each school district shall have available at the administrative office, upon request, a full and complete list of vendors and the amonnt paid to each and a list of the number of teachers paid at each of the several stated gross salary levels in effect in the district.

Nothing herein provided shall be construed as limiting any school district as to any additional or supplementary statements and reports it may elect to make for the purpose of informing the public of its financial operations, either as to form, content, method, or frequency; and if all the information required herein to be published shall have been published as provided herein at regular intervals during the fiscal year covering successive portions of the fiscal year, then such information may be omitted from the annual statement of financial condition and report for such portions of the fiscal year as already have been reported.

The annual statement of financial condition and report shall be published within the time above prescribed in one (1) issue of a newspaper printed and published within the district, or, if there be none, then in a newspaper printed and as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, in the county in which the school district is located, or, if more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give best general notice of the contents of such annual statement of financial condition and report to the residents of said district; provided, that if no newspaper is printed and

published in the ~~said~~ district or county, then such statement of financial condition and report shall be published in a newspaper ~~of general circulation~~ as provided in section 60-106, Idaho Code, most likely to give best general notice of the contents to the residents of said district.

The chairman, clerk and treasurer of each such school district shall certify said annual statement of financial condition and report to be true and correct, and the certification shall be included in each published statement.

In the event the board of trustees of any such school district shall fail to prepare or cause to be prepared or to publish the annual statement of financial condition and report as herein required, the state board of education shall cause the same to be prepared and published, and the cost thereof shall be an obligation of such school district. One (1) copy of such annual statement of financial condition and report shall be retained in the office of the clerk of the board of school trustees, where the same shall be open at all times to examination and inspection by any person;

6. To cause to be made each year, a full and complete audit of all of the financial transactions of the district, and of the activity or student body funds, except that in elementary school districts such audit shall be made at intervals of not more than two (2) years. Any audit shall be made by and under the direction of the board of trustees by an independent auditor, in accordance with generally accepted auditing standards and procedures.

The auditor shall be employed on written contract.

One (1) copy of the report of the audit shall be filed with the legislative auditor, and one (1) copy shall be filed with the state board of education, not more than ten (10) days after its acceptance by the board of trustees;

7. To file annually with the state board of education such financial and statistical reports as said state board of education may require;

8. To order and have destroyed any canceled check or warrant, or any form of claim or voucher which has been paid, at any time after five (5) years from the date the same was canceled and paid.

9. To review the school district budget periodically and make appropriate budget adjustments to reflect the availability of funds and the requirements of the school district. Revenue derived from maintenance and operation levies made pursuant to section 33-802 2, Idaho Code, shall be excluded from budget adjustments as provided in this paragraph. Any person or persons proposing a budget adjustment under this section shall notify in writing each member of the board of trustees one (1) week prior to the meeting at which such proposal will be made. Prior to the final vote on such a proposal, notice shall be posted and published once, as prescribed in section 33-401, Idaho Code. A budget adjustment shall not be approved unless voted affirmatively by sixty percent (60%) of the members of the board of trustees. Such amended budgets shall be submitted to the state board of education.

10. To invest any money coming into the hands of the school district in investments permitted by section 67-1210, Idaho Code. Unless

otherwise provided by law, any interest or profits accruing from the investment of any funds shall be credited to the general fund of the district.

Approved March 21, 1985.

CHAPTER 235
(H.B. No. 209)

AN ACT

RELATING TO THE PROVISION OF PUBLIC NOTICE FOR SCHOOL ELECTIONS; AMENDING SECTION 33-402, IDAHO CODE, TO CLARIFY PUBLISHING REQUIREMENTS FOR SCHOOL ELECTIONS.

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

SECTION 1. That Section 33-402, Idaho Code, be, and the same is hereby amended to read as follows:

33-402. NOTICE REQUIREMENTS. a. Notice of all school elections must be given by posting and publishing notice of said elections and such notice shall state:

1. The date of holding the election;
2. The hours between which the polls will be open;
3. The definite place or places of holding the election;
4. In the case of election of trustees, the offices to be filled, the trustee zones, and a statement that nominations must be filed not less than eighteen (18) days prior to the day of the election;
5. In the case of bond election, the amount of the issue, the purpose and period of the issue;
6. In the case of the assumption of a debt, the amount of any such debt to be assumed by each district, or part of a district; and
7. In all other elections, a brief statement of the question being submitted to the electors.

b. In school elections involving (i) the incurring or increasing of a debt, (ii) approving a levy for a plant facilities reserve fund and term thereof, (iii) excising and annexing territory, (iv) consolidating districts, or (v) dividing a district, notice of the election shall be posted not less than twenty-one (21) days prior to the day of the election in at least three (3) places in each district participating in or affected by such election, one (1) of which places shall be at or near the main door of the administrative offices of each such district, and by publishing at least once each week for three (3) consecutive weeks prior to the day of the election in a newspaper ~~printed, or of general circulation~~ as provided in section 60-106, Idaho Code, published in the county or in any county in which such district may lie and having general circulation within such district.

c. Notice of all other school elections shall be given in the

same manner, except that the posting shall be for not less than ten (10) days, and publishing shall be at least once each week for two (2) consecutive weeks prior to the day of the election.

d. Notice of the deadline for filing nominating petitions for election of trustees shall be posted for not less than ten (10) days and published at least once each week for two (2) consecutive weeks prior to the last day for filing nominating petitions as required by section 33-502, Idaho Code.

e. In elections for excising and annexing the territory of school districts, or tn create new school districts by consolidation or division, the clerk of the board of county commissioners of the county in whicb the district lies, or of the home county if the district be a joint district, shall prepare, post, sign and arrange for the publishing of, the notice of election. In all other elections it shall be the duty of the clerk of the board of trustees so to do.

f. Notice of annual meeting of elementary school districts as provided for in section 33-510, Idaho Code, and of intent to discontinue a school, as provided fnr in section 33-511, Idaho Code, and annual budget hearing as provided for in section 33-801, Idaho Code, shall be given by posting and publishing as outlined in subsection b of this section except that posting shall be for not less than ten (10) days, and publishing shall be once in a newspaper ~~printed, or of general circulation in the county in which such district may lie and having general circulation within such district~~ as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published in the county in which such district lies. If more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give best general notice of the election within said district; provided that if no newspaper is published in the said district or county, then in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the election within the district.

g. Notices calling for bids for the acquisition, use, or disposal of real and personal property as provided for in section 33-601, Idaho Code, and contracting for transportation services as provided for in section 33-1510, Idaho Code, shall be given by publishing twice, not less than one (1) week apart in a newspaper ~~printed, or of general circulation in the county or in any county in which such district may lie and having general circulation within such district~~ as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published in the county in which such district lies. If more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give best general notice of the election within said district; provided that if no newspaper is published in the said district or county, then in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the election within the district. The notice inviting bids shall set a date and place for opening bids. The first publication of the notice shall be at least two (2) weeks before the date of opening the bids.

h. Proof of posting notice shall be upon the affidavit of the person posting the same; and proof of publication shall be upon the affidavit of the publisher of the newspaper or newspapers respectively. Such affidavits shall be filed with his board by the clerk responsible for the posting and the publishing of said notice, before the day of the election named in the notice.

Approved March 21, 1985.

CHAPTER 236
(H.B. No. 210)

AN ACT

RELATING TO THE STATEWIDE EDUCATIONAL SUPPORT PROGRAM; AMENDING SECTION 33-1003, IDAHO CODE, TO PROVIDE THAT A SCHOOL DISTRICT'S PLAN FOR ANNUAL ADJUSTMENTS REGARDING SUPPORT UNIT FACTORS MUST BE FULLY ADJUSTED WITHIN A SEVEN-YEAR PERIOD FOLLOWING THE FORMATION OF A SCHOOL DISTRICT.

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 end 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 releting 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 lest 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 chenged 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 ~~five~~ seven (~~5~~7) 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 factors for computation of its entitlement under the support program.

Approved March 21, 1985.

CHAPTER 237
(H.B. No. 211, As Amended in the Senate)

AN ACT

RELATING TO CONSOLIDATION OF SCHOOL DISTRICTS; AMENDING SECTION 33-311, IDAHO CODE, TO PROVIDE NEW VOTING REQUIREMENTS BEFORE A PROPOSED CONSOLIDATION OF SCHOOL DISTRICTS SHALL BE APPROVED, TO PROVIDE WHEN A PLAN OF CONSOLIDATION OF SCHOOL DISTRICTS IS PROPOSED, IF THE DEBTS OF THE CONSOLIDATING DISTRICTS ARE NOT APPROVED TO BE ASSUMED BY THE PROPOSED NEW DISTRICT, THE CONSOLIDATION SHALL NOT BE OPERATIVE, AND TO PROVIDE WHEN A CONSOLIDATION IS APPROVED, A NEW SCHOOL DISTRICT IS CREATED.

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

SECTION 1. That Section 33-311, Idaho Code, be, and the same is hereby amended to read as follows:

33-311. PLAN OF CONSOLIDATION SUBMITTED TO ELECTORS. The state board of education may approve or disapprove any plan proposing consolidation, and if it approves the same it shall give notice thereof to the board of trustees of each school district proposing to consoli-

date and to the board of county commissioners in each county in which the proposed consolidated district would lie. Notice to the board of county commissioners shall include the legal description of the boundaries of the proposed consolidated district and a brief statement of the approved proposal, and shall be accompanied by a map of the proposed consolidated district.

Not more than ten (10) days after receiving the notice from the state board of education, each board of county commissioners receiving such notice shall enter the order calling for an election on the question of approving or disapproving, and shall cause notice of such election to be posted and published. The notice shall be posted and published, the election shall be held and conducted and its results canvassed, in the manner and form of sections 33-401--through 33-406, Idaho Code.

If the qualified school electors of any one (1) district proposing to consolidate, and voting in the election, shall constitute a majority of all such electors voting in the entire area of the proposed consolidated district, the proposed consolidation shall not be approved unless a majority of such electors in such district, voting in the election, and a majority of such electors in ~~the--remainder--of the--area~~ each of the remaining districts, voting in the election, shall approve the proposed consolidation.

If the qualified school electors in no one (1) of the districts proposing to consolidate, and voting in the election, constitute a majority of all such electors voting in the entire area of the proposed consolidated district, the proposed consolidation shall not be approved unless a majority of all such electors ~~of the--area~~ in each district, voting in the election, shall approve the proposed consolidation.

Whenever any plan of consolidation shall propose that the existing bonded debt of any district or districts proposing to consolidate, shall be assumed by and become the obligation of the proposed consolidated district, at the same time of the election hereinabove prescribed, the question of assuming such debt shall be submitted to the electors having the qualification of electors in school bond elections. The debt or debts shall not be assumed by the proposed consolidated district unless the question be approved by the qualified electors voting on the question and by the majority thereof now, or hereafter, required by section 3, article VIII, of the Constitution of Idaho; and if the assumption of debt be not approved, the proposed consolidation shall not ~~otherwise~~ be ~~effected~~ operative.

When a consolidation is ~~effected~~ approved, as hereinabove prescribed, a new school district is thereby created, and the board of county commissioners of any county in which the consolidated district lies shall enter its order showing the creation of the district and a legal description of its boundaries.

Approved March 21, 1985.

CHAPTER 238
(H.B. No. 212, As Amended in the Senate)

AN ACT

RELATING TO PUBLIC LIVESTOCK MARKETS; AMENDING SECTION 25-1721, IDAHO CODE, TO PROVIDE ADDITIONAL DEFINITIONS; AMENDING SECTION 25-1724, IDAHO CODE, TO PROVIDE FOR ADDITIONAL INFORMATION IN MAKING AN APPLICATION FOR A MARKET CHARTER; AMENDING SECTION 25-1725, IDAHO CODE, TO PROVIDE FOR A LOCATION TO CONDUCT A HEAHING ON AN APPLICATION FOR A MARKET CHARTER; AMENDING SECTION 25-1727, IDAHO CODE, TO PROVIDE FOR EXISTING OPERATIONS; AND AMENDING SECTION 25-1729, IDAHO CODE, TO PROVIDE CONDITIONS THAT CONSTITUTE A TRANSFER OF A MARKET CHARTER.

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

SECTION 1. That Section 25-1721, Idaho Code, be, and the same is hereby amended to read as follows:

25-1721. DEFINITIONS OF TERMS. The following words and phrases as used in this act, unless the context otherwise requires, shall have the meanings respectively ascribed to them in this section.

(a) "Persons" shall include any individual, firm, association, partnership or corporation.

(b) "Department" means the department of agriculture.

(c) "Director" means the director of the department of agriculture.

(d) "Livestock" means and includes cattle, calves, horses, mules, swine, sheep, and goats.

(e) "Public livestock market" means:

(1) Aany place, establishment or facility commonly known as a "livestock market," "livestock auction market," "sales ring," ~~"stockyard,"~~ or the like, conducted or operated for compensation or profit as a public market for livestock, consisting of pens, or other inclosures, and their appurtenances, in which livestock are received, held, sold or kept for sale or shipment; or

(2) Any marketing system or operation conducted for compensation or profit in which public livestock marketing or trading, including the transmission of market information and/or bids or offers, is facilitated by electronic devices such as computer systems, or by video equipment.

(f) "Market charter" means the charter for public livestock market ~~operation~~ authorized to be issued under the provisions of this act.

(g) "Livestock market operator" means any person engaged in the business of conducting or operating a public livestock market, whether personally or through agents or employees.

SECTION 2. That Section 25-1724, Idaho Code, be, and the same is hereby amended to read as follows:

25-1724. MARKET CHARTER AND APPLICATION -- FEES, CHARTER AND HEARING. No person shall conduct or operate a public livestock market unless and until he has a market charter therefor, upon which the current annual market charter fee has been paid. Any person making application for such market charter shall do so to the director in writing, verified by the applicant, in the form as prescribed by the director, showing the following:

(a) The name and address of the applicant, with a statement of the names and addresses of all persons having any financial interest in the applicant and the amount of such interest. This statement shall include the legal names of all members of a partnership; the officers and members of the governing board of an association; and five (5) principal stockholders of a corporation. If, during the period of a market charter issued hereunder, any change shall take place in the personnel identified herein, the holder of the market charter shall forthwith make a verified report of any such change to the director.

(b) Financial responsibility of the applicant in the form of a statement of all assets and liabilities.

(c) A legal description of the property and its exact location with a complete description of the facilities proposed to be used in connection with such public livestock market, or in the case of a public livestock market defined in section 27-1721(e)(2), Idaho Code, a description of the primary locations proposed for such marketing operation.

(d) The schedule of charges applicant proposes to charge for all services proposed to be rendered.

(e) A detailed statement of the facts upon which the applicant relies showing the general confines of the trade area proposed to be served by such public livestock market, the benefits to be derived by the livestock industry and the services proposed to be rendered.

Such application shall be accompanied by the annual charter fee as prescribed in section 25-1728, Idaho Code. In addition, the application shall be accompanied by a hearing fee of five hundred dollars ($500) which shall not be returnable to the applicant. Said annual charter fee and hearing fee shall be remitted separately. The director shall remit said hearing fee to the state treasurer of the state of Idaho to be credited to the "Public Livestock Market Fund."

SECTION 3. That Section 25-1725, Idaho Code, be, and the same is hereby amended to read as follows:

25-1725. NOTICE OF HEARING ON APPLICATION. Upon the filing of such application, the director shall fix a reasonable time for the hearing thereon in the city itself, or the nearest city, where the public livestock market is proposed to be located, or in the case of a public livestock market defined in section 25-1721(e)(2), Idaho Code, a city proposed as a primary location for such marketing operation. The director forthwith shall cause notice of the time and place of hearing, to be served by mail not less than fifteen (15) days prior to such hearing upon the following:

(a) All duly organized statewide livestock associations in the state who have filed written notice with the director of a request to

receive notice of such hearings and such other livestock associations as in the opinion of the director would be interested in such application.

(b) The operators of all public livestock markets in the state.

The director shall give further notice of such hearing by publication of the notice thereof once in a daily or weekly oewspaper circulated in the city or town where such hearing is to be held, as in the opinion of the director will give public notice of such time and place of hearing to persons interested therein.

SECTION 4. That Section 25-1727, Idaho Code, be, and the same is hereby amended to read as follows:

25-1727. EXISTING ~~LICENSES~~ OPERATIONS. Any ~~stockyard,~~ livestock market~~,-sales-ring,-or-other-business-within~~ fitting the definition of ~~a--public-livestock-market-in-this-act~~ in section 27-1721(e)(2), Idaho Code, operated and conducted as such at the effective date of ~~this act,-and-the-holder-of-a-license-therefor-as-now-provided-by-state-law~~ the amended section, shall be issued a market charter upon application and payment of the annual fee without hearing as required by this act~~.~~ ~~Provided,-however,~~ provided that such application and payment shall be made within ninety (90) days after the effective date of ~~this-act~~ section 25-1721(e)(2), Idaho Code. Thereafter, such market charter holders shall be fully subject to the provisions of this act.

SECTION 5. That Section 25-1729, Idaho Code, be, and the same is hereby amended to read as follows:

25-1729. TRANSFERS OF MARKET CHARTERS -- HEARING AND CHARTER FEES. Each market charter is personal to the holder and the facilities covered therehy, and transferable only upon application in the same form and manner as new applications for such market charters. A change in the membership of a partnership or association, or the sale or transfer, directly or indirectly, of a controlling interest in the stock ownership of a corporate market charter holder shall be deemed a transfer of the market charter, subject to the requirements of this section.

Any transfer of a market charter shall be accompanied by a processing fee of one hundred dollars ($100), which sum shall not be returnable to the applicant and which sum shall be remitted by the director to the public livestock market fund. Each snch application shall also be accompanied by a separate remittance of the annual charter fee. If within ten (10) days after notice to those persons to whom notice is required to be given by section 25-1725, Idaho Code, a request for a hearing is not made by such a person, the director may transfer a market charter without a hearing if he finds that such a transfer meets the condirions required for a new charter but should a hearing be necessary, an additional fee of one hundred fifty dollars ($150) shall be remitted to the director before the proceedings shall begin.

Approved March 21, 1985.

CHAPTER 239
(H.B. No. 215)

AN ACT

RELATING TO DRIVER TRAINING; AMENDING SECTION 33-1707, IDAHO CODE, TO INCREASE THE MAXIMUM ALLOWABLE REIMBURSEMENT PER PUPIL FROM EIGHTY-THREE DOLLARS TO NINETY-THREE DOLLARS, TO STRIKE REFERENCE TO THE STATE BOARD OF EDUCATION, TO PROVIDE THAT THE STATE DEPARTMENT OF EDUCATION SHALL COMPUTE THE PER-PUPIL COST OF DRIVER TRAINING, TO PROVIDE THAT THE STATE SUPERINTENDENT OF INSTRUCTION SHALL CERTIFY TO THE STATE AUDITOR THE AMOUNT OF MONEY DUE SCHOOL DISTRICTS FOR OPERATING A DRIVER TRAINING PROGRAM, AND SHALL CAUSE AN ANNUAL REPORT TO BE PREPARED.

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

SECTION 1. That Section 33-1707, Idaho Code, be, and the same is hereby amended to read as follows:

33-1707. REIMBURSEMENT -- DETERMINATION -- CERTIFICATION. a. From the data provided by the school district, as required by section 33-1706, Idaho Code, the state board department of education shall compute the average of the number of pupils enrolling in the course and those completing the same, and determine for such average number, the per-pupil cost thereof.

The amount due the district from the driver training fund in the state treasury shall be the total cost of operating the program, or the average of the number enrolling in the course and those completing the same, multiplied by ~~eighty~~ninety-three dollars ($~~83~~93.00), whichever is the lesser.

b. On or before the fifteenth day of March, and the fifteenth day of July, and the fifteenth day of October in each year, the state ~~board-of-education~~ superintendent of public instruction shall certify to the state auditor a list of school districts having submitted the reports required in section 33-1706, Idaho Code, and the amount of money due to each as computed under the provisions of subsection a of this section. The state auditor shall draw his warrants against the driver training account in the state treasury, in favor of the several districts entitled thereto, in the amount so certified. Annually, not later than the first day of September in each year, the state ~~board-of education~~ superintendent of public instruction shall cause the supervisor of driver training to prepare a report listing the names of the school districts having submitted the reports as required in section 33-1706, Idaho Code, and the amounts of money paid each as computed under the provisions of subsection a. of this section.

Approved March 21, 1985.

CHAPTER 240
(H.B. No. 216)

AN ACT

RELATING TO OPERATING FEES FOR MOTOR VEHICLES; AMENDING SECTION 49-126, IDAHO CODE, TO PROVIDE THAT SCHOOL BUSES OPERATED EITHER BY A NONPROFIT, NONPUBLIC SCHOOL OR OPERATED PURSUANT TO A SERVICE CONTRACT WITH A SCHOOL DISTRICT FOR TRANSPORTING CHILDREN TO OR FROM SCHOOL OR IN CONNECTION WITH SCHOOL APPROVED ACTIVITIES SHALL QUALIFY FOR THE ANNUAL FEE OF TWELVE DOLLARS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 49-126, Idaho Code, be, and the same is hereby amended 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 either by a nonprofit, nonpublic school or 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 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 July 1, 1984.

Approved March 21, 1985.

CHAPTER 241
(H.B. No. 217)

AN ACT

RELATING TO THE TRANSPORTATION OF PUPILS; AMENDING SECTION 33-1501, IDAHO CODE, TO AUTHORIZE INTERDISTRICT AGREEMENTS FOR TRANSPORTING PUPILS, AND TO CLARIFY THE CONDITIONS UNDER WHICH NONPUBLIC SCHOOL

STUDENTS MAY BE TRANSPORTED.

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

SECTION 1. That Section 33-1501, Idaho Code, be, and the same is hereby amended to read as follows:

33-1501. TRANSPORTATION AUTHORIZED. To afford more equal opportunity for public school attendance, the board of trustees of each district, including specially chartered school districts, shall, where practicable, provide transportation for the public ~~and private~~ school pupils within the district, and pupils resident within adjoining districts annually agreed to in writing by the districts involved, under conditions and limitations herein set forth. Nonpublic school students may be transported, where practicable, when the full costs for providing such transportation are recovered. In approving the routing of any school bus, or in the maintenance and operation of all such transportation equipment, or in the appointment or employment of chauffeurs, the primary requirements to be observed by the board of trustees are the safety and adequate protection of the health of the pupils. Nothing herein contained shall prevent any board of trustees from denying transportation to any pupil in any school bus operated by or under the authority of said board, upon good cause being given, in writing, to the parents or guardian, or either of them, of such pupil.

No board of trustees shall be required to provide transportation for any pupil living less than one and one-half (1 1/2) miles from the nearest appropriate school. A board of trustees may require pupils who live less than one and one-half (1 1/2) miles from the nearest established bus stop to walk or provide their own transportation to such bus stop. That distance shall be determined by the nearest and best route from the junction of the driveway of the pupil's home and the nearest public road, to the nearest door of the schoolhouse he attends, or to the bus stop, as the case may be. The board may transport any pupil a lesser distance when in its judgment the age or health or safety of the pupil warrants.

To effectuate the public policy hereby declared, the board of trustees of any school district may purchase or lease, and maintain and operate school buses; may enter into contracts with individuals, firms, corporations or private carriers; or may make payments to parents or guardians, subject to the limitations herein provided, when transportation is not furnished by the district.

Approved March 21, 1985.

CHAPTER 242
(H.B. No. 218)

AN ACT

RELATING TO SPECIAL FUELS TAX PAID BY ONE-WAY RENTAL TRUCKS; AMENDING SECTION 63-2401, IDAHO CODE, TO REDEFINE "BULK STORAGE TANK" AND

TO DEFINE "QUALIFIED ONE-WAY RENTAL TRUCK"; AND AMENDING SECTION 63-2440, IDAHO CODE, TO PROVIDE AN ALTERNATIVE METHOD FOR PAYMENT OF TAX ON SPECIAL FUEL FOR QUALIFIED ONE-WAY RENTAL TRUCKS.

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~~ with a capacity of fifty-five (60~~55~~) gallons capacity or more 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 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 Ideho 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 aingular 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) "Qualified one-way rental truck" means a motor vehicle registered in Idaho at a gross weight of twenty-six thousand (26,000) pounds or under having two (2) axles and a straight body which is exclusively used by the owner in the business of renting such vehicle without driver to the general public. It does not include a "truck tractor" as defined in section 49-101, Idaho Code. To be a qualified one-way rental truck the vehicle must display clearly identifiable commercial or other markings which identify the vehicle as part of a specific one-way rental fleet.

(15) "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.

(156) "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.

(167) "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 beating or other nonhighway use, nor does it include fuels used in motor vehicles over sixteen thousand (16,000) pounds maximum groas weight owned or leased and operated by an ioatrumentality of the federal government or of the state of Idaho including the state and all of its political subdivisions.

(~~17~~8) "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~~9) "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~~20) "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 63-2440, 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.

(4) The commission may, in its discretion, grant the owner of any fleet of qualified one-way rental trucks, as defined in section 63-2401, Idaho Code, an exclusion from the requirements of sections 63-2438 and 63-2439, Idaho Code. The person engaged in the business of renting qualified one-way rental trucks may apply to the commission for such an exclusion. The application shall be in such form and con-

tain such information as the commission may require. The application may be refused, or once granted, may be cancelled by the commission if it finds the granting of this exclusion may lead to avoidance of any tax imposed by this chapter. Special fuel dispensed into the fuel tank of a qualified one-way rental truck shall be subject to tax at the pump in the manner required in section 63-2416, Idaho Code.

Approved March 21, 1985.

CHAPTER 243
(H.B. No. 221)

AN ACT

RELATING TO LEVY AND COLLECTION OF TAXES FOR HOSPITAL DISTRICTS; AMENDING SECTION 39-1333, IDAHO CODE, TO MAKE FUNDS AVAILABLE TO NEWLY FORMED DISTRICTS DURING THE PERIOD OF FORMATION OF A HOSPITAL DISTRICT TO COVER THE EXPENSES OF ORGANIZATIONS AND OTHER NECESSARY COSTS OF HOSPITAL DISTRICTS IN THE AMOUNT OF THREE MILLS OR LESS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 39-1333, Idaho Code, be, and the same is hereby amended to read as follows:

39-1333. LEVY AND COLLECTION OF TAXES -- INITIAL FINANCING. To levy and collect taxes, as herein provided, the board shall, in each year, determine the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the district, and shall fix a rate of levy, which when levied upon every dollar of assessed valuation of taxable property within the district, and with other revenues, will raise the amount required by the district annually to supply funds to pay for expenses of organization, purchase of necessary equipment, operation, maintenance and upkeep of the works and equipment of the district, provided, however, that said levy shall not exceed three (3) mills on a dollar on all taxable property within the district for the purposes hereinbefore ser forth, and provided further, that no levy shall be made in excess of two (2) mills on the dollar for the purposes set forth in this section, unless the board of trustees of the district shall grant a public hearing, after notice of the time, place and purpose of said hearing has been published in a newspaper of general circulation in the district. Provided, that in the first year after organization, the board of a district may, for the purpose of organizarion, to finance general preliminary expenses of the district or for any other purpose of the hospital district law, and before making a tax levv, incur an indebtedness not exceeding in the aggregate a sum equal to three (3) mills on each one dollar of market value for assessment purposes of

all real and personal property within the district.

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 21, 1985.

CHAPTER 244
(H.B. No. 222)

AN ACT
RELATING TO VACATION OF PLATS; AMENDING SECTION 50-1306A, IDAHO CODE, TO PROVIDE FOR A SIMPLIFIED PROCESS FOR VACATION OF CERTAIN EASEMENTS.

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

SECTION 1. That Section 50-1306A, Idaho Code, be, and the same is hereby amended to read as follows:

50-1306A. VACATION OF PLATS -- PROCEDURE. (1) When any person, persons, firm, association or corporation may desire to vacate a plat or any part thereof which is inside or within one (1) mile of the boundaries of any city, it shall be lawful for such person, persons, firm, association or corporation to petition the city council to vacate. Such petition shall set forth particular circumstances of the requests to vacate; contain a legal description of the platted area or property to be vacated; the names of the persons affected thereby, and said petition shall be filed with the city clerk.

(2) Written notice of public hearing on said petition shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of public hearing to all property owners within three hundred (300) feet of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two (2) successive weeks in the official newspaper of the city, the last of which shall be not less than seven (7) days prior to the date of said hearing.

(3) When the procedures set forth herein have been fulfilled, the city council may grant the request to vacate with such restrictions as they deem necessary in the public interest.

(4) When the platted area lies more than one (1) mile beyond the city limits, the procedures set forth herein shall be followed with the county commissioners of the county wherein the property lies. The county commissioners shall have authority, comparable to the city council, to grant the vacation, provided, however, when the platted area lies beyond one (1) mile of the city limits, but adjacent to a platted area within one (1) mile of the city, consent of the city

council of the affected city shall be necessary in granting any vacation by the county commissioners.

(5) In the case of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and slope purposes, public notice of intent to vacate is not required. Vacation of these easements shall occur upon the recording of the new or amended plat, provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing.

All publication costs shall be at the expense of the petitioner.

Approved March 21, 1985.

CHAPTER 245
(H.B. No. 227, As Amended)

AN ACT

RELATING TO HOURS OF WORK AND WORKING CONDITIONS; AMENDING SECTION 44-1104, IDAHO CODE, TO PROVIDE A DAY'S WORK IN UNDERGROUND AND SURFACE MINES, TO PROVIDE FOR THE PAYMENT OF OVERTIME AND TO DEFINE TERMS; AMENDING SECTION 44-1105, IDAHO CODE, TO PROVIDE A REQUIREMENT FOR THE PAYMENT OF OVERTIME; AND REPEALING SECTIONS 44-1108 AND 44-1109, IDAHO CODE.

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

SECTION 1. That Section 44-1104, Idaho Code, be, and the same is hereby amended to read as follows:

44-1104. MINES -- EIGHT HOURS A DAY'S WORK -- EXCEPTIONS. (1) The period of employment of workingmen in or upon all underground mines or on workings located below ground level shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

(2) The period of employment of workingmen in or upon all surface mines and on workings located at or above ground level shall be eight (8) hours per day but may be extended to ten (10) hours per day without any requirement for payment of overtime. In surface mines or on workings located at or above ground level, work over ten (10) hours per day shall not be required except in cases of emergency where life or property is in imminent danger. Any time worked in excess of ten (10) hours shall be overtime work, and any time worked in excess of forty (40) hours per week shall be overtime work. Overtime work shall be compensated at a rate of not less than one and one-half (1 1/2) times the regularly hourly rate of pay.

(3) As used in this section, the term "surface mine" means an area where minerals are extracted by removing the overburden lying above and adjacent to natural deposits and mining directly from the natural deposits thereby exposed without utilizing shafts or tunnels.

As used in this section, the term "underground mine" means an excavation in the earth containing shafts or tunnels to be utilized in removing or in helping remove minerals by digging or other mining methods.

SECTION 2. That Section 44-1105, Idaho Code, be, and the same is hereby amended to read as follows:

44-1105. SMELTERS -- EIGHT HOURS A DAY'S WORK -- EXCEPTIONS. The period of employment of workingmen in smelters, ore reduction works, stamp mills, concentrators and other places where metalliferous ores are being treated, refined and reduced for the purpose of obtaining the metals thereof, shall be eight (8) hours per day but may be extended to ten (10) hours per day without any requirement for payment of overtime. Work over ten (10) hours per day shall not be required, except in cases of emergency where life and property are in imminent danger. Any time worked in excess of ten (10) hours per day shall be overtime work, and any time worked in excess of forty (40) hours per week shall be overtime work. Overtime work shall be compensated at a rate of not less than one and one-half (1 1/2) times the regular hourly rate of pay.

SECTION 3. That Sections 44-1108 and 44-1109, Idaho Code, be, and the same are hereby repealed.

Approved March 21, 1985.

CHAPTER 246
(H.B. No. 237, As Amended)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR VOCATIONAL EDUCATION FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

FOR MAJOR PROGRAMS:	
Vocational Education Programs	$19,116,300
Advisory Council	105,900
TOTAL	$19,222,200
FROM:	
General Account	$15,604,600
Vocational Education Act of 1963 Account	3,252,200

Interagency Billing and Receipts Account	112,500
Displaced Homemaker Account	147,000
Vocational Education Advisory Council Account	105,900
TOTAL	$19,222,200

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 1, Chapter 268, Second Regular Session, Forty-seventh Idaho Legislature, to be used for nonrecurring expenditures only, for fiscal year 1986.

Approved March 21, 1985.

CHAPTER 247
(H.B. No. 244)

AN ACT

RELATING TO THE ESTABLISHMENT OF A SEED DEALERS LICENSING PROGRAM; AMENDING SECTION 22-414, IDAHO CODE, TO ADD DEFINITIONS OF TERMS; AMENDING CHAPTER 4, TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-434, IDAHO CODE, TO ESTABLISH FEES AND PROVISIONS OF SEED DEALERS LICENSE.

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

SECTION 1. That Section 22-414, Idaho Code, be, and the same is hereby amended to read as follows:

22-414. DEFINITIONS. When used in this act—

(a) The term "person" shall include any individual, partnership, corporation, company, society, or association.

(b) The term "director" means the director of the department of agriculture of the state of Idaho.

(c) The term "agricultural seeds" shall include the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural, turf, or field seeds, and mixtures of such seeds.

(d) The term "vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this state.

(e) The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within this state, and shall include noxious weed seeds.

(f) Noxious weed seeds shall be divided into two (2) classes, "primary noxious weed seeds" and "secondary noxious weed seeds" as defined in (1) and (2) of this subsection: provided, that the director may, through promulgation of regulations, add to or subtract from the list of seeds included under either definition whenever he finds after public hearing that such additions or subtractions are within the

respective definitions: provided, further that such additions or subtractions may not become effective in less than thirty (30) days after the date of such promulgation.

(1) "Primary noxious weed seeds" are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

"Primary noxious weed seeds" in this state are the seeds of: Bindweed Convolvulus arvensis; Quackgrass Agropyron repens; Canada thistle Circium arvense; Perennial sowthistle Sonchus arvensis; Whitetop Lepidium draba L. and Hymenophysa pubescens; St. Johnswort Hypericum perforatum; Russian knepweed Centaurea picris Pall.; Leafy spurge Euphorbia esula; Silver-leaf nightshade Solanum elaeagnifolium; Austrian field cress Rorippa austriaca, Perennial groundcherry Physalis subglabrata and Camelthorn Alhagi camelorum.

(2) "Secondary noxious weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns, or gardens of this state, but can be controlled by good cultural practice.

"Secondary noxious weed seeds" in this state are the seeds of Dodder, Cuscuta spp.; Perennial ragweed Ambrosia psilostachya; Povertyweed Iva axillaris; Buckthorn plantain Plantago lanceolata; Blue flowering lettuce Lactuca puchella; Puncture vine Tribulus terrestris; Yellow star thistle Centaurea solstitialis; wild oats Avena fatua; and Halogeton Halogeton glomeratus.

(g) The term "labeling" includes all labels, and other written, printed, or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(h) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this act.

(i) The term "kind" means one ~~(1)~~ or more related species or subspecies which singly or collectively is known by one (1) common name, for example, wheat, oat, vetch, sweet clover, cabbage, cauliflower, and so forth.

(j) The term "variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed or other characteristics by which it can be differentiated from other sorts of the same kind, for example, Marquis wheat, Flat Dutch cabbage, Manchu soybeans, Oxheart carrot, and so forth.

(k) The term "lot of seed" means a definite quantity of seed identified by a lot number or other lot identification every portion or bag of which is uniform; within permitted tolerances, for the factors which appear in the labeling.

(l) The term "seed dealer" means any person that lets it be known by any means or manner that he has seed offered for sale.

(m) The term "in-state seed dealer" means any seed dealer with an established plant, warehouse or place of business in the state of Idaho.

(n) The term "out-of-state seed dealer" means any seed dealer

selling or shipping seed into the state of Idaho without owning an established plant, warehouse or place of business in Idaho.

SECTION 2. That Chapter 4, 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 22-434, Idaho Code, and to read as follows:

22-434. SEED DEALERS LICENSE. An in-state seed dealer or an out-of-state seed dealer who sells, distributes, processes or mixes for the use of others any agricultural, vegetable, ornamental or tree and shrub seed, shall obtain a license from the department authorizing him to sell, distribute, process or mix such seed. A dealer shall not be entitled to a license unless he has an established plant, warehouse or place of business.

A separate license shall be required for each place of business within the state of Idaho from which seed regulated under this chapter is sold. Application for licenses shall be on a form provided by the director and shall be accompanied by a fee of no less than forty dollars ($40.00) for in-state dealers and no less than eighty dollars ($80.00) for out-of-state dealers, provided that the application of any person licensed pursuant to the provisions of chapter 23, title 22, Idaho Code, or any person selling or offering for sale, barter, exchange or trade, vegetable or ornamental plant seed in packages of less than eight (8) ounces, shall be accompanied by an application fee of no less than fifteen dollars ($15.00); provided further, that the license fees established in this chapter are minimums and that any future increases shall be as promulgated by the director pursuant to chapter 52, title 67, Idaho Code. Applications shall be renewed no later than July 1 of each year.

Fees so collected shall be paid into the state treasury and credited to the state agricultural inspection account.

Producers selling their own crop shall be exempt from this section.

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.

Approved March 21, 1985.

CHAPTER 248
(H.B. No. 246, As Amended)

AN ACT

RELATING TO MITIGATION OF EFFECTS OF AGRICULTURAL OPEN BURNING ON AIR QUALITY IN AREAS SUBJECT TO PERMIT REGULATIONS; AMENDING TITLE 39,

IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE 39, IDAHO CODE, TO PROVIDE A STATEMENT OF LEGISLATIVE FINDINGS AND INTENT AND TO AUTHORIZE THE DEPARTMENT OF HEALTH AND WELFARE TO ESTABLISH A SMOKE MANAGEMENT PLAN; TO PROVIDE IN CERTAIN CIRCUMSTANCES FOR PAYMENT OF A PERMIT FEE OF ONE DOLLAR PER ACRE OF CROPLAND BURNED, TO CREATE A STATE AGRICULTURAL SMOKE MANAGEMENT ACCOUNT, TO PROVIDE THAT THE BOARD OF HEALTH AND WELFARE MAY ADOPT REGULATIONS FOR THE MANAGEMENT AND USE OF THE ACCOUNT, TO PROVIDE FOR ANNUAL APPROPRIATIONS FROM THE ACCOUNT BY THE LEGISLATURE FOR RESEARCH AND FOR SUPPLEMENTATION OF GENERAL ACCOUNT MONEYS EXPENDED BY THE DEPARTMENT OF HEALTH AND WELFARE IN IMPLEMENTING A SMOKE MANAGEMENT PROGRAM; TO PROVIDE FOR A SMOKE MANAGEMENT ADVISORY BOARD; AND DECLARING AN EMERGENCY.

Be it enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 39, 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 39, Idaho Code, and to read as follows:

CHAPTER 23
SMOKE MANAGEMENT

39-2301. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that current knowledge and technology support the practice of burning grass seed fields to control disease, weeds, and pests and the practice of burning cereal crop residues where soil has inadequate decomposition capacity. It is the intent of the legislature to promote those agricultural activities currently relying on field burning and minimize any potential effects on air quality. In order to implement the provisions of this chapter, the department of health and welfare shall by regulation establish a smoke management plan.

39-2302. AGRICULTURAL BURNING FEES -- ACCOUNT -- REGULATIONS -- RESEARCH -- MANAGEMENT PROGRAM. (1) Any person who applies to the department of health and welfare for an agricultural burning permit required by regulations adopted pursuant to section 39-107, Idaho Code, shall pay to the department a fee of one dollar ($1.00) per acre of cropland to be burned. The department shall remit all fees monthly to the state treasurer, who shall deposit the moneys in the state agricultural smoke management account which is hereby created. The board of health and welfare may, upon the recommendation of the department, adopt rules and regulations pertaining to:

(a) Collection, handling, and refund of fees established in this subsection; and

(b) Disbursement of funds from the account as provided in subsection (2) of this section.

(2) The department of health and welfare may use moneys from the agricultural smoke management account as appropriated annually by the legislature for:

(a) Research to: (i) develop alternative crops which do not

require burning; (ii) improve burning and cultural practices for crops which may require burning; and (iii) explore alternatives to burning; and

(b) Supplementation of appropriated general account moneys for implementation of the agricultural smoke management program referenced in subsection (1) of this section.

39-2303. SMOKE MANAGEMENT ADVISORY BOARD. (1) A smoke management advisory board is established in the department to advise the director in the administration and enforcement of the provisions of this chapter by overseeing the funds provided and to review and recommend research programs. The board shall consist of five (5) members; three (3) from the agricultural community and two (2) nonagriculturists from the general public, appointed by the governor and to serve at the pleasure of the governor. The sixth member shall be ex officio and shall be the chief of the air quality bureau. The board shall be appointed within ninety (90) days following adoption of this chapter.

(2) The board shall, on the first day of each July or as soon thereafter as practicable, elect a chairman and a vice chairman from among its members, and these officers shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the director. The chairman shall preside at all meetings of the board and the secretary shall make a record of the proceedings which shall be preserved in the offices of the department. If the chairman is absent from any meeting of the board, his duties shall be discharged by the vice chairman. All members of the board present at a meeting shall be entitled to vote on any question, matter, or thing which properly comes before it.

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 21, 1985.

CHAPTER 249
(H.B. No. 250, As Amended)

AN ACT

RELATING TO BEEF COUNCIL ASSESSMENTS; AMENDING SECTION 25-2907, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE BEEF COUNCIL ASSESSMENT ON CATTLE.

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. (1) There is hereby levied and imposed upon all cattle an assessment of not more than fifty cents (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~~.

(2) The assessment imposed by this section shall be collected:

(a) Each time a change in ownership of cattle occurs.

(b) When Idaho cattle leave the state permanently even though no change in ownership occurs.

(3) The state brand inspector shall collect said assessment in addition to, at the same time~~,~~ and 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.~~

(4) The amount of the assessment collected on all cattle consigned for immediate sale to an Idaho public livestock market 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 21, 1985.

CHAPTER 250
(H.B. No. 251)

AN ACT

RELATING TO DISCLOSURE OF INFORMATION FROM VITAL STATISTICS RECORDS; AMENDING SECTION 39-270, IDAHO CODE, TO PROVIDE THAT A COPY OF A CERTIFICATE ON FILE WITH THE REGISTRAR OF VITAL STATISTICS SHALL BE PROVIDED TO ANY STATE, FEDERAL OR LOCAL PUBLIC AGENCY FOR PURPOSES OF CHILD SUPPORT ENFORCEMENT OR INVESTIGATION RELATED TO BENEFIT PAYMENTS.

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

SECTION 1. That Section 39-270, Idaho Code, be, and the same is hereby amended to read as follows:

39-270. DISCLOSURE OF INFORMATION. (a) Certificates and records in the custody of the state registrar shall be open to inspection subject to the provisions of this chapter and the regulations of the board, the provisions of section 9-302, Idaho Code, to the contrary notwithstanding; and it shall be unlawful for any state or local official or employee under this chapter to disclose any data contained in the records, except as authorized by this chapter and the regulations of the board.

(b) A complete copy, or any part of a certificate, may be issued to any applicant who can show direct and tangible interest in the record for which he applies ~~for; and subject~~. A complete copy, or any part of a certificate, shall be issued upon request to a state, federal or local public agency for child support enforcement purposes pursuant to chapters 10, 11 and 12, title 7, Idaho Code, and sections 16-1622, 16-1815, 32-710A, and 56-203, Idaho Code, or for the purpose of investigation of fraud related to benefit payments. Subject to such provisions as the board may prescribe, data contained on records may be used by federal, state or municipal agencies for the purpose of verification of data.

(c) Under such regulations as the board may prescribe, data contained on records may be used for research, public health or statistical purposes. No lists of registration shall be compiled for public use.

(d) The manner of keeping local records and the use thereof shall be prescribed by the board, in keeping with the provisions of this section.

(e) When one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, atillbirth, marriage or divorce, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations promulgated by the board to provide for the continued safekeeping of the records.

Approved March 21, 1985.

CHAPTER 251
(H.B. No. 262)

AN ACT

RELATING TO ARTICLES OF INCORPORATION OF INSURANCE COMPANIES; REPEALING SECTION 41-321, IDAHO CODE; AMENDING SECTION 41-2827, IDAHO CODE, TO REQUIRE THREE COPIES OF AMENDMENTS OF ARTICLES BE SUBMITTED TO THE DEPARTMENT OF INSURANCE, TO REQUIRE AMENDMENTS BE NOTARIZED AND TO REMOVE THE REQUIREMENT OF FILING AMENDMENTS WITH THE COUNTY RECORDER; AND TO AUTHORIZE THE SECRETARY OF STATE TO REMOVE FROM HIS FILES AND DESTROY, ALL ARTICLES OF INCORPORATION RECEIVED FROM FOREIGN INSURERS.

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

SECTION 1. That Section 41-321, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 41-2827, Idaho Code, be, and the same is hereby amended to read as follows:

41-2827. AMENDMENT OF ARTICLES OF INCORPORATION -- MUTUAL INSURER. (1) A domestic mutual insurer heretofore or hereafter formed may amend its articles of incorporation for any lawful purpose by affirmative vote of a majority of those of its members present or represented by proxy at any regular annual meeting of its members, or at any special meeting called for the purpose.

(2) Upon adoption of such an amendment the insurer shall make a certificate thereof in ~~quadru~~triplicate under its corporate seal, setting forth such amendment and the date and manner of the adoption thereof, which certificate shall be executed by the insurer's president or vice-president and secretary or assistant secretary, and be ~~acknowledged~~ verified by one of them before ~~an officer authorized by law to take acknowledgments of deeds~~ notary public. The insurer shall deliver to the director the ~~quadru~~triplicate originals of the certificate together with the filing fee specified therefor in section 41-401 (fee schedule). The director shall transmit one (1) original of the proposed amendment to the attorney general for examination. If the director and the attorney general find that the certificate and the amendments comply with law, the director shall endorse his approval upon each of the ~~quadru~~triplicate originals, place one (1) set on file in his office and return the remaining ~~three (3)~~ originals to the insurer. The insurer shall file one (1) of such originals with the secretary of state~~, file one (1) for record in the office of the county recorder of the county in which the insurer's registered office is located,~~ and retain the ~~fourth~~ third original for its corporate records. The amendment shall be effective when filed with the secretary of state.

(3) If the director or the attorney general find that the proposed amendment or certificate does not comply with law, the director shall not approve the same, and shall return all certificates of amendment to the insurer together with his written statement of reasons for nonapproval. The filing fee shall not be returnable.

SECTION 3. On or after the effective date of this act, the secretary of state may remove from his files and destroy the records of all foreign insurers which have been filed in his office pursuant to section 41-321, Idaho Code, and its predecessor sections.

Approved March 21, 1985.

CHAPTER 252
(H.B. No. 264)

AN ACT

RELATING TO ACCESS ACROSS PRIVATE LANDS; AMENDING CHAPTER 3, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-313, IDAHO CODE, TO ALLOW A PERSON TO RELOCATE AN ACCESS ACROSS PRIVATE LANDS.

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

SECTION 1. That Chapter 3, 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 55-313, Idaho Code, and to read as follows:

55-313. RELOCATION OF ACCESS. Where, for motor vehicle travel, any access which is less than a public dedication, has heretofore been or may hereafter be, constructed across private lands, the person or persons owning or controlling the private lands shall have the right at their own expense to change such access to any other part of the private lands, but such change must be made in such a manner as not to obstruct motor vehicle travel, or to otherwise injure any person or persons using or interested in such access.

Approved March 21, 1985.

CHAPTER 253
(H.B. No. 265)

AN ACT

RELATING TO HIGHWAYS, BRIDGES AND FERRIES; REPEALING TITLE 40 AND SECTIONS 49-205 AND 67-3201, IDAHO CODE; ADDING A NEW TITLE 40, IDAHO CODE, TO PROVIDE FOR A RECODIFICATION OF HIGHWAY AND BRIDGE LAWS; AMENDING SECTIONS 21-136, 34-625, 49-916, 49-1301, 49-2805, 50-313, 63-2412, 63-2418 AND 63-2440, IDAHO CODE, TO PROVIDE CORRECT REFERENCES.

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

SECTION 1. That Title 40, Idaho Code, and Sections 49-205 and 67-3201, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That the Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW TITLE, to be known and designated as Title 40, Idaho Code, and to read as follows:

TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 1
DEFINITIONS

40-101. DEFINITIONS. Words and phrases as used in this title are defined in sections 40-102 through 40-127, Idaho Code.

40-102. DEFINITIONS -- A.

(1) "Activities, commercial or industrial." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(2) "Advertising business, outdoor." (See "Outdoor advertising business," section 40-116, Idaho Code)

(3) "Advertising display" means advertising structures and signs.

(4) "Advertising structure(s)" or "structure(s)" or "sign(s)" means any thing designed, intended or used to advertise or inform. "Advertising structure" or "sign" does not include:

(a) Official notices issued by any court or public body or officer.

(b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice.

(c) Directional, warning or information structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures.

(d) An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of the city or county, provided the same is maintained wholly at public expense. Where a city has been bypassed, but remains within five (5) miles of an interstate highway or primary freeway, the Idaho transportation board, in its discretion, may grant the city the right to erect and maintain a billboard displaying the name of the city at a location not to exceed one (1) mile from an interchange primarily serving that city. Billboards erected must be at locations consistent with department regulations and safety standards.

(5) "Agency," as applied to highway relocation assistance as provided by chapter 20, title 40, Idaho Code, means any subdivision or entity of state or local government in the state of Idaho authorized by law to engage in any highway program or perform any highway project in which the acquisition of real property may result in the displacement of any person.

(6) "Areas, commercial or industrial, unzoned." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(7) "Areas, urban." (See "Urban areas," section 40-122, Idaho Code)

(8) "Automobile graveyard" means any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(9) "Average annual net earnings," for the purposes of section

40-2004, Idaho Code, mean one-half (1/2) of any net earnings of the business or farm operations, before federal, state and local income taxes, during the two (2) taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for the project, or during any other period as the agency determines to be more equitable for establishing the earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during the two (2) year period, or any other period as determined by the agency.

40-103. DEFINITIONS -- B.

(1) "Board" means the Idaho transportation board.

(2) "Business" means any lawful activity, excepting a farm operation, conducted primarily for the purchase, resale, lease and rental of personal and real property, and for the manufacture, processing or marketing of products, commodities, or other personal property; for the sale of services to the public; or solely for the purpose of section 40-2004(1), Idaho Code, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not displays are located on the premises on which any of the activities are conducted.

40-104. DEFINITIONS -- C.

(1) "City system" means all public highways within the corporate limits of a city except those which are a part of the state highway system or a single county-wide highway district under the provisions of chapter 14, title 40, Idaho Code.

(2) "Commercial activities." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(3) "Commercial areas, unzoned." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(4) "Commissioners" means the board of county commissioners of a county of this state.

(5) "Controlled-access facility" means a highway, road or street especially designed for through traffic to which owners or occupants of abutting land have no right or easement or only a controlled right or easement of access by reason of the fact that their property abuts upon the controlled-access facility. These highways, roads or streets may be freeways open to use by all customary forms of highway, road and street traffic, or they may be parkways from which trucks, buses and other commercial vehicles shall be excluded.

(6) "County highway system" or "county secondary highways" mean all public highways in a county except those included within the state highway system, those included within city street systems of incorporated cities, and those under federal control.

40-105. DEFINITIONS -- D.

(1) "Department" means the Idaho transportation department.

(2) "Director" means the director of the Idaho transportation department.

(3) "Displaced person" means any individual, family, business or farm operation which moves from real property or moves personal property from real property acquired for a program or project of a state or local agency, in whole or in part, or as the result of a written order of an acquiring agency to vacate real property for a program or project of a state nr local agency, and, solely for the purposes of section 40-2004, Idaho Code, as a result of a written order of an acquiring agency to vacate other real property, on which a person conducts a business or farm operation, for a program or project of any state or local agency.

(4) "Dump" means any place or area, not operated as a business, where junk is deposited, stored or kept.

40-106. DEFINITIONS -- E.

(1) "Erect" means to construct, build, raise, assemble, place, affix, create, paint, draw or in any other way bring into being or establish, but does not include any of the foregoing activities when performed incident to the change of an advertising mesaage or customary maintenance of a sign. With respect to certain easements held by the state restricting the erection of structures on certain lands, the state of Idaho and the department shall be deemed to have waived such restrictions with regard only to each sign erected prior to October 22, 1965.

(2) "Expenditure" means the awarding of a contract, franchise or authority to another by a district, and every manner and means whereby the highway district disburses district funds or obligates itself to disburse district funds. "Expenditure" does not include disbursement of district funds to regulerly employed highway district employees, officials or agents, 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.

40-107. DEFINITIONS -- F.

(1) "Facilities" mean tracks, pipes, mains, conduits, cables, wires, towers, poles, equipment and appliances.

(2) "Family" means two (2) or more persons living together in the same dwelling unit who are related to each other by blood, marriage, adoption or legal guardianship.

(3) "Farm operation" means any activity conducted primarily for the production of agricultural products or commodities, including timber, for sale and home use, and producing agricultural products or commodities in sufficient quantity to contribute materially to the operator's support.

(4) "Feeder highway" means any highway which, in the opinion of the transportation board, is needed to create nr facilitate access to a turnpike project upon which a toll is charged for transit.

40-108. DEFINITIONS -- G. [RESERVED.]

40-109. DEFINITIONS -- H.

(1) "Highway district system" means all public highways within

each highway district, except those included within the state highway system and those under federal control.

(2) "Highway system, county." (See "County highway system," section 40-104, Idaho Code)

(3) "Highway system, state." (See State highway aystem," section 40-120, Idaho Code)

(4) "Highway users' fund bonds" mean those honds issued for and on behalf of dissolved city street systems or highway districts, and the funds out of which those bonds are repayable shall be the moneys received or provided by section 40-707, Idaho Code.

(5) "Highways" mean roads, streets, alleys and bridges laid out or established for the public or dedicated or ahandoned to the public. Highways shall include necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls, bridges, tunnels, grade separation structures, roadside improvements, adjacent lands or interests lawfully acquired, pedestrian facilities, and any other structures, works or fixtures incidental to the preservation or improvement of the highways. Roads laid out and recorded as highways, by order of a board of commissioners, and all roads used as such for a period of five (5) years, provided they shall have heen worked and kept up at the expense of the public, or located and recorded hy order of a board of commissioners, are highways. Whenever any corporation owning a road or a bridge is dissolved, or discontinues the road or bridge, the bridge or road becomes a highway.

40-110. DEFINITIONS — I.

(1) "Improved highway" means a graded and drained earth traveled way or better, to include one graded and graveled or with paved surface, and a graded and drained earth highway means a traveled way of natural earth, aligned and graded to permit reasonably convenient use by motor vehicles, and drained by a longitudinal and transverse system, natural or artificial, sufficient to prevent serious impairment of the highway by surface water.

(2) "Individual" means a person who is not a member of a family.

(3) "Industrial activities." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(4) "Industrial areas, unzoned." (See "Unzoned commercial or industrial areas," section 40-122, Idaho Code)

(5) "Information center" means any area or site established and maintained at a safety rest area on an interstate or primary highway by or under the supervision or control of the department, where panels for the display of advertising and informational signs may be erected and maintained.

(6) "Interchange area" means the commencing or ending at the beginning of pavement widening at the exit or entrance to the main traveled way of an interstate, primary freeway, or turnpike project.

(7) "Interstate system" or "interstate highway" means any portion of the national system of interstate and defense highways located within the state, as officially designated or as may be hereafter so designated, by the Idaho transportation board, and approved by the secretary of transportation, pursuant to the provisions of title 23, U.S. Code, "Highwaya".

40-111. DEFINITIONS -- J.

(1) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste; junk, dismantled, or wrecked automobiles, or their parts; iron, steel and other scrap ferrous or nonferrous material.

(2) "Junkyard" means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

40-112. DEFINITIONS -- K. [RESERVED.]

40-113. DEFINITIONS -- L.

(1) "Lawfully maintained" means a sign maintained on private land in accordance with state law and with the consent or acquiescence of the owner, or his agent, of the property upon which the sign is located.

40-114. DEFINITIONS -- M.

(1) "Main traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(2) "Maintain" or "place" means to allow to exist, subject to the provisions of chapter 19, title 40, Idaho Code.

(3) "Maintenance" means to preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an existing highway or structure in a suitable state for use.

(4) "Mortgage" means a class of liens, including deeds of trust, as are commonly given to secure advances on, or the unpaid purchase price of real property under the laws of the state of Idaho, together with the credit instruments, if any, secured by it.

40-115. DEFINITIONS -- N. [RESERVED.]

40-116. DEFINITIONS -- O.

(1) "Outdoor advertising business" means the business or occupation of placing, erecting, constructing or maintaining advertising structures or signs. The term does not include the placing, erecting, constructing or maintaining of advertising displays exclusively pertaining to the business of the person placing the advertising display, but does include a person whenever he personally or through employees places advertising displays containing advertising which does not pertain exclusively to his own business.

(2) "Owner" means all persons and all political subdivisions of the state having any title or interest in any property, rights, easements and interests authorized to be acquired by chapter 3, title 40, Idaho Code.

40-117. DEFINITIONS -- P.

(1) "Person" includes every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee

for the benefit of creditors.

(2) "Place." (See "Maintain," section 40-114, Idaho Code)

(3) "Primary system" or "primary highway" means any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho transportation board, and approved by the secretary of transportation, pursuant to the provisions of title 23, U.S. Code, "Highways".

(4) "Public highways" mean all highways open to public use in the state, whether maintained by the state or by any county, highway district, city, or other political subdivision. (Also see "Highways," section 40-109, Idaho Code)

40-118. DEFINITIONS -- Q. [RESERVED.]

40-119. DEFINITIONS -- R. [RESERVED.]

40-120. DEFINITIONS -- S.

(1) "Safety rest area" means an area or site established and maintaioed within or adjacent to the right-of-way by or under public supervision or control, for convenience of the traveling public.

(2) "Sign." (See "Advertising structure," section 40-102, Idaho Code.)

(3) "Single couoty-wide highway district" means all public highways within the county, including those within all cities of the county, but excepting those within the state highway system and those under federal control.

(4) "State highway system" means the principal highway arteries in the state, including connecting arteries and extensions through cities, and includes roads to every county seat in the state.

(5) "State law" means a provision of the constitution or statutes of this state, or an ordinance, rule or regulation enacted or adopted by an agency or political subdivision of this state pursuant to the constitution or statutes.

(6) "Structure." (See "Advertising structure," section 40-102, Idaho Code)

(7) "System, city." (See "City system," section 40-104, Idaho Code)

40-121. DEFINITIONS -- T.

(1) "Tourist related advertising sign" means any sign whith advertises a specific public or private facility, accommodation or service, at a particular location or site, including: overnight lodging, a camp site, food service, recreational facility, tourist attraction, education or historical site or feature, automotive service, facility or garage.

(2) "Turnpike project" means any express highway or bridge at locations and between terminals as may be established by the board and constructed or to be constructed under the provisions of chapter 4, title 40, Idaho Code, and shall include all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage and other buildings,

which the board may deem necessary for the operation of a project, together with all property, rights, easements, and interests which may be acquired by the board for the construction or the operation of a project.

(3) "Turnpike revenue bonds" mean bonds of the transportation board authorized under the provisions of section 40-412, et seq., Idaho Code.

40-122. DEFINITIONS -- U.

(1) "Unzoned commercial or industrial areas" mean those areas not zoned by state or local law, regulation or ordinance which are occupied by industrial or commercial activities, other than outdoor advertising signs, and the lands along the highway for a distance of six hundred (600) feet immediately abutting to the area of the activities. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway.

"Commercial or industrial activities" mean those activities generally recognized as commercial or industrial by zoning authorities in the state, except that none of the following activities shall be considered commercial or industrial:

(a) Agricultural, forestry, grazing, farming and related activities including wayside fresh produce stands.

(b) Transient or temporary activities.

(c) Activities not visible from the main traveled way.

(d) Activities conducted in a building principally used as a residence.

(e) Railroad tracks and minor sidings.

(2) "Urban areas" mean any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to shall be determined by the latest United States census.

(3) "Utility" means any publicly, privately or cooperatively owned utility.

40-123. DEFINITIONS -- V.

(1) "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

40-124. DEFINITIONS -- W. [RESERVED.]

40-125. DEFINITIONS -- X. [RESERVED.]

40-126. DEFINITIONS -- Y. [RESERVED.]

40-127. DEFINITIONS -- Z. [RESERVED.]

CHAPTER 2
GENERAL PROVISIONS

40-201. STATE HIGHWAY, COUNTY ROAD, HIGHWAY DISTRICTS AND CITY

STREET SYSTEMS ESTABLISHED. There shall be a system of state highways in the state, a system of county roads in each county, a system of highways in each highway district, and a system of streets in each city, except as otherwise provided.

40-202. RECORDED AND WORKED HIGHWAYS. Roads laid out and recorded as highways, by order of a board of commissioners, and all roads used as highways for a period of five (5) years, provided they shall have been worked and kept up at the expense of the public, or located and recorded by order of a board of commissioners, are highways. Whenever any corporation owning a road or a bridge is dissolved, or discontinues the road or bridge, the bridge or road becomes a highway.

40-203. ABANDONMENT OF HIGHWAYS. A road established by prescription not worked or used for a period of five (5) years ceases to be a highway for any purpose whatever. In the case of roads furnishing public accesa to state or federal public landa or waters, no person may encroach upon them and restrict public use without first petitioning for the abandonment of the road to the appropriate commissioners of the county or highway district in which the road is located. Until abandonment is authorized by the commissioners having jurisdiction, public use of the roadway may not be restricted or impeded by encroachment or installation of any obstruction restricting public use or by the installation of signs or notices that might tend to restrict or prohibit public use.

40-204. ASSENT TO FEDERAL ACTS. (1) The state of Idaho renews its assent to the provisions of the act of congress approved July 11, 1916, entitled, "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes" (39th United States Statutes at Large, page 355), and its amendments or acts supplementary to it, and accepts the provisions and benefits of any act of congress enacted having for its purpose the construction, improvement and maintenance of public roads or highways in the state of Idaho.

(2) The state of Idaho renews its assent to the provisions of the act of congress approved October 22, 1965, entitled, "An act to provide for scenic development and road beautification of the federal-aid highway systems" (Public Law 89-285), and its amendmenta, or acts supplementary to it and accepts the provisions and benefita of any act of congress enacted having for its purpose the control of outdoor advertising, and junkyards adjacent to highways, or the landscaping and scenic enhancement of highways in the state of Idaho.

40-205. SAVING CLAUSE FOR ACTS AND SUITS IN PROCESS OF BEING CARRIED OUT. This act shall not affect any act done, ratified or confirmed, or any right accrued, or established, or any action or proceeding had or commenced in a civil or criminal cause prior to July 1, 1985, and actions or proceedings may be prosecuted and continued by the department, and when required, by the board or the director, as the case may be.

40-206. PUBLICATION OF NOTICE. Whenever publication of a notice is required for a hearing or election relating to a county road system or highway district, it shall appear in a newspaper printed and published within the district or county, or in some newspaper of general circulation in the county or district, and the notice shall, if the publication is in a weekly newspaper, be published in at least three (3) consecutive issues prior to the date set for the intended action, or if published in a daily newspaper then in at least six (6) consecutive daily issues. The last notice shall be not less than eight (8) days prior to a hearing, and not less than fifteen (15) days prior to an election, except as otherwise specifically provided in this title.

40-207. VIOLATIONS -- PENALTIES. Any person who shall violate or aid in the violation of any of the provisions of this title, unless a different penalty is prescribed by law, shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not more than five hundred dollars ($500), or imprisonment for a period not to exceed ninety (90) days, or by both such fine and imprisonment. All fines collected for violations of the provisions of this title shall be paid into the highway distribution account established in section 40-701, Idaho Code.

CHAPTER 3
IDAHO TRANSPORTATION BOARD

GENERAL

40-301. IDAHO TRANSPORTATION BOARD -- CREATION -- AUTHORITY. There is established the Idaho transportation board, which is vested with authority, control, supervision and administration of the department created and established by this title.

40-302. BOARD -- MEMBERSHIP -- APPOINTMENT -- QUALIFICATION. The board shall be composed of three (3) members to be appointed by the governor. Not more than two (2) members shall at any time belong to the same political party. Members shall be well informed and interested in the construction and maintenance of public highways and highway systems, and their selection and appointment shall be made solely with regard to the best interests of the various functions of the board. At least one (1) member shall have special training, experience or expertise in the field of aeronautical transportation. Each member at the time of his appointment shall have been a citizen, resident and taxpayer of the state of Idaho and of the district from which he is appointed for at least five (5) years. During his tenure of office no member shall hold or occupy any federal, state, county, or municipal elective or other appointive office, or any office in any political party.

40-303. CREATION OF DISTRICTS -- RESIDENCE OF BOARD MEMBERS -- TERM OF OFFICE. (1) For the purposes of selection of members of the board, the state of Idaho shall be divided into three (3) director districts as follows:

(a) District No. 1. The counties of Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power and Teton.

(b) District No. 2. The counties of Ada, Adams, Boise, Blaine, Camas, Cassia, Canyon, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Payette, Owyhee, Twin Falls, Valley and Washington.

(c) District No. 3. The counties of Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone.

(2) Each of the districts shall be represented by one (1) member appointed from that district. The governor shall appoint members subject to confirmation by the senate for six (6) year terms, the terms to expire on January 31. The terms of the members shall begin immediately upon their appointment and qualification. Each member shall hold office after the expiration of his own term until his successor has been appointed and qualified. Within fifteen (15) days after the expiration of a term, the governor shall appoint a successor and submit that appointment to the senate for confirmation. Should any member of the board resign, die, move from the district from which he was appointed, or be removed from office, the governor shall, within thirty (30) days, appoint a successor with like qualifications to serve for the remainder of the retiring member's unexpired term. If a vacancy occurs within forty-five (45) days after the convening of the legislature and the legislature is still in sesaion, the governor shall make a nomination to fill the vacancy and submit it to the senate for their approval.

40-304. OATH OF OFFICE — BOND. Each member of the board shall receive a certificate of appointment from the governor, and before entering upon the discharge of his official duties shall file with the secretary of state a declaration of the political party to which the board member belongs, and the member shall also be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code.

40-305. REMOVAL OF BOARD MEMBERS. The governor may remove any board member for incompetency, inefficiency, intemperance, misconduct in office, neglect or dereliction of duty. Charges in writing, setting forth fully and concisely the cause and grounds of removal, together with a citation directing the member within fifteen (15) days after the service of the charges and citation to appear and be afforded a public hearing in the office of the governor, shall be effected by delivering a copy of the charges to the member or mailing it by United States registered mail in a sealed envelope with postage fully prepaid, addressed to the member at his last address of record. The appearance may be personal or by answer, and by counsel. Service of the charges and citation shall be complete if delivered personnally at the time of delivery, and if mailed at the time of deposit in accordance with the provisions of the Code of Civil Procedure relating to service by mail. A complete transcript of the hearing, including the charges, answers, exhibits and testimony and proceedings, findings, decision and order, shall be made. If the member is removed from office, the completed transcript shall within ten (10) days after the

decision be filed with the secretary of state.

40-306. COMPENSATION AND REIMBURSEMENT FOR EXPENSES. Each member of the board shall be compensated as provided by section 59-509(h), Idaho Code. The compensation and expenses shall be allowed and paid from the state highway and the state aeronautic's accounts. This section is expressly exempted from the provisions of sections 67-2007 and 67-2008, Idaho Code.

40-307. OFFICE OF BOARD -- ORGANIZATION MEETINGS -- OFFICERS. The permanent offices of the board shall be maintained at Boise City, Idaho, in suitable offices and quarters, with equipment, records and supplies as may be deemed necessary to carry out the provisions of this title. The members of the board shall select a chairman and a vice chairman, and shall adopt a seal having upon it the words, "Idaho Transportation Board--State of Idaho." The secretary of the board shall have care and custody of the seal. The board shall appoint a secretary and fix his compensation. The secretary shall hold office subject to the pleasure of the board, and carry out administrative duties as delegated to him. For the administration of their functions the board may employ other employees and personnel as may be deemed necessary, prescribe their duties, and fix their compensation.

40-308. MEETINGS -- QUORUM. The board shall hold not less than twelve (12) regular meetings each year, on a day of each month as the board shall determine, unless a legal holiday, then on the next ensuing business day, for the purpose of transacting business as may come before it. At the February meeting of each year the board shall elect officers. Additional regular meetings may be held as the board shall determine in its by-laws, rules and regulations. Special meetings of the board may be called at any time and from time to time by two (2) members of the board, and on the written request of the director, showing the necessity and purpose for a meeting. The board chairman may call a special meeting specifying the time, place and purpose of the meeting. The secretary shall cause due notice to be given to each member, either personally or by telephone, mail or telegraph, of the time, place and purpose of all special and regular meetings, and upon his failure so to do, notice may be given either by the chairman or the two (2) members concurring in calling any meeting. Any meeting of the board at which all of the members are present shall be as valid as if held pursuant to proper notice, and should a meeting be held without notice when all members are not present, if the absent member or members shall have signed a waiver, or shall subsequently sign the minutes of the meeting, it shall be as valid and binding as though called upon due notice. A majority of the members of the board shall constitute a quorum and a majority of all members of the board shall be necessary for the authorization of any act by the board, except as otherwise herein provided.

40-309. POWERS AND DUTIES -- VESTED POWERS. The board is vested with the following functions, powers and duties:

(1) To contract fully, in the name of the state of Idaho, with

respect to the rights, powers and duties vested in the board by this title.

(2) Sue and be sued in its own name.

40-310. POWERS AND DUTIES -- STATE HIGHWAY SYSTEM. The board shall:

(1) Determine which highways in the state, or sections of highways, shall be designated and accepted for the purpose of this title as a part of the state highway system.

(a) In determining which highways or section of highways shall be a part of the state highway system, the hosrd shall consider the relative importance of each highway to cities, existing business, industry and enterprises and to the development of cities, natural resources, industry and agriculture and be guided by statistics on existing and projected traffic volumes. The board shall also consider the safety and convenience of highway users, the common welfare of the people of the state, and of the cities within the state and the financial capacity of the state of Idaho to acquire rights-of-way and to construct, reconstruct and maintain state highways. In making a determination, the board must, before it can abandon, relocste, or replace by a new highway, any highway serving or traversing any city, or the area in which the city is located, specifically find and determine that the benefits to the state of Idaho are greater than the economic loss and damage to the city affected. No highway serving or traversing any city shall be abandoned, relocated or replaced by a new highway serving the area in which a city is located without the board first holding a public hearing in that city. Written notice setting forth the action proposed to be taken by the board shall be served upon the mayor of any city affected, and upon all property owners from which acquisition of right-of-way is necessary and from which that property must be purchased, by certified or registered mail, and shall also be published in at least one (1) issue of a newspaper published and of general circulation in each city affected. If there is no newspaper published in the city, then a notice shall be posted in three (3) of tbe most public places in the city. The notice shall contain a statement of any action contemplated by the board affecting the city or property owner, and shall specify the time and place of the hearing. At the bearing a property owner from which right-of-way is necessary to be acquired and from which that property must be purchased, and the governing body of any city affected may appear, voice objections to the action proposed to be taken by the board, and may present evidence and call witnesses in support of their objections. The board shall give consideration to the protests and objections and make a written decision determining whether or not the proposed action would be of greater benefit to the state of Idaho than the economic loss and damage resulting to the city. The board shall serve a written decision upon the governing body of any affected city and property owners within ten (10) days following the completioo of the hearing, and no action shall be taken by the hoard prior to the service of the written decision.

(b) Within ten (10) days after the written decision has been served, an appeal may be taken from the decision by the person from whom the property must be purchased, the interested city, board of county commissioners, or highway district commissioners to the district court in and for the county in which the city affected by the order is located. The appeal shall be taken and perfected in the following manner:

1. The appellant shall file with the clerk of the district court of the proper county, and serve upon the board, notice specifying the grounds of appeal, and a certified copy of the decision of the board appealed from. The district court shall then have jurisdiction of the matter and may make any order or judgment that the equities of the case require. Upon the appeal being perfected, the appeal shall receive a preferential place on the calendar of the district court.

2. The appeal shall be heard and determined by the district court in a summary manner as in a suit in equity, and the trial shall be a trial de novo on the issues framed. The court may affirm, reverse, or modify the order appealed from and may issue injunctions whenever it appears necessary for the protection of the interests of any party to the appeal.

3. No bond or undertaking shall be required of any party appealing under any of the provisions of this section.

4. The filing fees required in the district court shall be the same as is provided for filing cases originally in the court.

(c) Any final order or judgment of the district court under this subsection shall be appealable to the supreme court of the state of Idaho within thirty (30) days following the entry of the final order or judgment in the same manner as appeals in civil actions are taken to the Supreme Court.

(d) The board shall take no action on any matter affecting any property owner from which right-of-way is necessary to be acquired or any city until either:

1. The time has elapsed for an appeal to the district court and no appeal has been filed; or

2. If an appeal has been taken to the district court, then until the time for appeal from its final order or judgment to the supreme court has elapsed and no appeal has been taken; or

3. If an appeal has been taken to the supreme court, then until the matter has been finally determined by that court.

(2) The board shall cause to be prepared and publicly displayed a conspicuous place in their offices a complete map of the state ghway system in which each section shall be identified by location, ngth and a control number. The map shall be of a suitable size and ale and contain data and information as deemed appropriate by the ard. Periodically, and not less than once each year, the board shall vise and correct the map to record the changes in the designated ate highway system resulting from additions, abandonments and relotions. Hand maps of the state highway system shall be issued periodally for public distribution.

(3) Abandon the maintenance of any highway and remove it from the state highway system, when that action is determined by the unanimous consent of the board to be in the public interest.

(4) Locate, design, construct, reconstruct, alter, extend, repair and maintain state highways, and plan, design and develop statewide transportation systems when determined by the board to be in the public interest.

(5) Establish standards for the location, design, construction, reconstruction, alteration, extension, repair and maintenance of state highways, provided that standards of state highways through cities shall be coordinated with the standards in use for the systems of the respective cities. The board shall make agreements with incorporated cities having within their limits state highway sections in the category described in section 40-502, Idaho Code, and provide for an equitable division of the maintenance of those sections. The board may also, in the interest of economy and efficiency, arrange to have any or all of the state highway sections within incorporated cities maintained by those cities, the cost of the work as limited by section 40-502, Idaho Code, to be reimbursed by the state.

(6) Cause to be made and kept, surveys, studies, maps, plans, specifications and estimates for the alteration, extension, repair and maintenance of state highways, and so far as practicable, of all highways in the state, and for that purpose to demand and to receive reports and copies of records from county commissioners, commissioners of highway districts, county engineers and directors of highways and all other highway officials within the state.

(7) Approve and determine the final plans, specifications and estimates for state highways and cause contracts for state highway work to be let by contract in the manner provided by law.

(8) Expend funds appropriated for construction, maintenance and improvement of state highways.

(9) Designate state highways, or parts of them, as controlled-access facilities and regulate, restrict or prohibit access to those highways to serve the traffic for which the facility is intended.

(10) Close or restrict the use of any state highway whenever the closing or restricting of use is deemed by the board to be necessary for the protection of the public or for the protection of the highway or any section from damage.

(11) Designate main traveled state highways as through highways. The traffic on through highways shall have the right-of-way over the traffic on any other highway intersecting with it, provided, that at the intersection of two (2) through highways the board shall determine which traffic shall have the right-of-way.

(12) Furnish, erect and maintain standard signs on side highways directing drivers of vehicles approaching a designated through highway to come to a full stop before entering or crossing the through highway.

(13) Provide a right-of-way for and supervise the construction of side paths or sidewalks along regularly designated state highways outside the boundaries of incorporated cities and the expenditures for the construction of them may be made from the highway funds of the county or highway districts.

(14) Upon certification and requisition of an appropriate board, commission, governing body, or official head of any state institution and on the approval of the governor, showing the same to be necessary, construct, alter, repair, and maintain the roadways in, through, and about the grounds of state institutions. The construction, alteration, repair and maintenance shall be accomplished and paid for from the state highway account in accordance with the provisions of chapter 7, title 40, Idaho Code. This provision shall not be construed to divest any board, commission, governing body, or official head of an institution their constitutional or statutory powers.

40-311. POWERS AND DUTIES -- PROPERTY. The board shall:

(1) Purchase, exchange, condemn or otherwise acquire, any real property, either in fee or in any lesser estate or interest, rights-of-way, easements and other rights and rights of direct access from the property abutting highways with controlled access, deemed necessary by the board for present or future state highway purposes. The order of the board that the land sought is necessary for such use shall be prima facie evidence of that fact.

(2) Cooperate with and receive donations and aid from private sources in the form of improvements to state owned property.

(3) Purchase, lease or otherwise acquire and develop lands for the purpose of securing highway making materials, and purchase, lease or otherwise acquire mill and factory sites and construct, equip and operate mills and factories for the reduction and manufacture of highway making materials.

(4) Sell, exchange, or otherwise dispose of and convey, in accordance with law, any real property, other than public lands which by the constitution and laws of the state of Idaho are placed under the jurisdiction of the state land board, or parts of them, together with appurtenances. When in the opinion of the board the real property and/or appurtenances are no longer needed for state highway purposes, dispose of any surplus materials and by-products from the real property and appurtenances.

(5) Make a lump sum payment with funds available for acquisition, when irrigable lands served or to be served by an irrigation works and system of an organization, whether incorporated or unincorporated, existing for the purpose of furnishing water for irrigation, are acquired by the board. The cost and expense of the acquisition of those lands for highway purposes shall be in an amount sufficient to pay the pro rata share of the organization's indebtedness, if any, including the organization's indebtedness to the United States or any public or private lending agency, allocable to the lands acquired by the board, together with interest on the pro rata share of the indebtedness in the event the indebtedness shall not be callable in advance of maturity. If the lands acquired by the board and the construction of a highway on those lands shall intersect the irrigation works and system of the organization, then a further sum shall be paid the organization sufficient for the value of the property acquired by the board, and the severance damage to the irrigation works and system, including the damage resulting from the interference and impairment of the operation of the works and system.

40-312. POWERS AND DUTIES — RULES AND REGULATIONS. The board shall:

(1) Prescribe rules and regulations affecting state highways and turnpike projects, and enforce compliance with those rules and regulations.

(2) Establish rules and regulations for the expenditure of all moneys appropriated or allotted by law to the department or the board. The board shall cooperate with the counties and highway districts in the expenditure of funds and shall establish a uniform system of accounting in the expenditure of moneys and a uniform method for allocation of funds, by counties and highway districts as shall be necessary in the construction and maintenance of highways by counties and districts in cooperation with the state and the United States, or either, but the initiatory power of expenditure of any of those moneys shall rest with the county or district in which expenditure of the moneys mentioned is to be made.

(3) Make reasonable regulations for the installation, construction, maintenance, repair, renewal and relocation of facilities of any utility or communication transmitting entity, in, on, along, over, across, through or under any project on the federal-aid primary or secondary systems or on the interstate system, including extensions within urban areas. Whenever the board shall determine, after notice and opportunity for hearing, that it is necessary that any facilities which now are, or hereafter may be, located in, on, along, over, across, through or under any federal-aid primary or secondary system or on the interstate system, including extensions within urban areas, should be relocated, the utility owning or operating the facilities shall relocate them in accordance with the order of the board. In case of any relocation of facilities, the utility owning or operating the facilities, its successors or assigns, may maintain and operate the facilities, with the necessary appurtenances, in the new location or locations.

(4) Prescribe and enforce regulations for the erection and maintenance of advertising structures permitted by sections 40-1909, 40-1913, and 40-1914, Idaho Code, designed to protect the safety of the users of the highway and otherwise to achieve the objectives set forth in section 40-1903, Idaho Code, and consistent with the national policy set forth in section 131, title 23, United States Code, and the national standards promulgated by the secretary of transportation. The board shall not prescribe or enforce rules or regulations that are more restrictive than those authorized under section 131, title 23, United States Code. Proceedings for review of any action taken by the board pursuant to this section shall be instituted under the provisions of chapter 52, title 67, Idaho Code.

(5) Prescribe rules and regulations to implement the provisions of chapter 20, title 40, Idaho Code, and other rules and regulations relating to relocation assistance as may be necessary under existing federal laws and rules and regulations promulgated thereunder. Rules and regulations shall include provisions relating to:

(a) Standards for decent, safe and sanitary dwellings;

(b) Eligibility of displaced persons for relocation assistance

payments, procedural methods whereby persons may make application for and claim payments and the amounts of them; and

(c) Other rules and regulations consistent with the provisions of chapter 20, title 40, Idaho Code, as are considered necessary or appropriate to carry out the provisions of that chapter.

40-313. POWERS AND DUTIES -- BEAUTIFICATION AND INFORMATION. The board shall:

(1) Furnish, erect and maintain, whenever necessary for public safety and convenience, suitable signs, markers, signals and other devices to control, guide and warn pedestrians and vehicular traffic entering or traveling upon the state highway system.

(2) Forbid, restrict or limit the erection of unauthorized signs, billboards or structures on the right-of-way of any state highway, and remove therefrom and destroy any unauthorized signs existing on them.

(3) Acquire, maintain and improve areas adjacent to highways on the state highway system for the restoration, preservation, and enhancement of scenic beauty, for use as informational sites, and for rest and recreation of the traveling public. The areas shall be parallel to and contiguous with the highway and shall not exceed a width of one thousand (1,000) feet from the adjacent right-of-way line. The board may acquire these areas in fee, easement, or other interest as may be determined by the board to be reasonably necessary to accomplish the purposes of chapter 15, title 40, Idaho Code. Such acquisition is declared to be for a highway use, and may be by gift, purchase, exchange or eminent domain, and if the latter be necessary, it shall be carried out in the same manner as now provided by law for acquisition of right-of-way for state highways.

(4) Screen, if feasible, any junkyard lawfully in existence on March 20, 1967, which are within one thousand (1,000) feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway on the interstate or primary system and not located within an industrial area, zoned or unzoned. The responsibility of the board for screening junkyards is limited to the size of the junkyards and height of storage existing as of March 20, 1967. Any screening, after March 20, 1967, required by an increase in the size of the junkyard or the height of the storage in it shall be the responsibility of the owner and will be done at his expense. The board is authorized to acquire by purchase, gift or the power of eminent domain the lands or interest in lands as may be necessary to provide adequate screening of junkyards, but eminent domain proceedings may not be undertaken to obtain adjacent lands unless they are owned by the owner of the junkyard or the lands of the junkyard are inadequate for this purpose. When the board determines that the topography of the land will not permit adequate screening of junkyards within one thousand (1,000) feet of the nearest edge of the right-of-way of the highway on the interstate or primary system or the screening of the junkyards would not be economically feasible, the board must acquire by gift, purchase or the power of eminent domain, any interests necessary to secure the removal or disposal of the junkyard.

40-314. POWERS AND DUTIES -- DEPARTMENTAL. The board shall:

(1) Establish departmental internal structures deemed necessary for the full and efficient administration of this title.

(2) Exercise exclusive control over the employment, promotion, reduction, dismissal and compensation of all employees of the department.

(3) Exercise any other powers and duties, including the adoption of rules and regulations, deemed necessary to fully implement and carry out the provisions of this title and the control of the financial affairs of the board and the department.

40-315. POWERS AND DUTIES -- CONVICT LABOR. The board may:

(1) Make requisition subject to rules and regulations as adopted by the state board of correction, upon the warden of the state penitentiary for the convicts sentenced to and confined in the state penitentiary as in the judgment of the warden are able-bodied and able to do physical labor, and the number of convicts as in the judgment of the warden is deemed reasonably safe for that purpose, to work upon any of the highways laid out, constructed, improved or determined to be laid out, constructed or improved by the board. The state board of correction and the warden of the penitentiary are authorized, and it is made their duty so to furnish convicts for work upon the state highways under the general direction and supervision of the transportation board, subject, however, to rules, regulations and safeguards as may be prescribed by the state board of correction concerning the number of hours per day convicts may be required to work, the kind of weather in which they may not be required to work, the number of guards required, and other subjects proper and necessary. The board shall pay out of the state highway account the sum of five dollars ($5.00) per month to each convict worked upon a state highway, the time to be computed only for actual time employed in work, and also the expense of transporting, guarding and subsistence of each convict during the time he is required to be away from the state penitentiary, less an amount representing the estimated average cost to the state of his subsistence, had he remained at the penitentiary, as determined by the warden.

40-316. POWERS AND DUTIES -- REPORTS. The board shall:

(1) Make annually, on or before December 1 of each year and at other times as the governor may require, reports in writing to the governor concerning the condition, management and financial transactions of the department.

40-317. POWERS AND DUTIES -- COOPERATIVE EFFORTS. The board may:

(1) Cooperate with, and receive and expend aid and donations from the federal government for transportation purposes, and receive and expend donations from other sources for the construction and improvement of any state highway or transportation project or any project on the federal-aid primary or secondary systems or on the interstate system, including extensions of them within urban areas; and, when authorized or directed by any act of congress or any rule or regulation of any agency of the federal government, expend funds donated or granted to the state of Idaho by the federal government for that pur-

pose, upon highways and bridges not in the state highway system.

(2) Contract jointly with counties, cities, and highway districts for the improvement and construction of state highways.

(3) Cooperate with the federal government, counties, highway districts, and cities for construction, improvement, and maintenance of secondary or feeder highways not in the state highway system.

(4) Cooperate financially or otherwise with any other state or any county or city of any other state, or with any foreign country or any province or district of any foreign country, or with the government of the United States or its agencies, or private agencies or persons, for the erecting, construction, reconstructing, and maintaining of any bridge, trestle, or other structure for the continuation or connection of any state highway across any stream, body of water, gulch, navigable water, swamp or other topographical formation requiring any such structure and forming a boundary between the state of Idaho and any other state or foreign country, and for the purchase or condemnation or other acquisition of right-of-way.

(5) Serve as the state's representative in the designation of forest highways within the state.

(6) Negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees and taxes which may be required by law, rule and regulation. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size and weight laws, rules or regulations of the respective states.

(7) Enter into all contracts and agreements with the United States government in the name of the state of Idaho, relating to the survey, construction and maintenance of roads, under the provisions of any act of congress including county and city highways, and submit a program of construction and maintenance as may be required by the United States government or any of its agencies, and do all other things necessary to cooperate and complete those programs.

40-318. POLITICAL ACTIVITIES PROHIBITED. While retaining the right to vote as he pleases and to express his opinions on all political subjects, no member of the board and no officer or employee of the board or of any division over which it has jurisdiction, shall take an active part in a political party or committee management, or in a political campaign, nor shall he use his official authority or influence for the purpose of interfering with an election, or for the purpose of coercing the political action of any person or body.

40-319. GOOD FAITH OF STATE PLEDGED TO APPROPRIATION. For the construction and maintenance of highways as may be eligible for federal aid funds, excepting turnpike projects, the good faith of the state is pledged to make available funds which combined with funds made available by counties, highway districts and cities sufficient to match funds made available to the state of Idaho by the United States

government for highway purposes and for the purpose of evidencing good faith, the board in the name of the state, is authorized to enter into any and all agreements with the United States government under rules and regulations approved by the United States government or any of its agencies.

40-320. STATE HIGHWAY CONSTRUCTION AND RIGHT-OF-WAY COSTS BORNE BY STATE -- EXCEPTIONS. All costs of constructing, reconstructing and acquiring rights-of-way for highways in the state highway system shall be borne by the state. However, when a county or incorporated city in which a state highway is located, or is to be located, desires a higher standard of construction or reconstruction than is planned, the county or city may, with the approval of the board, pay the additional cost.

40-321. COMMERCIAL ENTERPRISES ON PROHIBITED ACCESS HIGHWAYS PROHIBITED -- EXCEPTION -- CONNECTING SERVICE HIGHWAYS. 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 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 board may construct on that property, at locations it deems appropriate, connecting service highways 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 those service highways.

CHAPTER 4
IDAHO TURNPIKE AUTHORITY

40-401. TURNPIKE PROJECTS. The board is empowered to construct, maintain, repair and operate turnpike projects at locations established by it, and shall be an instrumentality exercising public and essential governmental functions in the construction, operation and maintenance of turnpike projects.

40-402. IDENTIFICATION OF TURNPIKE PROJECTS. Each specific turnpike project shall be clearly identified by an appropriate descriptive name and shall be operated as a separate enterprise. When a turnpike project is proposed by the board, it shall provide all surveys necessary to establish its economic feasibility, including the origin and destination counts, engineering surveys and other reports which may be required in order to secure adequate financing.

40-403. INCIDENTAL POWERS -- GRADE SEPARATIONS -- RELOCATION OF PUBLIC HIGHWAYS -- RIGHT OF ENTRY. (1) The board shall have power to construct grade separations at intersections of any turnpike project with public highways and to change and adjust the lines and grades of those highways in order to accommodate them to the design of the

grade separation. The cost of the grade separations and any damage incurred in changing and adjusting lines and grades of highways shall be ascertained and paid by the board as a part of the cost of the turnpike project.

(2) If the board shall find it necessary to change the location of any portion of any public highway, it shall cause it to be reconstructed at a location as the highway board having jurisdiction over the highway to be reconstructed shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of reconstruction and any damage incurred in changing the location of any highway shall be ascertained and paid by the board as a part of the cost of the turnpike project.

(3) Any highway affected by the construction of any turnpike project may be changed or relocated by the board in the manner provided by law for the vacation or relocation of public highways, and any damage awarded shall be paid by the board as a part of the cost of the project.

(4) The board and its authorized agents and employees may enter upon any lands, waters and premises in the state for the purposes of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of a turnpike project, and such an entry shall not be deemed a trespass, nor shall an entry for those purposes be deemed an entry under any condemnation proceedings which may be then pending. The board shall make reimbursement for any actual damages resulting to the lands, water, and premises as a result of those activities.

40-404. FEEDER HIGHWAYS. (1) The board is authorized to:

(a) Construct, repair and maintain any feeder highway which in the opinion of the board will increase the use of a turnpike project to which the highway is a feeder;

(b) Assume maintenance and repair operations of an existing highway which is needed as a feeder highway. Before exercising these powers, consent of local authority exercising jurisdiction over the existing highway must be obtained; and

(c) Realign an existing highway and build additional sections of highway over new alignment in connection with the existing highway.

(2) Where a feeder highway is constructed over new alignment, the board is granted the same powers concerning construction as is granted in connection with the construction of the turnpike project. Any feeder highway, eighty per cent (80%) or more of which is built over new alignment, shall for the purposes of this section be deemed to be a new feeder highway.

(3) Where the board has constructed a new feeder highway, it shall have the obligation to maintain and repair the new feeder highway.

(4) No toll shall be charged for transit between points on any feeder or new feeder highway.

40-405. TOLLS, FIXING AND COLLECTING. (1) The board is authorized to fix, revise, charge and collect tolls for the use of each turnpike

project and the different parts or sections of the project, and to contract with any person, partnership, association or corporations desiring the use of any part of the project, including the right-of-way adjoining the paved portion, for the placement of telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, and restaurants, or for any other purpose except for tracks for railroad or for railway use, and to fix the terms, conditions, rents and rates of charge for that use.

(2) The board shall construct any gasoline service facilities which it may determine are needed on the project, and to afford users of the project a reasonable choice of motor fuels of different brands. Each gasoline service station shall be separately offered for lease upon sealed bids. Notice of the offer shall be published once a week in three (3) successive weeks in a newspaper having general circulation in the state. If acceptable bids are received, in the judgment of the board, each lease shall be awarded to the highest and best bidder, but no person shall be awarded or have the use of, nor shall motor fuel identified by trade marks, trade names or brands of any one (1) supplier, distributor or retailer of such fuel be sold at more than one (1) service station if they would constitute more than twenty-five per cent (25%) of the service stations on the entire project.

(3) No contract shall be required and no rent, fee or other charge of any kind shall be imposed for the use and occupation of any turnpike project for the installation, construction, use, operation, maintenance, repair, renewal, relocation or removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or other equipment or appliances in, on, along, over or under any turnpike project by any public utility, person or corporation paying a tax for the privilege of using the public highways or other public places in the state.

(4) Tolls shall be so fixed and adjusted as to carry out and perform the terms and provisions of any contract with or for the benefit of bondholders. Tolls shall not be subject to supervision or regulation by any other department, division, bureau, commission, board, or agency of the state. The use and disposition of tolls and revenues shall be subject to the provisions of a resolution by the board in authorizing the issuance of bonds or of a trust agreement securing them.

40-406. TRUST FUNDS. All moneys received relating to turnpike projects, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely for turnpike projects. A resolution authorizing bonds of any issue or a trust agreement securing bonds shall provide that any officer with whom, or any bank or trust company with which, the moneys shall be deposited shall act as trustee of the money and shall hold and apply it for the purposes of the turnpike project, subject to the resolution or as a trust agreement may provide.

40-407. REMEDY. The only remedy available to any holder of bonds, or any of the coupons appertaining to them, and the trustee under any trust agreement, except to the extent the rights given may be

restricted by a trust agreement, shall be to the particular turnpike project account and not against the state or any of its political subdivisions. A statement to this effect shall be printed on the face of all turnpike revenue bonds and any attached coupons.

40-408. TAX EXEMPTION -- TURNPIKE PROJECTS. The exercise of powers for turnpike projects shall be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and the improvement of turnpike projects by the board shall constitute the performance of essential governmental functions. The board shall not be required to pay any taxes or assessments upon any turnpike project or any property acquired or used by it relating to turnpike projects or upon the income from them, and any turnpike project and any property acquired or used by the board, and the income from them, and the bonds issued, their transfer and the income from them, including any profit made on the sale of them, shall be exempt from all taxation.

40-409. REAL PROPERTY GRANTS AUTHORIZED -- ANNUAL REPORT -- INTEREST IN CONTRACT PENALIZED. (1) Each turnpike project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the board. Each project shall also be operated by tolltakers and other operating employees as the board may in its discretion employ. Nothing contained in this chapter shall in any way affect the regular duties prescribed for state and local police officers.

(2) All political subdivisions and all public departments, agencies and commissions of the state of Idaho, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the board at its request, upon terms and conditions as the proper authorities of political subdivisions and departments, agencies and commissions of the state deem reasonable and fair, and without the necessity for advertisement, order of a court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the board, including public highways and other real property already devoted to public use.

(3) On or before December 1 each year the board shall make an annual report of its activities for the preceding fiscal year relating to turnpike projects to the governor and to the legislature. Each report shall set forth a complete operating and financial statement covering its operations during the year. The board shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost of audits shall be treated as a part of the cost of construction or of operation of the turnpike project.

(4) Any member, agent or employee of the board who is interested, either directly or indirectly, in any contract of another with the board, or in the sale of any property, either real or personal, to the board shall be guilty of a felony and punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment for not more

than five (5) years, or by both fine and imprisonment.

40-410. TOLLS. When all turnpike revenue bonds and the interest on them shall have been paid, or a sufficient amount for the payment of all bonds and the interest on them to the maturity of them, shall have been set aside for the benefit of bondholders, the board shall continue to use toll revenues as may be necessary to continue the turnpike project in satisfactory condition and repair.

40-411. POWER TO ISSUE BONDS -- CREDIT OF STATE NOT PLEDGED. (1) The board shall have power and is authorized to issue, from time to time its negotiable notes and bonds in conformity with the applicable provisions of the uniform commercial code and section 40-412, Idaho Code, in a principle amount as the board shall determine to be necessary for sufficient funds for achieving a turnpike project, establishing the reserves to secure the notes and bonds, and all other expenditures of the board incidental and necessary or convenient to carry out its powers for turnpike projects.

(2) Turnpike revenue bonds shall not be deemed to constitute a debt or liability of the state or of any political subdivision, or a pledge of the faith and credit of the state or of any political subdivision, but the bonds, unless refunded by bonds of the board, shall be payable solely from funds pledged or available for their payment. All turnpike revenue bonds and any coupons appertaining to those bonds shall contain on the face a statement to the effect that the board is obligated to pay the same, or the interest on them, only from the tolls, other revenue and proceeds of the bonds and that neither the state nor any political subdivision is obligated to pay the same or the interest on them, and that neither the faith and credit nor the taxing power of the state or any political subdivision is pledged to the payment of the principal of or the interest on the bonds.

40-412. BONDS OF BOARD AS TURNPIKE AUTHORITY. (1) The board is authorized to provide by resolution for the issuance of bonds of the board for any of its corporate purposes, including the refunding of its bonds. The principal of and the interest on any issue of bonds shall be payable solely from and may be secured by a pledge of tolls and other revenues of all or any part of the turnpike project financed in whole or in part with the proceeds of the issue or with the proceeds of bonds refunded or to be refunded by the issue. The proceeds of the bonds may be used or pledged for the payment or security of the principal of or interest on bonds and for the establishment of any or all reserves for payment or security, or for other corporate purposes as the board may authorize in the resolution authorizing the issuance of bonds or in a trust agreement securing them. The bonds of each issue shall be dated, shall bear interest at a rate, shall mature at a time not exceeding thirty (30) years from their date, as may be determined by the board and may be made redeemable before maturity, at the option of the board, at a price and under terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the form of the bonds including any interest coupons to be attached, and shall fix the denomination of the bonds and the

place of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the chairman of the board or shall bear his facsimile signature, and the official seal of the board or a facsimile shall be impressed, imprinted, engraved or otherwise reproduced on them. The official seal or facsimile shall be attested by the secretary of the board or by other officer or agent as the board shall appoint and authorize. Any coupons attached to the bonds shall bear the facsimile signature of the chairman of the board. In the event any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. Bonds issued shall have and are declared to have all the qualifications and incidents of negotiable instruments. Bonds may be issued in coupon or in registered form, or both, as the board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board may sell bonds in a manner and for a price, as it may determine to be for the best interest of the board. Neither the members of the board nor any person executing the bonds shall be personally liable on the bonds or be accountable by reason of the issuance of them.

(2) Proceeds of the bonds of each issue shall be disbursed in a manner and under restrictions, if any, as the board may provide in the resolution authorizing the issuance of the bonds or in a trust agreement securing them.

(3) Prior to the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds shall have been executed and are available for delivery. The board may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued without obtaining consent of any department, division, bureau, commission, board or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required.

(4) The state does agree with holders of bonds that the state will not limit or restrict rights hereby vested in the board to establish and collect charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expenses of maintenance and operation of a turnpike project and to fulfill the terms of any agreements made with holders of bonds, or in any way impair the rights or remedies or holders of bonds until the bonds, together with interest are fully paid and discharged.

40-413. TRUST AGREEMENT. (1) In the discretion of the board any bonds issued may be secured by a trust agreement by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. A trust agreement or resolution providing for the issuance of bonds,

subject to the provisions of section 40-412, Idaho Code, may pledge or assign tolls or other revenues to which the board's right then exists or may subsequently come into existence, and moneys derived from them, and the proceeds of the bonds, but shall not convey or mortgage any turnpike project or any part of it. A trust agreement or resolution providing for the issuance of bonds may contain provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper, and not in violation of law, including covenants setting forth the duties of the board in relation to the requisition of property and the construction, improvement, maintenance, repair, operation and insurance of a turnpike project or projects, the rates of tolls and revenues to be charged, the payment, security or redemption of bonds, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of a turnpike project or projects. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish indemnifying bonds or to pledge any securities as may be required by the board. A trust agreement or resolution may set forth rights and remedies of bondholders and of the trustee, and may restrict individual rights of action by bondholders. In addition, a trust agreement or resolution may contain other provisions as the board may deem reasonable and proper for the security of bondholders. All expenses incurred in carrying out the provisions of a trust agreement may be treated as a part of the cost of the operation of the turnpike project.

(2) Any pledge of tolls, other revenues, or other moneys made by the board shall be valid and binding from the time when the pledge is made. The tolls, other revenues, or other moneys pledged and subsequently received by the board shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the board, irrespective of whether the parties have notice of it.

40-414. REFUNDING BONDS. The board is hereby authorized to provide by resolution for the issuance of refunding bonds of the board for the purpose of refunding any bonds then outstanding which shall have been issued, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the bonds, and, if deemed advisable by the board, for the additional purpose of constructing improvements, extensions, or enlargements of the turnpike project in connection with which the bonds to be refunded shall have been issued. The board is further authorized to provide by resolution for the issuance of its bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of section 40-412, Idaho Code, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the bonds. The issuance of the bonds, the maturities and other details of them, the rights of the holders, and the rights, duties, and obligations of the board in respect of the bonds shall be governed by the provisions of this chapter insofar as they may be

applicable.

CHAPTER 5
IDAHO TRANSPORTATION DEPARTMENT

40-501. TRANSPORTATION DEPARTMENT. An Idaho transportation department is established, and for the purposes of section 20, article IV of the constitution of the state of Idaho, is an executive department of state government. The department shall have as its head the Idaho transportation board, established by chapter 3, title 40, Idaho Code.

40-502. MAINTENANCE OF STATE HIGHWAYS. All state highways shall be maintained by the department at state expense, including sections of state highways located within the corporate limits of cities, except that in cities where state highway sections are built to city standards, such as with curbs, sidewalks and areas available for parking and bus stops, the department shall maintain at state expense only the width of traveled way required for the movement of through highway traffic. The width of traveled way to be maintained at state expenae shall not exceed the width of the traveled way of the state highways approaching the incorporated areas.

40-503. OFFICES -- APPOINTMENT -- QUALIFICATIONS -- COMPENSATION. (1) An office of the director of the Idaho transportation department is established, and the board shall appoint a director having knowledge and experience in transportation matters. The director shall serve at the pleasure of the board and may be removed by the board for inefficiency, neglect of duty, malfeasance or nonfeasance in office. The director shall not hold any other public office, nor any office in any political committee or organization, and shall devote full time to the performance of his official duties. The director shall receive compensation as the board may determine and shall be reimbursed for all actual and necessary travel and expenses incurred by him in the discharge of his official duties, not to exceed a sum approved by the board. Subject to the approval of the board, the director shall appoint a chief engineer of the department who shall serve at the pleasure of the director and the board, and who shall be exempt from the provisions of chapter 53, title 67, Idaho Code.

(2) An office of the chief engineer of the department is established, and the chief engineer shall be a registered professional engineer, holding a current certificate of registration in accordance with the laws of this state, or who, having those qualifications shall within nine (9) months after his appointment, qualify as a registered professional engineer in accordance with the laws of Idaho. The chief engineer shall also have had five (5) years of actual experience in highway engineering, at least three (3) of which shall have been in an administrative capacity involving the direction of a substantial technical engineering staff. The chief engineer shall not hold any other public office, nor any office in any political committee or organization, and shall devote full time to the performance of his official duties under the control and direction of the director. The chief

engineer shall receive compensation and reimbursement for travel and expenses as may be established by the director.

40-504. DIRECTOR -- BOND. Before entering upon the duties of his office, the director shall swear or affirm that he holds no other public office, nor any position under any political committee or organization. The affirmation shall be filed 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. The premium on the bond shall be a charge against the state, to be audited, allowed and paid as are other claims, out of the state highway and state aeronautics accounts.

40-505. DIRECTOR -- DUTIES AND POWERS. The director shall be the technical and administrative officer of the board and under the board's control, supervision and direction, shall have general supervision and control of all activities, functions and employees of the department. He shall enforce all provisions of the laws of the state relating to the department, the rules and regulations of the board, and shall exercise all necessary incidental powers.

40-506. COMPENSATION FOR TAKING CERTAIN PROPERTY. (1) The department is authorized to acquire by purchase, gift or condemnation, all advertising displays and any property rights pertaining to them, when those advertising displays are required to be removed under the provisions of chapter 15, title 40, Idaho Code.

(2) In any appropriation for this purpose the department shall pay compensation under existing eminent domain law only for the following:

(a) The taking from the owner of a sign, display, or device of all right, title, leasehold, and interest in the sign, display or device; and

(b) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain signs, displays and devices on that property. Where setback easements restricting the erection of structures or advertising displays have been recorded by the state on land where those structures have been erected, the landowner of the land shall be deemed to have been fully compensated for them.

(3) In any action at law instituted by the department under this section the state shall not be required, as a prerequisite, to the taking of or appropriation to comply with section 7-704(2) or section 7-707(6), Idaho Code.

40-507. CONSTRUCTION AND MAINTENANCE OF INFORMATION CENTERS. (1) The department may design, erect, authorize, supervise and maintain information centers at safety rest areas in a number and at locations as it may determine to be necessary to meet the need of safety and effectively provide information of specific interest to the traveling public.

(2) Outdoor advertising placed within information centers shall be subject to all provisions of this title and all regulations promul-

gated by the board pursuant to the provisions of this title.

(3) Application for a permit to place outdoor advertising within an information center shall be made on a form prescribed by the department, and all permits shall be issued for a period of at least one (1) year. The department shall charge or authorize fees for the permit and for renewal sufficient to amortize the cost of the structure within an information center upon which the outdoor advertising is placed within the expected life of the structure, and sufficient to pay for the maintenance of the structure.

40-508. TRAFFIC SAFETY COMMISSION CREATED -- MEMBERSHIP. (1) An Idaho traffic safety commission is established within the department.

(2) The commission shall be composed of not more than fifteen (15) members appointed by the director, who shall include the chairman of the transportation and defense committee of the house of representatives of the state and the chairman of the transportation committee of the senate of the state, plus the director or his representative who shall act as chairman. Members shall be representative of state and local traffic oriented agencies, the legislature, the judiciary, and private organizations and citizen groups.

(3) The director shall employ necessary personnel, shall have general supervision and control of all activities, functions and employees, and shall enforce all provisions of the laws of the state relating to highway safety programs and administer any other activities as may be required by the federal highway safety act of 1966 and any amendments to it, and the rules and regulations of the board pertaining to it.

40-509. DUTIES OF TRAFFIC SAFETY COMMISSION. The commission shall:

(1) Periodically review traffic safety problems in Idaho and develop effective plans for additional local-state cooperative activities;

(2) Recommend to the director those agency programs and political subdivision programs to receive federal aid for highway safety in accordance with uniform federal standards;

(3) Advise and recommend to the director future traffic accident prevention activities; and

(4) Carry out any other activities as may be required by the federal highway safety act of 1966 and any amendments to it.

CHAPTER 6
COUNTY COMMISSIONERS AND HIGHWAY OFFICERS

40-601. DISTRICTS ESTABLISHED BY COMMISSIONERS. Whenever the commissioners of any county shall have caused to be described by an order made and entered upon its records any defined portion of contiguous territory, located wholly within the county, for the construction, improvement or repair of highways pursuant to the provisions of law, each defined portion of contiguous territory is recognized as a legal taxing district and body politic of this state and as a highway district for highway purposes.

40-602. BOUNDARIES. The boundaries of each highway district shall be the same as are described by metes and bounds or other legal description upon the minutes or records of the commissioners of the respective county and upon copies of those records duly certified.

40-603. COUNTY HIGHWAYS RECOMMENDED BY COMMISSIONERS -- APPROVED BY BOARD. The commissioners of each county shall recommend highways for the county road system to the board at least once a year and in a manner and form to be prescribed by the board. All recommendations shall clearly show which highways are improved highways and which are unimproved. All recommendations must be approved by the board before they shall constitute the official highway system of the county. The board may require commissioners to submit financial and operating data as it may deem necessary to assist it in determining what highways should properly be included in the respective county highway systems.

40-604. DUTIES AND POWERS OF COMMISSIONERS. Commissioners shall:

(1) Exercise general supervision over all highways in the county road system, including their location, design, construction, reconstruction, repair and maintenance, and develop general policies regarding highway matters. The policies established shall be carried out by a county director of highways.

(2) Cause to be surveyed, viewed, laid out, recorded, opened and worked, any highways as are necessary for public convenience.

(3) Cause to be recorded as highways those that have become such by use or abandonment.

(4) Have authority to abandon any highway and remove it from the county highway system when that action is determined to be in the public interest.

(5) Designate county highways, or parts of them, as controlled-access highways and regulate, restrict or prohibit access to those highways so as best to serve the traffic for which the facility is intended.

(6) Have authority to make agreements with any incorporated city, other county, a highway district, the state, or the United States, its agencies, departments, bureaus, boards, or any government owned corporation for the construction, reconstruction, or maintenance of the county's highway system by those entities or for the construction, reconstruction, or maintenance of the highway systems of those entities by the county's highway organization. The county shall compensate or be compensated for the fair cost of the work except as otherwise specifically provided in this title.

(7) Let out by contract the improvement of highways, the construction and repair of bridges or other adjuncts to highways, when the amount of work to be done by contract exceeds five hundred dollars ($500). At least twenty-five per cent (25%) of the fund collected in any highway division must be expended within the division in which the fund was collected.

(8) Contract, purchase, or otherwise acquire the right-of-way over private property for the use of county highways and for this purpose may institute proceedings under the code of civil procedure.

(9) Levy an ad valorem tax to be paid into the county highway fund and cause the tax collected each year to be paid into that fund and kept by the treasurer as a separate fund. When all of the territory of a county is included in one or more highway districts the commissioners shall not make any levy for general highway purposes.

(10) Audit and draw warrants on the county highway fund required for payment for rights-of-way improvement.

(11) Rename any highway within the county, excepting those situated within the territorial limits of incorporated cities, when the renaming will eradicate confusion.

(12) Cause guide posts properly inscribed to be erected and maintained on designated highways.

(13) Exercise other powers as may be prescribed by law.

40-605. LAYING OUT OF NEW HIGHWAYS -- WIDENING, CHANGING, OR STRAIGHTENING EXISTING HIGHWAYS -- PURCHASE OF RIGHTS-OF-WAY BY AGREEMENT. Commissioners may lay out new highways within the county as they determine to be necessary. The right-of-way of any highway shall not be less than fifty (50) feet wide, except in exceptional cases. Commissioners may also change the width or location or straighten lines of any highway under their jurisdiction. If, in the laying out, widening, changing or straightening of any highway it shall become necessary to take private property, the commissioners or their director of highways shall cause a survey of the proposed highway to be made, together with an accurate description of the lands required. The commissioners shall endeavor to agree with each owner for the purchase of a right-of-way over his land included within the description. If they are able to agree with the owner, the commissioners may purchase the land out of the county highway fund under their control, and the land shall then be conveyed to the county for the use and purpose of highways.

40-606. CONDEMNATION OF RIGHTS-OF-WAY. (1) Whenever the commissioners or their director of highways shall be unable to agree with any person for a parcel of land, or the person shall be unknown or a nonresident of the county, or a minor, or an insane or incompetent person, the commissioners or director of highways shall have the right, subject in case of the director of highways on the order of the commissioners, to begin action in the name of the county in the district court to condemn the land necessary for the right-of-way for the highway under the provisions of chapter 7, title 7, Idaho Code. An order of the commissioners, entered upon their minutes, that the land sought to be condemned is necessary for a public highway and public use shall be prima facie evidence of the fact.

(2) Any lands classified as omitted lands under federal legislation shall be governed by the provisions of section 7-704A, Idaho Code.

40-607. COUNTY HIGHWAY SYSTEM CONSTRUCTION, MAINTENANCE AND RIGHT-OF-WAY COSTS BORNE BY COUNTY -- EXCEPTIONS. The costs of constructing, reconstructing, maintaining and acquiring rights-of-way for highways in a county highway system shall be borne by the county. This

section shall not be construed as preventing counties from contracting with the state for engineering or other services provided just compensation is paid. A county may participate to the extent necessary in the costs of constructing or reconstructing or acquiring rights-of-way to any urban extensions to county highways built with federal assistance through cities, but urban extensions shall be and continue to be a part of the city system for all other purposes of this title. If planning studies show the existence of a need, a county may purchase, condemn or otherwise acquire a right-of-way for a new alignment of an urban extension of an existing county highway built with federal assistance through cities if the urban extension does not eliminate access to adjacent property owners. A county shall have the authority to construct, maintain and control an urban extension within a city and may enter into any mutual agreement for the transfer of maintenance and control of the urban extension to the city. A county may contract with an adjoining county for the construction and/or maintenance of any part of its highway system.

40-608. RECORD OF HIGHWAY PROCEEDINGS. The clerk of the commissioners shall keep a book in which must be recorded separately all proceedings of the commissioners relative to each highway division, including orders laying out, altering, and opening highways; and in a separate book a description of each highway division, its deputy directors of highways, its highways, contracts, and all other matters pertaining to them.

40-609. CONTRACTS TO USE DAMS AS HIGHWAYS. Commissioners are empowered to make contracts in a form and under conditions deemed proper with the persons or corporations owning or proposing to construct any dam across any river in the state, providing for the use of the dam either in whole or in part, or in a general or limited way as may be agreed upon for a public highway. If the dam and proposed highway is in more than one (1) county, the agreement shall be executed by the commissioners of each county. Contracts for the use as a public highway of any dam to be constructed may be executed prior to construction, and shall, subject to the terms of the contract, be public highways.

40-610. REPORT OF CONDITION OF HIGHWAYS -- FILING. On or before the first day of November in each year, the commissioners shall make a report of the condition of the work, construction, maintenance and repair of all the highways within the county, accompanied by a map or maps of them, together with any other facts necessary for establishing generally the situation and condition of highways within the county. The report shall be made in duplicate, one (1) copy to be filed in the office of the board and one (1) with the clerk of the commissioners.

40-611. REPORT OF FINANCIAL CONDITION -- PUBLICATION. On or before the first day of November of each year, the commissioners shall make and file in its office a full, true and correct statement of the financial condition of the county in respect to highways as it exists on the first day of the preceding October, and of its expenditures and

appropriation for highway purposes during the preceding year. A copy of the statement shall be published in at least one (1) issue of a oewspaper published in the county.

40-612. COMMISSIONERS -- HIGHWAY CONTRACTS. No commissioner shall have interest directly or indirectly in any contract awarded or to be awarded by the commissioners, or in the benefits to be derived from them. A violation of this provision shall be a misdemeanor, and a conviction shall constitute a forfeiture of office and a fine not exceeding one thousand dollars ($1,000), or by imprisonment oot to exceed six (6) months, or by both fine and imprisonment.

40-613. JURISDICTION IN ADJOINING COUNTIES. Commissioners of each county are empowered to lay out, build, repair, improve and maintain highways and bridges in any adjoining county whenever it shall appear to the commissioners that the laying out, building, repairing, improving or maintaining of highways and bridges in any adjoiniog county is or will be in the interest of the particular county or of benefit to the people of it. The expense shall be paid out of the county highway fund of the county whose commissioners order and contract for the work to be done. Any highway or bridge work shall not be done in any adjoining county by a particular county if the work would impair the credit of the adjoining county, injure property, or be detrimental to the interest of its citizens.

40-614. SERVICE OF NOTICE ON CHAIRMAN OR CLERK OF COMMISSIONERS OF ADJOINING COUNTY. At least thirty (30) days before the commissioners of a particular county shall proceed to do any work in any adjoining county, it shall cause a notice to be served, in writing, on the chairman or clerk of the commissioners of the adjoining county of its intent to do the work, describing the nature, scope and kind of work to he done, giving the approximate cost of the work, the place where the work is to be performed, the approximate time the work will be commenced and the approximate time that will be required to complete the work.

40-615. COUNTY AND DISTRICT BOARDS — COOPERATION WITH STATE. Commissioners of any county, or the board of commissioners of any highway district, are empowered to cooperate with the state in the construction of highways or bridges, with aid from the United States or the state. The boards of commissioners are authorized to deposit with the treasurer of the state, to be placed in the state highway account, the amount of funds to be contributed by the county or highway district on any project for the improvement or construction of highways or bridges, which may be agreed upon in writing between the boards of commissioners and the board. The boards of commissioners are empowered to make deposits in advance of construction and at the time the agreement between the boards and the board is entered into. In tbe event the project for the improvement or construction of highways or bridges is not proceeded with, or in the event that all of the funds deposited by any board of commissioners for use on any project are not used in the completion of the project, the board shall repay any

unused balances to the boards of commissioners having deposited these funds, and the state auditor shall draw his warrant for the payment of those moneys out of the state highway account against claims duly approved by the board and the state board of examiners.

40-616. SIDEWALKS OR SIDE PATHS. Commissioners and boards of commissioners of any highway district are empowered to set apart on and along any public highway outside the boundaries of incorporated cities a strip of land not exceeding eight (8) feet in width for a sidewalk or side path and make an order designating the width of the path and cause the line separating the path from the highway proper to be located and marked with stakes, posts, grade or other marker. After the sidewalks and paths have been set apart and the line separating them from the highway has been located and marked, the use shall be restricted to pedestrians and riders of hicycles propelled solely by the power of the rider.

40-617. CONTRACTS FOR REPAIR OF HIGHWAYS. Commissioners shall, at least three (3) weeks prior to their regular meeting in October or March, or at other times as may become necessary, cause notice to be published in a newspaper, published in the county, for sealed bids to be received by the commissioners for the repair and improvement of the highways in the county highway system. Each proposal or bid submitted to the commissioners, shall be accompanied by a bond conditioned for the faithful performance of the duties of the contract, which may be entered into by and between the party making the proposal, or bid, and the commissioners.

40-618. APPOINTMENT OF COUNTY DIRECTOR OF HIGHWAYS. The commissioners of each county may appoint and employ a county director of highways, who shall be a person qualified in highway administration, construction and maintenance, to handle the technical and administrative phases of county highway construction, maintenance and improvement. The salary and compensation of the county director of highways shall be fixed by the commissioners and shall be paid from the county highway fund. The county engineer may he appointed as the director of highways if the commissioners so determine; and in that event, his compensation as director of highways shall be distinct from, and in addition to, his compensation as county engineer.

40-619. DUTIES AND POWERS OF COUNTY DIRECTOR OF HIGHWAYS. The county director of highways shall:

(1) Prepare and submit each year for the approval of the commissioners a tentative highway budget covering all proposed expenditures for the ensuing year.

(2) Divide the county into a suitable and convenient number of highway divisiona, which shall exist only for the purpose of facilitating highway construction and maintenance activities. The geographical boundaries and arrangements of the divisions may, with the approval of the commissioners, be altered at any time at the discretion of the direcror of highways.

(3) Employ assistants and employees as may be necessary for

county highway purposes, subject to the approval of the commissioners as to salaries or other compensation to be paid.

(4) Purchase or lease equipment necessary for county highway purposes and sell or replace obsolete equipment, subject to the approval of the commissioners as to the price, rental or cost of replacement.

(5) Cause to be erected and maintained on county highways, whenever necessary for public safety and convenience, suitable signs, markers, signals and other devices to control, guide and warn pedestrian and vehicular traffic.

(6) Cause surveys, maps, plans, specifications and estimates to be made for the construction, reconstruction and maintenance of county highways.

(7) Forbid, restrict or limit the erection of unauthorized signs, billboards or structures on the right-of-way of any county highway, and remove and destroy any unauthorized signs.

(8) Perform other acts as may be authorized by the commissioners for the improvement and maintenance of county highways.

CHAPTER 7
APPROPRIATIONS

40-701. HIGHWAY DISTRIBUTION ACCOUNT -- APPORTIONMENT. (1) There is established 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 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, established in section 40-702, Idaho Code, and six per cent (6%) to the law enforcement account, established 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.

40-702. STATE HIGHWAY ACCOUNT -- ESTABLISHMENT. For the purpose of carrying out the provisions of this title, there is established in the dedicated fund of the state treasury an 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.

(2) All fines, penalties and forfeitures incurred and collected for violations of the provisions of this title, except as otherwise provided.

(3) All donations to the state from any source for the construction and improvement of highways.

(4) All moneys received from local boards under joint contracts for the construction of state highways; and

(5) Other moneys which may be provided by law for the construction and improvement of state highways.

40-703. ESTABLISHMENT OF LOCAL BRIDGE INSPECTION ACCOUNT — ADMINISTRATION. In order to promote public safety at bridges on local public highways 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 established in the dedicated fund of the state treasury an account known as the "local bridge inspection account." The 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.

40-704. TURNPIKE PROJECT ACCOUNTS -- ESTABLISHMENT. In order to provide for the redemption of and interest on turnpike revenue bonds, and construction, maintenance and operation of turnpike projects, there may be established in the dedicated fund of the state treasury an account to be known by the appropriate name of each turnpike project. Each account shall include all moneys received and paid over for the particular turnpike project, and the moneys in each account shall be expended solely for that turnpike project.

40-705. TRANSFER AND CONTROL OF FUNDS. All funds, appropriations and other moneys from whatever source, now or subsequently appropriated and provided by law for the administration of the functions, powers and duties of the department and the board, including those of the state highway account, shall be and the same hereby are transferred and made available to and placed under the control of the board and appropriated for expenditure by it and shall be paid out by the state treasurer in the manner provided by the constitution and the laws of the state of Idaho.

40-706. DISPOSITION OF MOTOR VEHICLE REGISTRATION MONEY. All moneys collected in any county from the registration of motor vehicles, trailers and semitrailers shall be forwarded to the state treasurer not later than the fifteenth day of the month following the calendar month in which the moneys were collected, and the state treasurer shall then pay the moneys collected into the highway distribution account, unless otherwise provided by law.

40-707. APPROPRIATION OF MONEYS IN STATE HIGHWAY ACCOUNT. All moneys at any time in the state highway account, except those as are otherwise required by law to be placed in the state highway redemption account, are hereby appropriated for the purpose of defraying the expense, debts and costs incurred in carrying out the powers and duties of the highway board as provided by law, and for defraying administrative expenses of the department, including salaries of the

board, the salary of the director, and salaries and wages of employees of the department and board and expenses for traveling. Communication supplies, equipment, fixed charges and all other necessary expenses of the department and board, not otherwise provided for and all claims against the state highway account shall be examined by the department and certified to the state auditor, who shall, upon approval of the board of examiners, draw his warrant against the state highway account for all bills and claims allowed by the board.

40-708. POLICY OF LEGISLATURE ON EXPENDITURES. (1) It is the declared policy of the legislature that, except as otherwise provided, all highway-user revenues accruing to the state highway account be spent exclusively for the maintenance, construction and development of highways and bridges in the state highway system. By mutual cooperative written agreements, or in the event of emergencies or other unusual circumstances where the financial or general welfare of the people is concerned, two (2) or more units of government may, upon a showing of cause declared and entered upon the minutes of an official meeting of the board, the boards of county, highway district commissioners or the governing body of any cities involved, as the case may be, share jointly the costs of the maintenance, construction or development of highways and bridges in any state, county, district or city system.

(2) All moneys apportioned to the board, counties or highway districts, and cities from the proceeds from the imposition of tax on fuels and from any tax or fee for the registration or operation of motor vehicles for general highway construction and maintenance, bridge and culvert moneys, shall be accounted for as to the actual expenditure to the state auditor, as dedicated funds by a certification of the governing unit receiving, budgeting and expending those dedicated funds. The certification shall list the actual funds received for the budgetary period in each category of dedicated funds and the actual expenditure of the used dedicated funds. Any balance of dedicated funds unexpended must be shown and accounted for as a beginning balance in the next regular budget. The certification shall be prepared by the director, county auditor or highway district treasurer or city clerk, and shall be signed by the elected county or highway district commissioners, mayor, council, or board members of the respective reporting governmental unit. The certification shall be made by the 15th of November of each year for the preceding fiscal budget year, and shall be published once as a legal notice between November 15th and the end of November. Failure to make certification, failure to publish or the making of false statements in the certification shall subject the person so doing to the penalties prescribed in section 40-207, Idaho Code, or be used as the grounds for removal from office of the offending officials. The state auditor is empowered to withhold the distribution of funds for noncompliance with the provisions of this section, but upon compliance shall authorize the distribution to be made.

(3) Moneys remaining unexpended in dedicated funds shall not be budgeted and expended for uses other than the limits of the dedicated fund.

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

40-709. 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, 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 those collections in all counties in the state.

(c) Forty-five per cent (45%) shall be divided among the connties of the state in the proportion that the number of miles of improved highways in the county highway system of each county bears to the total number of miles of improved highways in the county highway systems of all counties in the state. The director is directed to certify to the state auditor, on or before January 1 of each year, the number of miles of improved highways in each county.

(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, Jnly 25, and October 25 of each year.

(4) Moneys paid to incorporated or specially chartered cities shall be expended by the governiog bodies of those cities solely in the construction and maintenance of highways 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 highway fund and the county shall apportion those funds 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 highway and bridge purposes, or refunding bonds issued to take up those bonds. The county shall pay over to each highway district within the county the portion of the balance of the county highway fund as the following apportion shall apply:

(a) Ten per cent (10%) shall be divided equally among the county, if the county maintains any highways and the highway districts;

(b) Forty-five per cent (45%) shall be divided among the county,

if the county maintains any highways, and the highway districts of the county in the proportion that the amount collected from motor vehicle registrations in each area designated 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 highways, and the highway districts in the proportion that the number of miles of improved highways in the county and highway districts bear to the total number of miles of improved highways in the entire county highway system. The county shall also apportion as and when needed for disbursement for current expenses for the construction and maintenance of highways any further balance of the county highway fund to the highway and bridge fund of the county, and may expend all or any portion of the highways and bridge fund in the construction and maintenance of state highways within the county.

(6) Each highway district receiving an apportionment from the county highway 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 highway 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 highway 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, that balance shall be carried forward and retained and subsequently applied to the maintenance and construction of highways or the payment of bond interest and principal and sinking fund requirements.

40-710. APPORTIONMENT OF HIGHWAY USERS' MONEYS. (1) The apportionment of the highway users' account in counties where highway districts exist under option (1) (c) of section 40-1302, Idaho Code, shall be as follows:

(a) Ten per cent (10%) shall be divided equally among all highway districts within the county.

(b) Forty-five per cent (45%) shall be divided among the highway districts in the county in the proportion that the amount collected from motor vehicle registrations in each highway district during the last calendar year bears to the total amount of those collections in all highway districts in the county.

(c) Forty-five per cent (45%) shall be divided among the highway districts of the county in the proportion that the number of miles of improved highways in the highway district of each highway district compares to the total number of miles of improved highway in the entire county highway system of the county.

(2) Each highway district shall be required to certify to the county auditor of the county in which the highway district exists the

amount of improved highways within the highway district as reported to and approved by the director.

40-711. MONEYS OF HIGHWAY DISTRICTS -- APPORTIONMENT WITH COUNTIES. (1) Within ten (10) days after the organization of a highway board, it shall be the duty of the commissioners to pay over to the treasurer of the highway district the proper share of the district's funds in the highway and bridge fund of the county, the share being ascertained and determined as follows: From the total amount of the highway and bridge funds, consisting of the balance, if any, on hand at the beginning of the current calendar year, augmented by the amount of whatever taxes may have been subsequently collected and paid into the highway and bridge funds, there shall be deducted the amount of any payments made from the funds since the beginning of the calendar year and also any amount needed to make good any deficiency in the funds that may have existed at the beginning of that year. The resulting amount is, for the purpose of the computation, termed the net highway and bridge fund. The highway district's contribution to it is an amount which bears the same ratio that the amount of the highway and bridge ad valorem taxes levied by the county within the highway district in the preceding year (less twenty-five per cent (25%) of the highway fund levied within any included cities), bears to the total amount of highway and bridge ad valorem taxes levied in the county in the preceding year. The proper share for the highway district in the highway and bridge fund is, for the purpose of this section, ninety-five per cent (95%) of the highway district's contribution to the net highway and bridge fund.

(2) All moneys thereafter coming into the county highway and bridge funds by reason of county levies made prior to the organization of the highway district, but which may not, at the time of the organization, have been collected by the county, shall as soon as collected, be accounted for and apportioned by the methods set forth above, and the highway district's proper share in it paid over to the highway district.

(3) Pending final adjustment and payment of the amounts provided for in this section, the commissioners are authorized to retain a proportion of the funds as shall be required to meet outstanding valid warrants lawfully issued against the county prior to the organization of the highway district and outstanding indebtedness of the county lawfully contracted prior to the organization of the highway district lawfully chargeable and payable out of those funds. This section shall not apply to the proceeds of taxes specially levied to meet the requirements of bonds issued by the county.

40-712. CITY'S PORTION OF HIGHWAY FUNDS PAID TO AUDITOR -- FISCAL ASSISTANCE FUNDS. (1) Any city which maintains highways shall continue to receive their proportionate share of moneys distributed under section 40-709, Idaho Code, but in a single county-wide highway district organized under the provisions of chapter 10, title 40, Idaho Code, or under chapter 273, laws of 1971, those moneys shall be paid to the county auditor for the benefit of the county-wide highway district.

(2) Any city or county which receives moneys under the provisions of the state and local fiscal assistance act of 1972 may utilize those funds for any purposes that were solely the responsibility of that city or county prior to March 17, 1973, and which responsibility was transferred to a county-wide highway district by chapter 273, laws of 1971. Any city or county which receives moneys under the provisions of the state and local fiscal assistance act of 1972 may utilize those funds for the design, construction, reconstruction and maintenance of sidewalks, when deemed to be for public safety. Utilization of the fiscal assistance funds may be accomplished by a transfer of the funds to a county-wide highway district, and the provisions of sections 67-2326 through and including 67-2333, Idaho Code, may be utilized for transfer, provided, the provisions of the state and local fiscal assistance act of 1972 are adhered to.

40-713. EXPENDITURE AND APPLICABILITY OF FUNDS. The commissioners and the board of commissioners of each highway district are empowered to expend all or any portion of moneys received by them from the highway distribution account, in cooperation with the state of Idaho or the United States, or both, in the construction of highways or bridges.

40-714. BUDGETING AND ALLOCATION OF FUNDS. (1) The commissioners shall budget and allocate the moneys from the highway distribution account to be available during the year for which the budget is made as in the manner now provided by law for the budgeting of its expenditures, and may budget and allocate so much of them as shall be available for construction and maintenance of highways, in cooperation with the state of Idaho and United States, or either.

(2) The board of commissioners of each highway district may at any meetiog allocate the moneys then available and to become available from the highway distribution account during that year for the coostruction and maintenance of highways, in cooperation with the state of Idaho and the United States, or either.

40-715. TRANSFER OF SUMS ALLOCABLE TO COUNTIES -- DISBURSEMENT. It is the duty of the state auditor to draw drafts upon the state treasury for the transfer of the distributive sums allocable to the several counties, which drafts shall be made payable to the county treasurers. The county treaaurers shall deposit the moneys in the county highway fund. The county treasurers shall pay out those moneys, under the direction of the commissioners, as provided by section 40-709, Idaho Code.

CHAPTER 8
TAXES

40-801. AUTHORITY AND PROCEDURE FOR LEVIES. (1) The commissioners of a county highway system, the commissioners of a county-wide highway district, and the commissioners of highway districts are empowered, for the purpose of construction and maintenance of highways and bridges under their respective jurisdictinns, to make the following

highway ad valorem tax levies as applied to the market value for assessment purposes within their districts:

(a) Two-tenths per cent (0.2%) of market value for assessment purposes for construction and maintenance of highways and bridges; provided that if the levy is made upon property within the limits of any incorporated city, fifty per cent (50%) of the funds shall be apportioned to that incorporated city.

(b) A special levy of eighty-four thousandth per cent (0.084%) of market value for assessment purposes to be used for any one (1) or all of the following purposes:

1. bridge maintenance and construction;
2. matching state and federal highway funds;
3. secondary highway construction;
4. secondary highway maintenance and improvements;
5. maintenance during an emergency.

No part of this levy shall be apportioned to any incorporated city.

(2) The tax levies authorized by this section shall be certified to the county auditor of the county in which the levies are made, at the same time that other tax levies are certified for other county purposes, shall be collected by the same officers and in the same manner as any other county taxes are collected, and paid into the county treasury and apportioned to the districts or taxing units in the amount that their respective levies produced, exclusive of ordinary collection fees to the county and the proper apportionment to the incorporated cities.

(3) The total levies for construction and maintenance of highways and bridges, secondary highway matching funds and construction and maintenance of bridges only, shall not exceed two hundred eighty-four thousandth per cent (0.284%) of the market value for assessment purposes.

40-802. ASSESSOR TO FURNISH MARKET VALUE FOR ASSESSMENT PURPOSES -- BOARD TO MAKE LEVY. On or before the first Monday in July of each year the county assessor shall deliver to the secretary of each highway district within the county a statement showing the aggregate market value for assessment purposes of all the taxable property in the district, and showing separately the aggregate market value for assessment purposes of all the taxable property within each included city in each district. The highway district board shall levy the taxes provided for.

40-803. COLLECTION BY COUNTY OFFICIALS. The taxes levied by a highway board shall be extended on the general roll by the county assessor in a separate column at the rate fixed by the highway board and certified by the secretary of the highway board, at the same time the county taxes are extended. The taxes shall be carried into a column of aggregates and shall be collected by the tax collector of the county at the time and in the manner provided by law for collecting county taxes. The tax collector shall have the same powers conferred upon him respecting the collection of highway district taxes and the sale of delinquent property as are conferred respecting the collection of other county taxes.

40-804. LIABILITY OF COUNTY OFFICIALS. All county officers entrusted with the assessment, collection, paying over or custody of taxes of any highway district within the county, and their sureties, shall be liable upon their official bonds for the faithful performance of their duties in the assessment, collection and safekeeping of the highway district taxes.

40-805. PAYMENT OF MONEY TO DISTRICT. It is the duty of the tax collector of the county to pay over to the treasurer of the highway district all district tax moneys collected by him and payable to the district as soon as they are collected, and on or before the third Monday in July in each year make a final settlement with the district treasurer respecting the district taxes and pay over all moneys then due to the district, including all the district's proportionate amount of delinquent district taxes, interest and costs on all tax sales and redemptions from them. The treasurer of the district shall give to the tax collector of the county duplicate receipts for the payments, and the tax collector shall give one to the secretary of the district and the other shall be an acquittance to the county tax collector in settling with the highway district, to the extent of the payment shown.

40-806. GENERAL LAWS APPLICABLE. All ad valorem highway taxes levied and assessed under the provisions of this title shall become due and delinquent and shall attach to and become a lien on the real property assessed at the same time as other county taxes. All the provisions of the Idaho Code, governing the assessing and collecting of county taxes, are applicable to the assessment and collection of highway district taxes, wherever the same are consistent with the provisions of this title.

40-807. JOINT COUNTY BRIDGES -- ADDITIONAL TAX LEVY. (1) Any two (2) or more counties in the state are empowered to join in the construction, maintenance and repair of bridges at places within or without highway districts, where the bridges will be a direct benefit to each of the counties, and contract for the cost of construction, maintenance or repair of the bridge that each county is to bear.

(2) For the purpose of defraying the costs and expenses incurred under the provisions of this section, the commissioners of the respective counties are empowered to levy upon all taxable property of each county, in addition to all other taxes, an annual tax not exceeding twenty-four ten thousandths per cent (0.0024%) of the market value for assessment purposes of the property, the entire proceeds of the levy to be used solely for the purposes of this section.

40-808. CREATION OF SPECIAL TAX DISTRICTS -- APPORTIONMENT OF COSTS. As a highway is built and completed with the proceeds of a bond issue within an area of land which under a resolution of a highway district board is provided, there may be created a special tax district. When the highway has been accepted by the highway district board, and the director of highways for the district has certified to his board the cost of the highway so far as it lies within the special

tax district, then the highway district board shall, by order, create a special tax district, fix and designate the boundaries of it, and designate the portion of the cost of the highway to be charged against the land in the special tax district, not exceeding the maximum percentage specified in the original resolution. The highway district board shall fix and determine the amount per acre charged against the lands within the special tax district, not exceeding, in respect to any single highway, the maximum amount per acre specified for the highway in the original resolution. The amount per acre need not be the precise proportionate cost of the highway, but may be the approximate proportion, avoiding inconvenient fractions or fractional parts of a dollar, and shall be the same uniform amount per acre throughout any single special tax district. The highway district board shall include as part of the cost of the highway the fair and reasonable portion of overhead charges applicable, and an additional amount equal to two per cent (2%) of the cost to cover the expenses of the highway district for the collection of the special taxes. From time to time as highways or portions of highways are completed and accepted and the cost certified, the highway district board shall create the proper tax districts. In respect to each special tax district created, the highway board is constituted the local executive authority nf each special tax district witb authority in respect to each district, to levy the special tax, the authority being confined in each district to the limits of the highway district, and within the limits the special tax in each special tax district shall be at a uniform amount per acre throughout the special tax district. The order of the highway district board creating the special tax district, fixing and determining its boundaries, stating the number of acres in it, fixing the amount of the indebtedness created by the bond issue which is charged against the land in the special tax district, and the amount per acre to be specially taxed against the land shall be entered at length on the minutes of the highway district board and shall be open to public inspection. A notice stating generally the nature and date of the order and designating the township and sections within the special tax district shall be published for at least two (2) separate times in a newspaper published in the county. On the filing with the secretary of the highway district of proof of publication, the order shall be deemed complete.

40-809. APPEAL FROM ORDER OF HIGHWAY DISTRICT BOARD IN SPECIAL TAX DISTRICTS. Within thirty (30) days after the filing provided for in section 40-808, Idaho Code, but not after the expiration of the thirty (30) days, any owner of land within a special taxing district may file in the office of the highway district board a copy of a verified petition in a proceeding in the district court of the highway district for the review of the order, specifying the grounds of objection. At the expiration of the thirty (30) days, all proceedings relating tn the special tax district where copies of petitions for review have been duly filed shall be consolidated by order of the district court into a single proceeding, and notice shall be given and procedure followed as the district court shall prescribe. The district court shall have jurisdiction as a court of equity, and without

a jury, try and determine the proceeding. On the review, the only question to be tried and determined shall be whether, in creating a special tax district and in fixing the amounts so charged against the land, the district board has observed the requirements specified in sections 40-810 and 40-811, Idaho Code. The district court shall, if it determines that the board has materially departed from the requirements, make a final order in the proceeding directing any necessary change or modification in the order of the highway district board, and that board shall make the changes and modifications in their order, and the changed or modified order shall be submitted to the district court and finally made as directed and approved by the court. If in the proceeding the district court shall determine that the highway board has not materially departed from the requirements, it shall affirm the order of the highway district board. On the expiration of thirty (30) days from the date of the highway district board's original order, without any copy of a petition for review having been filed, or on the filing with the secretary of the highway board, of the order of the district court in the proceeding for review affirming the order, or on the filing with the secretary of the new order of the board embodying the changes and modifications directed by the district court in the proceeding for review, with the written approval of the court attached, as the case may be, the order shall be final and conclusive in respect to all the matters and things contained.

40-810. LEVY IN SPECIAL TAX DISTRICTS. When an order of the highway district board has become final and conclusive, the board shall levy upon all the land within the special tax district created by the order a special tax equal in amount to the amount so charged in the order against the special tax district, specifying the amount per acre. The secretary of the district shall transmit to the assessor and tax collector of the county a certified copy of the levy and of the order creating the special tax district. On receiving the certified copy, the county assessor shall assess, against the land in the special tax district, the amount levied, but it shall not be collected except as installments as shall be called for by the annual levies made by the highway district board of the taxes necessary to meet the requirements of the bonds. The existence of an assessment against land in the special tax district shall not be held to constitute a cloud upon the title of that land, nor as a breach of a convenant of warranty, title, nor against encumbrances in a deed or contract for the land, nor as rendering the title to the land unmarketable. The special tax authorized within special tax districts is a tax for the purpose of securing for the special tax districts the benefit of local highways within the limits of the special tax district, as distinguished from the general purpose of the bond issue as a whole of securing the benefit of a system of highways for the highway district at large.

40-811. LIMITATIONS ON LEVY IN SPECIAL TAX DISTRICTS. No special tax or charge shall be made by a highway district against land within a special tax district until the highway has been completed to within at least one (1) mile of all the land within the special tax district, the highway has been accepted by the district board, the cost certi-

fied, and all the proceedings taken as specified. All interest payable on the bonds up to that time shall be paid by the highway district without imposing on the special tax district a special tax other than its share in the taxation of the highway district as a whole. After the special tax has been levied the highway district board shall in each year, at the same time of the tax levy to meet the interest requirements of bonds, also levy a special tax on the land within every special tax district then created, in an amount sufficient to pay the interest for that year on the portion of the bond issue, the indebtedness which shall have been charged against the special tax district. Whenever the highway district board shall levy a tax to meet any principal or sinking fund requirement of the bonds, they shall at the same time levy a special tax on the land within every special tax district an amount sufficient to pay the principal or sinking fund requirements for that year on the portion of the bond issue, the indebtedness of which shall have been charged against the special tax district. All special taxation within any single special tax district shall be of a uniform amount per acre within the special tax district. Each installment of principal or sinking fund tax collected from the taxation of any land within a special tax district shall be credited on the original assessment of special tax made, and where all the installments shall have been paid, the special assessment shall be deemed canceled, paid and discharged. No special tax district shall ever be called upon to pay as special taxes any sum greater than the amount charged against the district or the land in the original special assessment and proportionate share of interest. In making the levy for the requirements of the bonds, the highway district board shall levy on the district at large only an amount of taxes in each year as shall be required to meet the requirements for that year of that portion of the bond issue which has not been charged against the special tax districts. Should the levy together with the levies on special tax districts in any year fail to produce sufficient funds to meet the obligation of the highway district on the whole issue, then the deficiency shall be paid out of the other revenues of the highway district, and if necessary, the bond levy shall be increased in the following year to make good that deficiency. No failure or delay on the part of the highway district in imposing, levying or collecting the special taxes shall, as between the district and the bondholders, impair the obligation of the highway district upon the whole of the bonds.

40-812. COLLECTION OF TAXES IN SPECIAL TAX DISTRICTS. The land within each special tax district is charged with a lien in favor of the highway district to the extent of the entire amount of all special taxes levied on the land within the special tax district in accordance with the provisions of this title. The amounts levied, both as to principal and interest, shall be assessed and collected by the tax collector as other taxes in the highway district are assessed and collected, and all the provisions of highway district law shall apply to the collection and the rights and remedies in respect to them. The portion of the amount of any bond issues of any highway district as shall be assessed and charged against land within special tax dis-

tricts, shall be deducted and excluded in computing the two per cent (2%) bond limit of the highway district imposed by section 40-1101, Idaho Code.

40-813. LIABILITY OF SPECIAL TAX DISTRICTS FOR GENERAL TAXES. All land within special tax districts shall be subject to the same taxation at the same rate as other property in the highway district for the purpose of meeting the principal and interest requirements of that portion of any bond issue which is not charged against adjoining property but is paid by the highway district as a whole. All bonds issued by a highway district shall, as to a specified portion of the indebtedness created, not exceed fifty per cent (50%), be met and paid by special taxation upon the land adjoining the highways built with the proceeds of the bonds, not exceed a specified sum per acre, and as to the remaining portion shall be met and paid by taxation of all property in the highway district, including the property within special tax districts, and including all property within any incorporated cities included within the limits of the highway districts.

40-814. RESOLUTIONS AND ORDERS ADOPTED BY COMMISSIONERS. All resolutions and orders adopted by commissioners and boards of highway district commissioners in respect to the organization and operation of each highway district and the bonds and taxes, as they appear upon the records of the respective board, or certified copies, are legal evidence of the resolutions and orders.

40-815. ESTIMATE AND LEVY OF TAX — EXCEPTION. The commissioners must each year, at the meeting at which they are required to levy the ad valorem tax for county purposes, estimate the probable amount of ad valorem tax for highway and bridge purposes which may be necessary for the ensuing year, and must regulate and fix the amount of ad valorem highway and bridge tax, and levy them. When all of the territory of a county is included in one or more highway districts the commissioners shall not regulate, fix or levy any tax for highway or bridge purposes.

40-816. INDEBTEDNESS IN EXCESS OF EXPRESS PROVISIONS PROHIBITED — EXCEPTIONS. A highway district board, or other officers of the highway district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this title. Any debt or liability incurred in excess of the express provisions shall be and remain absolutely void. For the purpose of organization or for any of the purposes of this title, a highway district board may, before making the tax levy in any year, incur an indebtedness not exceeding in the aggregate a sum equal to one-tenth per cent (.1%) of the market value for assessment purposes of all the property in the highway district subject to taxation. After making the levy, they may incur an indebtedness within the limit, on the entire indebtedness, of the amount of the levy. At no time shall the total indebtedness exceed that amount and may cause warrants of the highway district to be issued, bearing interest to be fixed by the highway district. The power granted in this section is in

addition to and independent of the power granted to issue bonds.

40-817. HIGHWAY DISTRICT TAXES -- DUTIES OF COUNTY ASSESSOR. Upon receiving a certified copy of a resolution of a highway district board, the county assessor must assess upon all property in the highway district subject to taxation the taxes so levied and certified to him. His assessment of all taxes levied by the highway district board may be computed and made upon the valuation of property as fixed by the board of equalization for county purposes, and as appears upon the assessment roll in the same year. The taxes as levied by the highway district board shall become a lien upon the property assessed from the date of the assessment, and shall be due and payable at the same time as other county taxes, and in all respects are to be collected in the same way, except that the tax collector must keep a separate list or assessment roll of them, and when paid, they must be named in his receipt to the taxpayer as a separate item. The tax collector shall pay the taxes, when collected, to the treasurer of the highway district and at the time of payment he must specify to the treasurer receiving them what taxes they are, take a separate receipt and keep separate accounts for the payment of the tax. The commissioners shall furnish the tax collector with any blanks as are needed to comply with these provisions.

40-818. LIMITATION ON LEVIES -- PENALTIES. It shall be unlawful for any board of highway district commissioners or its members to levy any tax upon the property in a highway district for any pnrpose whatsoever in excess of the levies provided by law. Any highway district commissioner violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall forfeit his office, aod it shall become vacant immediately. The vacancy in office shall be filled in the manner provided by law for filling of vacancies.

40-819. ELECTION TO INCREASE LEVY -- NOTICE. (1) Whenever the levies provided by law to be made by highway district commissioners will not, in the opinion of the highway district commissioners, produce a sufficient amount of money for the use of the highway district for their purposes, the highway district board may by order authorize the holding of an election within the highway district, at which election the voters may determine whether or not any levy for any purpose authorized by law for highway districts shall be increased to produce revenues for those purposes. If at the election the majority of the qualified voters shall vote in favor of increasing any of the levies, the levies may be increased. The increase shall not exceed an additional twenty per cent (20%) of the levy authorized by law for that purpose.

(2) The highway district commissioners shall designate the time and place of holding the election which shall be within the bighway district. The election shall be held between the fifteenth of June and the fifteenth of August of the year in which the levy is to he made. Notice of the election shall be given by posting notices in three (3) public places within the highway district at least fifteen (15) days

prior to the election and by publishing the notice in accordance with the provisions of section 40-206, Idaho Code. The notice shall state:

(a) The time and place of holding the election;

(b) The amount of money which the levy authorized by law to be made by the highway district commissioners will produce;

(c) The amount of money in excess of each of the levies desired to be raised by the highway district commissioners, and generally the purpose for which the additional money is to be used;

(d) If at the election a majority of the qualified voters voting vote in favor of increasing the levy that the levy may be increased in an amount not exceeding twenty per cent (20%) of the levy provided by law; and

(e) The additional levy, if authorized by a majority vote at the election, will when added to the levy provided by law provide sufficient money for the particular purpose of which the levy is authorized.

40-820. EXPENDITURES IN EMERGENCIES. In the event of a great public disaster, or if it is necessary to do emergency work to prepare for national or local defense, the board of highway district commissioners may pass a resolution declaring the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the highway district board may expend any sum required in the emergency without complying with this title.

40-821. TREASURER OF HIGHWAY DISTRICT -- DUTIES. It is the duty of the treasurer of a highway district to keep accounts of the district and to place to the credit of the district all moneys received by him, and to pay over all moneys belonging to the district on legally drawn warrants or orders of the district officers entitled to draw them.

40-822. DETACHED TERRITORY -- ORDER DETERMINING APPORTIONMENT OF INDEBTEDNESS -- SPECIAL LEVY. (1) A board of highway district commissioners shall enter upon its records an order determining the net proportionate share of the indebtedness of the highway district incurred prior to a detachment of territory for which the detached territory should be and remain liable.

(2) Notwithstanding the detachment of territory with respect to the future operations and conduct of the district, the board of highway district commissioners shall annually levy upon all the property within the detached territory a special tax sufficient to pay as it falls due, the principal and interest of that proportionate share of the prior indebtedness of the district for which the detached territory is and shall remain liable. The special tax shall be levied at the same time, certified, and collected in the same manner as are the other taxes levied by the district, but after detachment the detached territory or the property in the district shall not be subject to taxation by a highway district for future operations of the district or for the repayment of any indebtedness subsequently incurred by the district.

40-823. LEVY TO PAY INDEBTEDNESS UPON DIVISION OF DISTRICT. Whenever there is a division of a highway district and an amount is found to be due from either of the districts to the other, and where a warrant or warrants have been drawn for the amount due payable to the creditor district, and the levy for the first year is found to be insufficient for the payment of the warrant or warrants, it shall be the duty of the board of highway district commissioners of the debtor district to levy annually a tax sufficient to pay at least twenty-five per cent (25%) of the warrant indebtedness annually, or so much of the warrant indebtedness as the limit of levying taxes by a highway district as prescribed by law will permit. The highway district commissioners of the former district shall annually levy an ad valorem tax for both the former and the new district for the purpose of providing a sinking fund to pay the bonded indebtedness of the former district at the time of the division. Upon any levy being made by the board of highway district commissioners of the former district, it shall be the duty of the clerk of that board to transmit to the board of highway district commissioners of the new district a certified copy of the resolution providing for the tax. It shall be the duty of the board of highway district commissioners of the new district to spread the resolution on its minutes, and a tax shall be levied on the new district in accordance with the resolution and collected in the same manner as other special highway district taxes are collected. The moneys shall be paid as soon as collected by the tax collector of the county in which the new district is situated, to the treasurer of the former district who shall credit the tax moneys to the sinking fund to liquidate the existing bonded indebtedness.

40-824. COMPUTATION AND PAYMENT OF INDEBTEDNESS OF DISSOLVED DISTRICT SITUATED IN TWO OR MORE COUNTIES. In the case of dissolved highway districts situated in two (2) or more counties, the commissioners of the county having jurisdiction of the dissolution of the district shall compute the indebtedness of the entire district and shall provide for the payment of the indebtedness out of the district funds on hand, or to be raised by special levies, which shall be determined and levied by the county, and shall be certified to the clerk of the commissioners of each of the counties in which is situated any part of the dissolved district. The tax shall be levied and imposed by each of the counties upon the property of the former district as may be within the county, the tax collected and, not less than quarterly, be remitted to the treasurer of the succeeding operational unit to be applied in payment of the indebtedness of the district.

40-825. LEVIES TO PAY CLAIMS AGAINST DISSOLVED OR CONSOLIDATED SYSTEMS AND DISTRICTS -- CERTIFICATION AND ASSESSMENT -- ISSUANCE OF NEW HIGHWAY USERS' FUND BONDS. After dissolution of a county or city highway system or a highway district, or upon a consolidation of districts, and at the next regular annual meeting of the succeeding operational unit when levies for other county purposes are fixed, the succeeding highway system board shall in addition to apportioning moneys arising out of the highway users' fund and the moneys from all other

sources as the system or district would be entitled to receive had it not been dissolved and all other tax levies, including general highway and bridge levies, levy a special tax upon all of the property situated within the former boundaries of any former system or district, sufficient to raise funds for the payment of all remaining unpaid current claims against or debts of the former system or district, together with funds for payment of current and accruing terms and conditions of outstanding bonds and warrants of the former system or district. Each following year they shall continue that levy, or make other or additional levies as may be required to fully pay and retire the indebtedness of the former county or city highway system or highway district. The taxes shall be collected in the same manner as other county taxes and shall be turned over to the treasurer of the succeeding operational unit, who shall redeem, or post for redemption, all warrants and bonds as they mature and in order of their line, and for which funds are available from the former system or district for the payment of them. The succeeding operational unit, whenever it may deem it necessary or expedient, has the power to issue highway users' fund bonds for and on behalf of the former system or district and of the same force and effect as if validly issued by the board of highway commissioners or councilmen of the former system or district during its existence. All bonds shall be in form and issued, registered, sold or exchanged and redeemed in accordance with the provisions of chapter 2, title 57, Idaho Code, and of general law relating to bond issues.

40-826. COLLECTION OF TAXES -- DISPOSITION UPON COLLECTION. Taxes levied shall become a lien upon the property so assessed from the date of assessment and shall be due and payable at the same time as other county taxes. The taxes shall he collected in the same way, except that the tax collector must keep a separate list or assessment roll of them; and when paid, they must be named in his receipt to the taxpayer as a separate item. The tax collector shall pay the taxes collected to the treasurer of the succeeding district, and at the time of payment must specify to the treasurer receiving them what taxes they are, take a separate receipt, and keep a separate account for the payment of taxes. The commissioners shall furnish the tax collector with blanks as are needed to comply with the provisions of this section.

CHAPTER 9
CONTRACTS -- BIDS

40-901. APPLICATION. The requirements for contracts and bids shall apply to all county highway systems and highway districts of the state, but shall be subject to the provisions of any specific statute pertaining to the letting of any contract or the purchase or acquisition of any commodity or thing by any system or highway district by soliciting and receiving competitive bids, and shall not be construed as modifying or amending the provisions of any statute, nor preventing the district from doing any work by its own employees.

40-902. BIDS -- STATE HIGHWAY SYSTEM. (1) Whenever work on the

state highway system is let by contract, sealed bids must be called for by public advertisement in at least two (2) consecutive weekly issues in a weekly newspaper or five (5) issues in a daily newspaper, having a general circulation in the county or one of the counties, where the work is to be done.

(2) Each bid must be accompanied by a cashier's check or a certified check in favor of the department on some bank in the state of Idaho, or by a bidder's bond, for the sum of five per cent (5%) of the amount of the bid, to be forfeited if the bidder, upon acceptance of his bid, fails or refuses to enter into a contract within fifteen (15) days after the presentation of the contract by the department to him for execution and to furnish the required bond. Checks and bonds of unsuccessful bidders shall be returned immediately after the contract is awarded.

(3) Bids shall be opened publically at the time and place specified in the advertisement and the contract let to the lowest and best bidder, but the department has the right to reject any and all bids, or to let the contract for a part or all of the work.

(4) If no satisfactory bid is received, new bids may be called for, or the work may be performed by day labor, or as may be determined by the department.

40-903. STATE HIGHWAY WITHIN DISTRICT -- BID OF DISTRICT -- CONTRACT UPON ACCEPTANCE. Whenever any work is to be done upon any state highway or a portion of it, within any county highway system or highway district, and the work is to be let by contract by the highway board, the county highway system or highway district in which the work is to be done through its commissioners is hereby authorized to bid upon the work or improvement. If the county system or district desires to bid upon the work or improvement it shall, prior to opening any bids, prepare a detailed estimate of the cost of performing the work. The estimate shall include the cost of wages, materials, supplies, equipment purchased, rental of equipment using realistic equipment rental rates such as the "rental rate blue book for construction equipment" or similar recognized rate schedules, industrial insurance and medical aid, superintendence, and all other overhead costs allocable to the work project, including the reasonable value of the use of equipment owned by the county system or district. All costs shall be included regardless of whether the item is furnished by a county system, district or otherwise. The estimate shall be confidential prior to the opening of bids submitted by contractors, but shall be filed, opened and made public at the same time and place that the contractor bids are filed and opened. If the lowest responsible contractor bid is not more than one hundred twenty percent (120%) of the estimate filed by the county system or district, or if no estimate was prepared and filed prior to opening bids, the contract shall be awarded to the lowest responsible bidder, otherwise the county system or district may perform the work. The county system or district shall furnish a bond as the board demands conditioned that if the bid is accepted, the county system or district will enter into a contract for the performance of the work. In case the bid of the county system or district is accepted, it is empowered through its highway commission-

ers to enter into a contract with the state for the performance of the work. When a contract is let to a county system or district, the county system or district through its board of highway commissioners shall perform the work in accordance with the contract and the plans and specifications for that work, the same as a private contractor would be required to do.

40-904. LIABILITY FOR PERFORMANCE -- BOND -- SECURITY IN LIEU OF BOND. Any county highway system or highway district entering into a contract with the state is liable for the performance of the contract the same as a private individual would be liable. To insure the faithful performance of a contract the board is empowered to require a surety bond of a county system or district to be given by a surety company conditioned that the county system or district will fully and faithfully perform the contract. The bond is to be in a form and amount as may be determined by the board in each particular case. The premium on the bond shall be a proper charge against the county system or district and shall be allowed by the county or district commissioners and paid from the current expense funds of the county or district in the same manner as other claims. The board may accept other security in lieu of a bond when in its judgment the security is sufficient to guarantee the faithful performance of the contract.

40-905. PERFORMANCE OF CONTRACT -- RELETTING -- SEALED BIDS -- APPROVAL BY COMMISSIONERS. (1) When a contract is awarded to a county highway system or highway district, the county system or district may perform the work by day labor and direct purchase of supplies, or may let the whole or any part of it by contract. Portions of a contract may not be excluded in order to avoid other sections of this chapter. If any portion of the work is let by contract by the county or district commissioners, sealed bids must be called for by public advertisement. The bids must be opened publicly at the time and place specified in the advertisement and the contract let to the lowest and best bidder. The county or district commissioners shall have the right to reject any and all bids or let the contract for a part or all of the work.

(2) In the event that any contract contemplated shall be let to any contractor other than a county highway system or highway district, that contract shall be approved by the commissioners of any county where the work is to be performed.

40-906. EXPENDITURES FOR WHICH BIDS REQUIRED. When the expenditure contemplated exceeds five thousand dollars ($5,000), or ten thousand dollars ($10,000) if for equipment, it shall be contracted for and let to the lowest responsible bidder.

40-907. PUBLICATION OF NOTICE -- DOCUMENTS TO BE MADE AVAILABLE. The advertisement 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 a newspaper of general circulation printed and published in the county, or

if there is none, it shall be published in a newspaper having general circulation in the district. The notice shall succinctly set forth the project to be done. The following documents shall be made available by the county or highway district commissioners, free of charge to any interested bidder: bid form, bidder's instructions, contract documents with general and special instructions when appropriate, and drawings and specifications when appropriate.

40-908. SECURITY -- AMOUNT. (1) All bids shall be presented or otherwise delivered under sealed cover to the secretary of the county or highway district commissioners, with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains. The county or district may require that all bids shall contain one (1) of the following forms of bidder's security:

(a) Cash;

(b) Cashier's check made payable to the county or district;

(c) A certified check made payable to the county or district; or

(d) A bidder's bond executed by a qualified surety company, made payable to the county or district.

(2) If security is required it shall be in 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 enclosed with it and the bid is submitted in a form which substantially complies with the form provided by the county or district.

40-909. OPENING OF BIDS. Any bid received by a county or 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 rhose bids. If any award is made, it must be made within thirty (30) days of the date of opening bids, and the cash or proceeds of the successful bidder's security 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.

40-910. FAILURE TO EXECUTE CONTRACT -- DUTY OF COMMISSIONERS. (1) If the successful bidder fails to execute the contract, the amount of his bidder's security shall be forfeited to the county or district.

(2) The commissioners of the county or district, upon learning that any of the public highways are nor repaired and kept in good order by anyone contracting to do so in a contract with the county or district, has the power and shall cause the work to be done by placing labor on the highways. The expense shall be retained from any amount that may be due the contractor on his contract, and should that be insufficient or nothing be due on it, the deficiency or whole amount as the case may be, shall be collected from his bondsmen, as other liabilities. Each highway commissioner shall act only within his commissioner district, except at the regnlar meetings of the respective county or district board.

40-911. AWARDING OF CONTRACT TO NEXT LOWEST AND BEST BIDDER ON

REFUSAL OR FAILURE TO EXECUTE CONTRACT -- APPLICATION OF PART OF LOWEST BIDDER'S SECURITY. The district may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest and best bidder. If the county or highway district commissioners award the contract to the next lowest and best bidder, the amount of the lowest and best bidder's security shall be applied by the county or district to the difference between the lowest and best bid, and the next lowest and best bid. The surplus if any shall be returned to the lowest and best bidder if cash or a check is used, or to the surety on the bidder's bond if a bond is used.

40-912. REJECTION OF BIDS. County or highway district commissioners may reject any bids presented but then must readvertise. If two (2) or more bids are the same and the lowest and best bids, the respective commissioners may accept the one they choose. If no bids are received, the respective commissioners may make the expenditure without further complying with the provisions of this chapter.

40-913. RESOLUTION FOR USE OF DAY LABOR -- MATERIALS OR SUPPLIES PURCHASED ON THE OPEN MARKET. After twice rejecting bids, the county or district commissioners may, after preparing a cost estimate and finding it to be a fact, pass a resolution declaring that the project 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 project accomplished in the manner stated. It shall be performed in accordance with the same plans and specifications upon which the bids were based. A complete and accurate record shall be kept of the cost of performing the work and this cost record shall be in a form that allows easy comparison with the cost estimate. The record shall show the totals of all classes and kinds of work performed, the total cost and unit cost of each class, together with the costs of executing the work including the costs of labor, material, equipment purchased, rental of equipment, industrial insurance and medical aid, superintendence and all other overhead allocable to that work project, including the reasonable value of the use of equipment owned by the county system or district.

40-914. DUTIES OF CONTRACTOR. Any person contracting shall cause all highways in their area of contract responsibility to be kept clear of obstruction and in good repair, banks to be graded, bridges and crossings to be made where they may be necessary, put in snow bridges when snow highways are used during the winter months, and shall use reasonable diligence in keeping each highway passable.

40-915. ALLOWANCE OF CONTRACTORS' CLAIMS. Amounts allowed to contractors in the respective contract system or district shall be audited and allowed as other claims against the county or district by the respective highway commissioners at their regular meeting, and shall be paid quarterly.

40-916. PROHIBITED CONTRACTS -- PENALTY. No county or highway district commissioner, or any other officer or employee of the county

or district, shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the respective highway commissioners, or in the benefits to be derived from them. For any violation of this provision a commissioner or officer shall be deemed guilty of a misdemeanor, and upon conviction shall forfeit his office in addition to other penalties.

CHAPTER 10
WARRANTS

40-1001. COUNTERSIGNING, DRAWING AND PAYMENT. (1) The secretary of a highway district shall countersign all drafts and warrants on the highway district treasury, and no payment of district funds shall be made except on a draft or warrant countersigned by him. He shall not countersign any draft or warrant until he has found that payment has been legally authorized, that the money for it has been duly appropriated and that the appropriation has not been exhausted.

(2) Warrants shall be drawn by and countersigned upon the order of the chairman of the highway commissioners, or in his absence, the other highway commissioners. No drafts or warrants shall be drawn except upon appropriation of the highway commissioners, nor in excess of the moneys actually in the district treasury. Warrants may be issued in anticipation of the collection of taxes, but not in excess of the amount of the levy, nor shall any warrants be issued, nor indebtedness incurred in anticipation of the levy, except as provided in section 40-816, Idaho Code.

(3) When a warrant is presented for payment, if there is money in the treasury for the purpose, the treasurer must pay the same and write on the face of it, "paid," the date of payment and sign his name.

40-1002. NONPAYMENT -- CALL. When any warrant is presented to the district treasurer for payment, and it is not paid for want of funds, the treasurer must indorse on the back of the warrant, "not paid for want of funds," and shall write upon it the date of presentation and sign his name. Warrants indorsed by the treasurer shall draw interest at the rate established by the district board from the date of indorsement until paid.

40-1003. NOTICE OF CALL. The district treasurer shall provide himself, at the expense of the district, with a bulletin board, across the top of which shall be painted or inscribed the words, ".... highway district warrant bulletin." It is the duty of the treasurer to keep the bulletin board conspicuously, securely and permanently in place in his office, and upon it place in a manner which will insure continuous notice of not less than sixty (60) days all notices issued by him, whether written or printed, calling for the presentation of district warrants for payment.

40-1004. NOTICE TO BE MAILED. Whenever there is an amount to the credit of the district fund as shown by the books of the treasurer sufficient to pay the warrant or warrants next entitled to payment,

the treasurer shall immediately place in his office a notice that the warrant or warrants will be paid on presentation, stating the number and series of the warrants. The treasurer shall send, by mail, to the record holder of the warrant notice that the warrant will be paid on presentation.

40-1005. INTEREST CEASES TEN DAYS AFTER CALL. Interest on any warrant shall cease on the expiration of ten (10) days from the time of the posting of the notice. For all sums which may be paid by the treasurer, as interest on any warrant, after the expiration of ten (10) days from the earliest date at which there were sufficient funds with which to have called and paid the warrant, the treasurer and his sureties shall be liable upon his official bond.

40-1006. WARRANTS BEARING INTEREST -- DUTIES AND ACCOUNTS OF TREASURER. When the treasurer pays any warrant on which interest is due, he must note on the warrant the amount of interest paid and enter on his account the amount of the interest distinct from the principal.

CHAPTER 11
BONDS

40-1101. BONDS -- FUNDING. Every highway district has the authority, by resolution of the respective board of highway district commissioners and without an election, to issue negotiable coupon bonds for the purpose of funding or refunding any existing indebtedness, whether the indebtedness exists as warrant indebtedness or otherwise; for construction, improvements or repairs of any highways, bridges or structures in the district; for the purchase of material and machinery; for contracting highway and bridge engineering and construction; for the necessary expenses of the district in connection with these purposes; or for any or all of these purposes. Authorization for the issuance, sale and redemption of bonds other than funding or refunding existing indebtedness, shall be as provided by chapter 2, title 57, Idaho Code. The total amount of bonds any district has issued and outstanding at any time shall not exceed two per cent (2%) of the market value for assessment purposes of all the taxable property in the district as shown by the last preceding assessment list.

40-1102. SECURITY FOR BONDS. (1) The full faith, credit, and all taxable property within the limits of a highway district, as they exist at the time of the original resolution of the respective highway district for the issuance of bonds, or may subsequently be extended, shall continue pledged, and the proper officers of the district shall continue to assess and collect on all taxable property within the limits of the highway district necessary taxes to pay the bonds and interest as they become due. Should the tax for the payment of interest on or the principal of bonds not be collected in time to meet the payment, the money must be paid out of any moneys in the general fund of the district, and the moneys used for the payment shall be repaid out of the first moneys paid into the fund from which taken, and a sum sufficient to cover the deficit shall be levied and collected in the

next, or any succeeding year. Failure of the officers of the district to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

(2) No bond issued shall be invalidated, annulled, or set aside on account of any defect, irregularity, omission, informality, or failure to comply with the provisions of this title, unless it shall appear to the court that a substantial injury has been or is about to be suffered by the property owners and taxpayers of the district. Bond issues shall rest upon the consent of the taxpayers and the credit of the district shall not be injured by the cancellation of securities when issued.

(3) The district may recite in the bonds that all acts requisite to the issue of them have been duly and regularly performed and fully complied with, and that they are duly and regularly issued, and as affecting innocent purchasers, the recital shall be conclusive.

40-1103. LEVIES FOR BONDS IN SPECIAL TAX DISTRICTS -- REFUNDING. Should any bond issue where the indebtedness has been charged in part against adjoining property be funded or refunded so that a sinking fund for the original issue is not required to be established, then the annual levy for sinking fund requirements need not be made upon the land in the special tax districts created in respect to the bond issue; or, at the option of the highway district commissioners, a portion of the bond issue, to meet a sufficient amount which has been charged against the special tax districts, may remain without refunding, and shall subsequently be paid and retired with the proceeds of the special taxes on the land within the special tax districts. If the proceeds prove temporarily insufficient, then they shall be paid from the other revenues of the district. If the whole of an issne is refunded and new bonds issued, then the land within the special tax districts shall continue to be specially taxed for the new bonds, equal in amount to the refunding issue equably, both as to principal and interest, with the taxation of the district at large for the bond purposes. On the funding of any issue of bonds, on receiving from the treasurer of the district a certificate, under the seal of the district, signed by the secretary and treasurer of the district and either by the chairman or by the other highway district commissioners that the bonds have been actually funded and retired, the special assessment made against the land within the special tax districts created for the bond issue as provided in section 40-810, Idaho Code, shall be canceled, vacated and annulled, and a new special levy of the same amount shall be assessed against the land in the special tax districts in respect to the new or refunding bonds.

40-1104. FORM OF BONDS -- HIGHWAY DISTRICT. In case a vote is in favor of charging part of the indebtedness to be created by a bond issue against adjoining land, the bonds may be issued and the proceedings shall be as provided by chapter 2, title 57, Idaho Code, except where other special provisions on the subject are provided by sections 40-1103 and 40-808 through 40-813, Idaho Code.

40-1105. ELECTION -- ISSUANCE. The election and all acts and pro-

ceedings had and taken in connection by highway district commissioners in respect to bonds and the levy of ad valorem taxes for the construction, improvement or repair of highways are legalized, approved and validated and constituted the negotiable legal obligations of the highway district, where:

(1) A two-thirds (2/3) majority of the qualified electors of the highway district voting on the proposition voted in favor of the issuance of bonds of the highway district;

(2) Notice of the election was given as essentially provided by section 40-206, Idaho Code;

(3) The canvass of the vote revealed the required majority was recorded in the records of the highway district commissioners, and a resolution adopted and recorded in the district records authorizing the issuance of bonds of the district;

(4) The maturity of the bonds was within thirty (30) years;

(5) A rate of interest was prescribed and an ad valorem tax upon all taxable property in the district sufficient to pay the bonds as maturity was levied; and

(6) The bonds were in an amount not exceeding ten per cent (10%) of the assessed valuation if sold and delivered prior to July 1, 1980, or two per cent (2%) of the market value for assessment purposes if sold and delivered on or after July 1, 1980, of all taxable property of the highway district, and the proceeds received by the treasurer of the highway district and expended in the construction, improvement or repair of highways located within the highway district.

40-1106. BONDS OF COUNTY. Nothing in this chapter shall be construed as a limitation of the power of the commissioners to issue bonds for the construction or the repairs of highways and bridges. Whenever the commissioners shall issue bonds for the construction or repair of highways and bridges under the provisions of chapter 19, title 31, Idaho Code, upon the authorization of two-thirds (2/3) of the qualified electors of the county voting at an election held for that purpose, pursuant to a resolution of the commissioners and entered upon their journal specifying, describing and defining the highways or bridges to be constructed or repaired, and giving the termini and the general course of each highway and the approximate location of each bridge it is proposed to construct, and appropriating a specific amount for any highway or bridge wholly or partially within any organized highway district, then the commissioners shall have full jurisdiction and power to locate and construct or repair the highway or bridge within the highway district, and to apply a specific appropriation so derived from the issue of bonds or so much of them as may be necessary.

CHAPTER 12
BRIDGES

40-1201. INTERSTATE BRIDGES ON STATE HIGHWAYS -- MAINTENANCE AND CONTROL. When interstate bridges are located on designated state highways and designated state highways of any adjoining state, the portions of bridges within the state of Idaho shall be controlled, oper-

ated and maintained by the board, which is hereby vested with all power and authority necessary or incidential to the maintenance, operation and control of them.

40-1202. PETITION FOR CONSTRUCTING -- NOTICE OF HEARING. When construction of a bridge, the cost of which will exceed five hundred dollars ($500), is necessary, any five (5) or more taxpayers of a county highway system or highway district interested in it may petition the respective highway commissioners for the erection of the needed bridge. The commissioners shall then advertise the petition, in accordance with the provisions of section 40-206, Idaho Code, giving the location and notify the director of highways to attend at a certain time and place to hear the petition.

40-1203. PETITION HEARING -- DUTY OF HIGHWAY COMMISSIONERS. On the day fixed to hear the petition, proof of the notice given being made satisfactory, the county or district highway commissioners shall hear the petition, examine witnesses, and determine whether or not a bridge as petitioned for is necessary. If the petition is approved the county or district highway commissioners shall determine the type of bridge to be constructed, prepare plans and specifications, invite bids, let the contract, have the bridge erected, and provide payment for it.

40-1204. BRIDGES COSTING OVER FIVE THOUSAND DOLLARS -- CONTRACTS FOR CONSTRUCTION AND REPAIR. If the cost of the construction or repair of a bridge will exceed five thousand dollars ($5,000), the bridge shall be constructed or repaired under the provisions of sections 40-905 through 40-916, Idaho Code.

40-1205. BRIDGES — REPORTS. The director of highways shall, in his official reports, give a full account of all bridges for which he has in whole or in part the charge and maintenance and those bridges constructed or repaired, the cost, amounts expended, from what source moneys were derived, and the present and prospective condition of the bridges.

40-1206. MAXIMUM LOAD -- POSTING OF NOTICES. County or highway commissioners may limit the maximum load to be carried over and on any public bridge over which they have jurisdiction below the limit prescribed by law. In this case, the highway commissioners shall cause suitable signs to be erected and maintained at the approach to the bridge, specifying the limitation of load.

40-1207. TRAFFIC REGULATIONS -- POSTING OF NOTICES — PENALTY. Directors of highways, or any other persons legally appointed to take charge of a bridge, may post a notice to set out and provide that no horse or mule-drawn vehicle, nor a person riding a horse or mule shall travel across the bridge or any portion of the bridge faster than at a walk; that horses, mules or cattle shall not be allowed to cross in bunches of more than twenty (20) at a time, and shall not travel faster than at a walk. The notice shall be posted in a conspicuous

place and shall be in letters large enough and placed in a manner that it may be easily read by the public. Directors of highways may make other rules and regulations governing the traffic on bridges within their jurisdiction when it is deemed necessary for the safety of the public, and may post a notice of the rules in the manner provided in this section. Any person convicted for violating any of the provisions of a notice as provided for by this section shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars ($10.00) nor more than three hundred dollars ($300), or may be imprisoned not less than ten (10) days nor more than sixty (60) days in the county jail, or by both fine and imprisonment.

CHAPTER 13
HIGHWAY DISTRICTS

40-1301. DISTRICTS AS NOW ORGANIZED VALIDATED -- GOOD ROAD DISTRICTS REDESIGNATED. (1) All highway districts as now organized and constituted are hereby validated and shall continue as public corporations.

(2) All good road districts as now organized and constituted are hereby redesignated as highway districts, and shall conform to all procedures, requirements, powers and duties as shall apply to highway districts, the same as if they had been originally organized as highway districts. Good road district commissioners shall continue in office as highway district commissioners until the expiration of their term of office, following which there shall be an election of highway district commissioners for a term of four (4) years.

40-1302. COUNTY DIVISION OR CHANGE IN BOUNDARIES -- JOINT HIGHWAY DISTRICT FORMED. When a county division or change in the boundaries of a county divides an existing highway district the district shall continue as a joint highway district until changed as provided by this title. It shall be the duty of the commissioners of the respective counties affected to rename the district as a joint highway district, and the renamed joint highway district shall in all things be considered a continuation of the existing district.

40-1303. HIGHWAY COMMISSIONERS -- APPOINTMENT -- OATH. There shall be three (3) highway commissioners in each district. The first highway commissioners of the highway district shall be appointed by the governor. The certificate of each appointment shall be made in triplicate; one (1) certificate shall be filed in the office of the county recorder of the county; one (1) with the clerk of the commissioners; and one (1) with the assessor and tax collector of the county. Every highway commissioner shall take and subscribe the official oath, which oath shall be filed in the office of the highway district commissioners.

40-1304. DIVISION OF DISTRICTS INTO SUBDISTRICTS -- VACANCY IN OFFICE OF HIGHWAY COMMISSIONER. At the meeting of the commissioners at which the highway district is declared organized, the commissioners shall divide the highway district into three (3) subdistricts, as

nearly equal in population, area and mileage as practicable, to be known as highway commissioners subdistricts one, two and three. Subdistricts may be revised or modified as changes in conditions demand. Not more than one (1) of the highway district commissioners shall be an elector of the same highway subdistrict. The first highway district commissioners appointed by the governor shall serve until the next highway district election, at which their successors shall be elected. The highway commissioners shall take office on January 1 of the year immediately following their election. Any vacancy occurring in the office of highway commissioner, other than by expiration of the term of office, shall be filled by the highway district board and be for the balance of the term of the person replaced. If the remaining highway district commissioners are unable to agree on a person to fill the vacancy within ten (10) days after the vacancy occurs, the chairman of the commissioners of the county in which the highway district is located shall then become a member of the highway district board for the purpose of filling the vacancy only. If a majority of the highway district board so constituted shall be unable to agree upon a person to fill the vacancy within five (5) days, or if two (2) or more vacancies shall occur in the board of highway commissioners at one (1) time, a special election to fill the vacancy shall be called and held in the same manner provided by law for the holding of elections for highway commissioners, except that the date of the election shall be as soon as possible, and all duties imposed by law upon the highway district board in connection with elections shall be performed by the couoty commissioners.

40-1305. ELECTION OF HIGHWAY COMMISSIONERS -- TERM OF OFFICE. (1) On the first Monday of December of the next odd-numbered year following the appointment of the first highway district commissioners, commissioners from subdistricts one and two shall be elected for a term of two (2) years. Thereafter the term of office of all commissioners shall be four (4) years. Highway district commissioners elected prior to July 1, 1985, shall continue in office until the expiration of the term for which they were elected, and elections for commissioners of each of the subdistricts shall continue on the schedule established prior to July 1, 1985.

(2) Highway commissioners have power to make regulations for the conduct of the election as are not inconsistent with any statutory provisions. At elections for highway commissiooers, the polls shall be open from twelve o'clock noon to eight o'clock in the evening. Except as otherwise provided by statute, the election, and all other elections held under this chapter, shall be held in conformity with the general laws of the state.

40-1306. ORGANIZATION OF HIGHWAY COMMISSIONERS -- MEETINGS -- OFFICERS -- OFFICIAL BONDS. (1) Immediately after qualifying and appointment, the highway commissioners shall meet and organize, shall elect a chairman from their number, and shall appoint a secretary and treasurer who may also be from their number. The offices of secretary and treasurer may be filled by the same person. Certified copies of all appointments, under the hand of each of the commissioners, shall

be filed with the clerk of the county commissioners and with the tax collector of the county.

(2) As soon as practicable after organization, and when deemed expedient or necessary, the highway commissioners shall designate a day, hour and place at which regular meetings shall be held, which shall be within the district or at the county seat of the county in which the district is located. Regular meetings shall be held at least quarterly. Minutes of all meetings must show what bills are submitted, considered, allowed or rejected. The district secretary shall make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed or disallowed. The list shall be signed by the chairman and attested by the secretary. All special meetings must be ordered by the chairman or a majority of the highway commissioners, the order must be entered on the record, and the secretary must give each member not joining in the order five (5) days' notice of any special meetings. The order must specify the business to be transacted at the special meeting and none other than that specified shall be transacted. Whenever all members of the board are present, however called, it shall be deemed a legal meeting and any lawful business may be transacted. All meetings of the highway commissioners shall be public, and a majority shall constitute a quorum for the transaction of business. A majority of the highway commissioners may exercise all of the powers of the board of highway district commissioners. All records of the highway district shall be open to the inspection of any elector during normal business hours.

(3) The officers of the highway district shall take and file with the district secretary an oath for the faithful performance of the duties of their respective offices. The district treasurer shall on his appointment execute and file with the district secretary an official bond in an amount as may be fixed by the highway district commissioners, which shall not be less than five thousand dollars ($5,000), and shall from time to time execute and file any further bonds as required of the highway district commissioners in amounts fixed by them, which amounts shall be at least sufficient to cover the anticipated amounts of money coming into his hands plus an additional twenty-five per cent (25%).

40-1307. HIGHWAY DISTRICTS ARE BODIES CORPORATE. Every highway district organized as provided by law is a body politic and corporate, and as such has the power specified in this chapter and in other statutes, including the power of eminent domain, and powers as necessarily implied from those expressed. The power of a highway district lies in the highway commissioners or by agents and officers acting under their authority or authority of law. The name of the highway district designated in the order of the commissioners declaring the territory duly organized as a highway district, shall be the corporate name of the district, and it must be known and designated by that name in all actions and proceedings touching its corporate right, property and duties.

40-1308. RATIFICATION OF PRIOR CONTRACTS, OBLIGATIONS, LIABILITIES, AND JUDGMENTS -- POWER TO LEVY TAXES FOR SETTLEMENT. Contracts,

obligations and liabilities of highway districts entered into or incurred prior to July 1, 1985, are hereby ratified and confirmed and every judgment in favor of the highway district is ratified and confirmed as the right and property of the district, and every highway district has the power to levy and collect taxes as necessary to defray all expenses of prosecuting and defending actions and to pay any judgments and liabilities incurred against it.

40-1309. CORPORATE POWERS OF HIGHWAY DISTRICTS. Each highway district has power:

(1) To sue and be sued.

(2) To purchase and hold lands, make contracts, purchase and hold personal property as may be necessary or convenient for the purposes of this chapter, and to sell and exchange any real property other than public lands which by the constitution and laws of the state are placed under the jurisdiction of the state land board. The highway district commissioners shall first adopt a resolution finding that the property to be sold or exchanged is no longer useful to the district; that a public hearing is to be held, of which hearing notice shall be published in accordance with the provisions of section 40-206, Idaho Code, and at which hearing any person interested may appear and show cause that the sale or exchange should not be made.

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

40-1310. POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS. (1) The commissioners of a highway district have, except as provided in section 40-1323, Idaho Code, exclusive general supervision and jurisdiction over all highways and bridges within their district, with full power to construct, maintain, repair and improve all highways and bridges within the highway district, whether directly by their own agents and employees or by contract. Except as otherwise provided in this chapter in respect to the highways within the district, a highway district shall have all of the powers and duties that would by law be vested in the commissioners of the county and in the district directors of highways if the highway district had not been organized. Where any highway within the limits of the highway district has been designated as a state highway, then the board shall have exclusive supervision, jurisdiction and control over the designation, location, maintenance, repair and reconstruction of it. The highway district shall have power to manage and conduct the business and affairs of the district; establish and post speed and other regulatory signs; make and execute all necessary contracts; have an office and employ and appoint agents, attorneys, officers and employees as may be required, and prescribe their duties and fix their compensation. Highway district commissioners and their agents and employees have the right to enter upon any lands to make a survey, and may locate the necessary works on the line of any highways on any land which may be deemed best for the location.

(2) The highway district shall also have the right to acquire either by purchase, or other legal means, all lands and other property necessary for the construction, use, maintenance, repair and improve-

ment of highways and bridges. The highway district may change the width or location, or straighten lines of any highway in the district, and if in the constructing, laying out, widening, changing, or straightening of any highways, it shall become necessary to take private property, the district director of highways, with the consent and on order of the highway district commissioners, shall cause a survey of the proposed road to be made, together with an accurate description of the lands required. He shall endeavor to agree with each owner of property, resident of the county in which the district is situated, for the purchase of a right-of-way over the lands included within the description. If the director is able to agree with the owner of the lands, the highway district commissioners may purchase the land and pay for it out of the funds of the highway district, and the lands purchased shall then be conveyed to the highway district for the use and purpose of highways.

(3) Whenever the director of highways shall be unable to agree with any person for the purchase of land, or that person shall be unknown or a nonresident of the county in which the highway district is situated, or a minor, or an insane or incompetent person, the director shall have the right, subject to the order of the highway district commissioners, to begin action in the name of the highway district in the district court of the county in which the district is situated, to condemn the land necessary for the right-of-way for the highway, under the provisions of chapter 7, title 7, Idaho Code. An order of the highway district commissioners entered upon its minutes that the land sought to be condemned is necessary for a public highway and public use shall be prima facie evidence of the fact.

(4) The highway district has the power to contract for and pay out any special rewards and bounties as may appear expedient or useful in securing proper highway construction and maintenance, and to accept, on behalf of the district, aid or contributions in the construction or maintenance of any highway; to construct or repair, with the consent of the corporate authorities of any city within the district, any highway within a city, upon the division of the cost as may be agreed upon; or to join with the state or any body politic or political subdivision, or with any person in the construction or repair of any highway and to contract for an equitable division of the cost; and all counties, cities, highway districts and other bodies politic and political subdivisions are authorized to contract with any highway district acting through its highway district commissioners in exercise of the powers granted.

(5) The highway district has the power to receive road petitions and lay out, alter, create and abandon public highways within their respective districts, subject to appeal to the district court of the judicial district in which the highway district is situated, in the same manner in which appeals are taken from the county commissioners to the district court.

(6) Where highways furnish public access to federal or state public lands or waters, before they may be abandoned the highway district must first be in receipt of a petition for abandonment, and no abandonment shall be made without conducting a public hearing. At the hearing any person may appear and show cause for or against abandon-

ment. If it appears at the hearing that the highway does serve a public use, the highway may not be abandoned without first providing other suitable public access to the public lands or waters at the expense of the party petitioning for abandonment of the highway.

(7) The highway district is empowered to take conveyance or other assurances, in the name of the highway district, for all property acquired by it under the provisions of this chapter for the purposes of this title. The highway district may institute and maintain any and all actions and proceedings, suits at law and in equity, necessary or proper in order to carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities provided by this chapter. In all courts, actions, suits or proceedings, the highway district may sue, appear and defend, in person or by attorneys, and in the name of the highway district.

(8) The highway district is empowered to hold, use, acquire, manage, occupy and possess property. The highway district may create highway divisions, which must be carefully and distinctly defined and described. Highway divisions may be altered, changed, created or modified by the highway district commissioners, as the need requires.

40-1311. JURISDICTION OF HIGHWAY DISTRICT COMMISSIONERS. In respect to all highways included within a district, the power and jurisdiction of the highway district shall be inclusive, except as provided in section 40-1323, Idaho Code. If any main highway connecting different parts of the county or connecting with territory outside of the state pass through the highway district, then the highway district commissioners shall keep the road in proper repair, and if they fail to do so, the commissioners may at any time, by giving ten (10) days' written notice sent by registered mail to the highway district commissioners, require that the highway running through the district, or connecting the district with other territory, be repaired or put in proper condition, which condition shall be specified in the notice by the commissioners. If the highway districts do not diligently pursue the work with a reasonable and sufficient effort within ten (10) days, the commissioners of any county in which the highway district lies, may enter upon the main highway and repair and put it in the condition required. The commissioners in doing the work shall keep strict and accurate account of the expenses incurred, and when the work is completed the amount shall be certified to the county treasurer who shall charge the same against the highway district and deduct the sum from any funds coming into his hands belonging to the highway district and reimburse the county.

40-1312. GRANT OF POWERS TO BE LIBERALLY CONSTRUED. The grant of powers provided in this chapter to highway districts and to their officers and agents, shall be liberally construed, as a broad and general grant of powers, to the end that the control and administration of the districts may be efficient. The enumeration of certain powers that would be implied without enumeration shall not be construed as a denial or exclusion of other implied powers necessary for the free and efficient exercise of powers expressly granted.

40-1313. DISTRICT HAS LEGAL TITLE TO PROPERTY. The legal title to all property acquired under the provisions of this chapter shall immediately, and by operation of law, vest in the highway district, and shall be held by the district in trust for, and is dedicated and set apart to the uses and purposes set forth in this chapter.

40-1314. COMPENSATION OF HIGHWAY DISTRICT COMMISSIONERS, OFFICERS, AGENTS AND EMPLOYEES. (1) The highway district commissioners shall be compensated as provided by section 59-509(f), Idaho Code, but the total amount to be received as per diem compensation shall not exceed the sum of two thousand dollars ($2,000) per year. Actual expenses shall be paid in addition to their per diem compensation. The payment for expenses shall be paid from the funds of the highway district upon the presentation of itemized vouchers, signed by the commissioners and under oath made to the secretary of the district.

(2) When the secretary is a commissioner, the two (2) remaining commissioners may fix the compensation to be paid him for his services as secretary. The secretary shall be entitled to his necessary and actual expenses in addition to his salary, but shall not be entitled to draw per diem compensation as a commissioner when placed upon a salary. The board shall fix the compensation to be paid to the other officers and agents and employees of the highway district, to be paid out of the treasury of the highway district.

40-1315. COST OF HIGHWAYS -- EQUITABLE DIVISION AMONG BENEFITED DISTRICTS. (1) In the laying out, alteration, construction, maintenance, repair or improvement of any highway or portion of it, within a county and not included within a highway district in a county which would also be for the benefit of the highway district, or included within a highway district which would also be for the benefit of a portion of the county or other highway districts not included in the highway district, and the cost would, if borne wholly by the highway district or the excluded portion, be an unjust or unreasonable burden, the highway district commissioners and the county commissioners shall have power to contract with each other for a division and apportionment of the cost of the work.

(2) In case they fail to agree, an action may be maintained in the district court between a highway district and the county, and the district court shall render a judgment as shall be just and equitable in respect to the division and apportionment of cost. All proceedings in the action shall be the same as in ordinary civil actions, with the same right of appeal and other rights and remedies as in an ordinary civil action by or against a body politic or political subdivision.

(3) Where a highway traverses two (2) or more highway districts, and the cost or burden would be inequitably distributed if each district assumed the cost of laying out, alteration, construction, improvement, maintenance or repair of that portion of the highway lying wholly within the district, the highway commissioners of the district affected have power to contract with each other for the division and apportionment of the cost of the work. If the highway also traverses portions of the county not included within any highway district, or if in the opinion of the commissioners the highway is of

benefit to the county at large, a portion of the cost shall be borne by the county, and the commissioners and the respective highway district commissioners have power to contract with each other for the work.

40-1316. ANNUAL REPORT OF HIGHWAY DISTRICT. (1) On or before the first day of January in each year, the highway district shall make a report of the condition of the work, construction, maintenance and repair of all the highways within the district on the first day of October, accompanied by a map of the highways, together with other facts necessary for setting forth generally the situation and condition of the highways within the district.

(2) Reports shall be made in triplicate. One (1) report shall be filed in the office of the highway district, one (1) in the office of the board, and one (1) with the clerk of the commissioners.

40-1317. ANNUAL FINANCIAL STATEMENT OF DISTRICT -- AUDIT. (1) On or before the first day of November of each year, the highway district shall make and file in its office a full, true and correct statement of the financial condition of the highway district on the first day of October, giving a statement of the liabilities and assets of the highway district on the first day of October, and a copy of the statement shall be published in at least one (1) issue of some newspaper published in the county.

(2) All highway districts shall have an annual audit made of the financial affairs of the district by the first day of December following the close of the fiscal year. The audit shall be a public record and available for public inspection.

40-1318. INSPECTION OF RECORDS BY COMMISSIONERS. The highway district shall at any time allow any county commissioner, when acting under the order of the commissioners, to have access to the books, records and vouchers of the highway district which are in possession or control of the highway district or of any of its officers or agents.

40-1319. DIRECTOR OF HIGHWAYS -- APPOINTMENT -- QUALIFICATIONS -- OATH. As soon as possible after the organization of a highway district, the highway district commissioners may appoint a director of highways. If a director of highways is not appointed his duties shall devolve upon the highway district commissioners. The director shall be skilled and experienced in the building, maintenance and repairing of highways and bridges. The term of office of the director, not exceeding four (4) years, and his compensation, shall be fixed by the highway district commissioners. Upon appointment, he shall file with the highway district commissioners an oath of office substantially as provided for county officers.

40-1320. DIRECTORS OF HIGHWAYS -- DUTIES. It is the duty of the director of highways to give to any deputy directors specific instructions as to the highway work to be done, and shall ascertain if highway contractors in the district are complying or have complied with

their contracts. The director shall require any deputy directors to keep and maintain all the highways in their divisions in good repair, and shall, subject to the highway commissioners, exercise full and complete control over all highways and deputy directors of the district. The director shall submit a monthly itemized report to the highway district showing the work done and expenditures made by him, and any other report whenever required by the highway commissioners, and at least four (4) times in each year, of the work done, materials used and expense incurred in the several divisions of the district, and an approximate estimate of the money needed for improvements upon the highways.

40-1321. DEPUTY DIRECTORS -- APPOINTMENT -- DUTIES. (1) As soon as practicable after the division by the highway district commissioners of the district into divisions the director shall appoint, subject to the confirmation and approval of the highway commissioners, one (1) deputy director for each of the divisions and as many additional deputy directors as the highway commissioners may determine to be advisable. Deputy directors shall at all times be subject to the direction of the director of highways, and shall serve at the pleasure of the director. Compensation shall be fixed by the director of highways, with the approval of the highway commissioners.

(2) It is the duty of each deputy director, under the direction and supervision of the director:

(a) To take charge of the public highways.

(b) To periodically visit and personally inspect all highways in the division.

(c) To keep them clear from obstructions and in good repair.

(d) To cause banks to be graded, bridges and causeways to be made where necessary, to keep them in good repair.

(e) To make reports to the director of highways, at intervals as may be fixed by the highway district commissioners, of all labor performed and expenses incurred in his division; of the specific condition of the highways within his division; of any other matters as may be required by the district commissioners; and to make reports from time to time as required by the district commissioners.

(f) To receive and present petitions for new highways, recommend or disapprove them and assist in laying them out.

40-1322. CREATION OF LOCAL IMPROVEMENT DISTRICTS. Highway districts are empowered to create local improvement districts for construction, reconstruction and maintenance of highways and accompanying curbs, gutters, culverts, sidewalks, paved medians, bulkheads and retaining walls within the boundaries of the highway districts. The organization and operation of local improvement districts shall be as nearly as practicable as prescribed in chapter 17, title 50, Idaho Code.

40-1323. CITIES INCLUDED IN HIGHWAY DISTRICTS -- POWERS AND DUTIES OF CITY COUNCIL. (1) If any highway district shall include within its boundaries any incorporated city, or any portion of a city,

the power of taxation on the part of the highway district as to ad valorem taxes, and in general all power of taxation or assessment, shall extend to and include the persons and property within the territory of the included city. The residents of the included territory shall be deemed for all purposes residents of the highway district, and entitled to vote at highway district elections to the same extent as other residents of the highway district. Nothing in this title shall be construed as affecting or impairing any power of taxation or assessment for local city highway purposes on the part of the authorities of the city of any included territory. Each incorporated city, or portion of it, within a highway district, shall constitute a separate division of the district. The city council of each incorporated city which is included in the territory of a highway district, so far as relates to their city, shall have the powers and duties as provided by this chapter upon the commissioners of a highway district. When a city lies within a highway district, the powers and duties of the council or director of highways shall be as provided in this section, and the provisions of section 40-1334, Idaho Code, shall not be applicable.

(2) All the provisions of this title as to voting, taxation, assessments and bonding on the part of the highway district shall apply without change or discrimination to the persons and taxable property within the included territorial limits of a city.

40-1324. JURISDICTION OVER INCLUDED TERRITORY. When a highway district is organized under the provisions of this chapter, it shall, except as otherwise provided, supersede all other highway districts or parts of districts within the limits of the highway district, and upon the organization the existing position of director of highways shall be abolished. After the organization of a highway district the highway commissinners have the exclusive power to levy and apply all bridge and highway taxes within the district. Where prior to the organization of a highway district bonds shall have been lawfully issued by the county including within its territory property afterward included within the highway district, the proper corporate authorities of the county shall continue to levy, collect and apply the taxes necessary to discharge the obligation of those bonds. Nothing in this chapter shall be construed as affecting any power of any incorporated city, or portion of it, lying within the limits of a highway district, to issue bonds as empowered by law and to levy, collect or apply the necessary taxes for them.

40-1325. ADOPTION OF BUDGET -- PUBLIC HEARING. Highway district commissioners shall, prior to certifying an ad valorem tax levy to the commissioners and a county assessor, adopt a budget and cause a public hearing to be held upon the budget.

40-1326. NOTICE OF BUDGET HEARING. Notice of the budget hearing meeting shall be posted at least ten (10) full days prior to the date of the meeting in at least one (1) conspicuous place in each highway district and a copy of the notice shall also be published in accordance with the provisions of section 40-206, Idaho Code. The place, hour and day of the hearing shall be specified in the notice, as well

as the place where the budget may be examined prior to the hearing. A full and complete copy of the proposed budget shall be published with and as a part of the publication of the notice of hearing.

40-1327. PUBLIC INSPECTION OF BUDGET. The budget shall be available for public inspection from and after the date of the posting of notice of hearing at a place and during business hours as the highway commissioners may direct.

40-1328. QUORUM OF HIGHWAY COMMISSIONERS AT BUDGET HEARING -- OBJECTIONS. A quorum of the highway commissioners shall attend the hearing and explain the proposed budget and hear any and all objections to it.

40-1329. COMPLETION AND FINALIZATION OF BUDGET. The budget shall be completed and finalized not later than the Tuesday following the first Monday in September for the ensuing fiscal year.

40-1330. FISCAL YEAR. The fiscal year of the highway district shall commence on the first day of October of each year.

40-1331 -- 40-1332 [RESERVED.]

40-1333. CITIES -- HIGHWAY RESPONSIBILITY. Cities shall be responsible for the construction, reconstruction and maintenance of highways in their respective city systems. Cities may make agreements with a county, highway district or the state for their highway work, or a portion of it, but they shall compensate the county, district or state fairly for any work performed.

40-1334. EVERY CITY A HIGHWAY DISTRICT -- POWERS AND DUTIES OF CITY COUNCIL. Each incorporated city in the state not included in the territory of a highway district constitutes a separate highway district under this title, and the city council of the city shall have the powers conferred, and must perform the duties imposed, upon the commissioners of their respective counties. Each city council shall appoint a director of highways, who shall, within the city have the powers and perform the duties imposed upon a county director of highways. Each city council may remove their director of highways or may require a bond or settlement from him at any time, and fill any vacancy in that office. The council shall regulate the length, grade and size of bridges, causeways and culverts; may provide for the construction and maintenance of sewers, sidewalks and crossings, and the grade and construction and maintenance of highways; and have all the powers as to highways conferred by their respective charters or acts of incorporation, and by this title.

40-1335. STANDARDS FOR CURB CONSTRUCTION -- CURB RAMPS FOR THE PHYSICALLY HANDICAPPED. (1) The standard for construction of curbs on each side of any city highway, or any connecting highway for which curbs and sidewalks have been prescribed by the appropriate governing body, shall require curb cuts or ramps at locations which allow a

crossing movement at intersections. Each curb cut or ramp shall be constructed to allow reasonable access to the crosswalk for physically handicapped persons.

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

CHAPTER 14
SINGLE COUNTY-WIDE HIGHWAY DISTRICTS

40-1401. ELECTION TO ESTABLISH DISTRICT -- COUNTIES TO WHICH APPLICABLE. The provisions of this section apply to any county which has a population, as reported by the most recent census of the United States, of seventy-five thousand (75,000) or more persons. Any county with a population of seventy-five thousand (75,000) or more persons may, at the discretion of the commissioners, hold an election at which the following question shall be submitted to the electorate: "Shall this county be served by one county-wide highway district for all city highways and county secondary highways?". Any county which reaches a population of seventy-five thousand (75,000) persons as indicated by a regular United States census may, at the discretion of the commissioners, hold the special election at the next general election.

40-1402. APPLICABILITY OF CENERAL ELECTION LAWS -- NOTICE OF ELECTION -- POLLING PLACES -- CANVASSING VOTE -- PAYMENT OF COST. (1) All laws of the state of Idaho relating to the holding of elections at the county level shall apply to the holding of special elections provided for in this chapter, except as may be specifically modified herein. In addition to other requirements:

(a) The notice of election shall notify the electors of the issue to be voted upon at the election, and publication of the notice shall be as required by section 40-206, Idaho Code.

(b) The commissioners in the notice of election shall designate the polling places in each precinct as shall adequately provide for the vote at the election. Every qualified elector of the precinct who has resided in the precinct for thirty (30) or more days prior to the election and who was registered to vote at the last general election, or who has subsequently registered to vote, may vote.

(c) The vote shall be canvassed by the commissioners within five (5) days of the election.

(2) The cost of holding special elections shall be paid by the county.

40-1403. REJECTION OF PLAN -- INTERVALS FOR NEW ELECTIONS. In any county where the question fails of adoption, another election may be called and held by the submission of petitions, but any subsequent election shall be held not oftener than two (2) years after the holding of any election submitting the question to the vote of the electorate.

40-1404. APPOINTMENT OF FIRST HIGHWAY DISTRICT COMMISSIONERS -- SUBDISTRICTS -- ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS. If there is a majority affirmative vote at a special election the commissioners, at their next meeting shall organize the county-wide highway district. The commissioners shall appoint the first 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 of the subdistrict. 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, the commissioner from subdistrict number one being elected for a term of four (4) years. 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 the 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, and each may receive a salary not to exceed four hundred dollars ($400) per calendar month with the exception of the president of the highway commissioners who may receive a salary not to exceed five hundred dollars ($500) per calendar month.

40-1405. ORGANIZATION OF DISTRICT -- OFFICERS -- OFFICIAL BONDS. (1) Immediately after appointment, the county-wide highway district commissioners shall meet and organize, elect a chairman from their number, and appoint a secretary and treasurer who may also be from their number, for terms fixed by them. The offices of secretary and treasurer may be filled by the same person. Certified copies of all appointments, under the hand of each of the commissioners, shall be filed with the clerk of the county commissioners and with the tax collector of the county.

(2) The officers of the highway district shall take and file with their secretary an oath for the faithful performance of the duties of their respective offices. Each highway commissioner and director shall execute an official bond in the sum of not less than five thousand dollars ($5,000). The treasurer on his appointment shall execute and file with the secretary an official bond in an amount of money equal to an amount that may come into his hands as treasurer. If a surety bond is given as provided in section 41-2604, Idaho Code, the bond need not exceed one hundred thousand dollars ($100,000), but in no case shall the amount of the bond be less than an amount set by the highway district commissioners.

40-1406. POWERS AND DUTIES OF HIGHWAY COMMISSIONERS -- ONE HIGHWAY DISTRICT IN COUNTY -- HIGHWAY POWERS OF CITIES IN COUNTY ABOLISHED -- LAWS IN CONFLICT SUPERSEDED. The highway commissioners of a county-wide highway district shall exercise all of the powers and duties provided in chapter 13 of this title, and are empowered to make highway

ad valorem tax levies as provided by chapter 8, of this title. Only one (1) county-wide highway district shall be operative within a county where the electorate has voted affirmatively for the formation of a county-wide highway district. The district shall specifically be responsible for all county secondary and city highways and is hereby recognized as a body politic of this state. No city included within a county-wide highway district shall maintain or supervise any city highways, or levy any ad valorem taxes for the construction, repair or maintenance of city highways. No highway district included within a county-wide highway district, shall maintain any secondary highways or levy any ad valorem taxes for the construction, repair or maintenance of highways. Wherever any provisions of the existing laws of the state of Idaho are in conflict with the provisions of this chapter, the provisions of this chapter shall control and supersede all such laws. However, within the limits of any city, the city may expend city funds for the placement, care and removal of trees, shrubs, grass, and other plants, which are located within the rights-of-way of any highway of the county-wide highway district.

40-1407. DISSOLUTION OF EXISTING DISTRICTS OR SYSTEMS -- TRANSFER OF FUNDS. In any county where the electorate adopts a county-wide highway district under the provisions of this chapter and at the time of reorganization of the district, city highway systems or highway districts already exist, the commissioners shall dissolve those districts or systems and transfer all funds.

40-1408. EXPENSE OF NOTICES AND DISSOLUTION PROCEEDINGS. The expense of all notices and proceedings in relation to the dissolution of a city highway system or highway district shall be chargeable to and borne by each respective city highway system or highway district dissolved.

40-1409. EXPENSES OF ELECTION -- PRORATION TO EXISTING SYSTEMS AND DISTRICTS -- APPEALS. In all counties where elections are held under the provisions of this chapter, commissioners shall pay expenses of the elections from the general fund of county. The expense shall be prorated by the commissioners according to the mileage, market value for assessment purposes, and the population to city highway systems, highway districts, and the county, and upon certification of this pro rata share by the commissioners, that share shall be paid to the county. Any appeals shall follow the appeals procedure set forth in section 40-1705, Idaho Code, for appeals from readjustment of district borders.

40-1410. EXISTING SYSTEMS AND DISTRICTS -- TRANSFER -- LIABILITY. (1) When a county-wide highway district has been adopted, all city highway systems and highway districts shall prepare an inventory and financial statement and file the statement with the commissioners not later than ten (10) days subsequent to the canvass of the election.

(2) Title to all machinery, buildings, lands and property of every kind and nature, belonging to each system or district shall immediately upon the dissolution of the system or district and without

further conveyance, be vested in the commissioners as custodians, and immediately thereafter, as soon as may be practical, delivered to the succeeding county-wide highway district and the district shall be liable for any and all unliquidated obligations of dissolved city highway systems and highway districts.

40-1411. APPORTIONMENT OF FUNDS TO PAY DEBTS OF DISSOLVED DISTRICTS. Each year after its dissolution and until all indebtedness, including outstanding warrants of a dissolved system or district shall have been fully paid, it shall be the duty of the succeeding county-wide highway district in which the districts were situated, to apportion for the benefit of any dissolved county or city highway system, or highway district that portion of moneys arising out of the highway users' moneys and the moneys from all other sources as the system or district would be entitled to receive had it not been dissolved. The treasurer of the succeeding county-wide highway district shall place the moneys to the credit of the county-wide district in a special fund in the county treasury with other funds belonging to the district, the funds to be used for payment of the dissolved system's or district's bonded or funded indebtedness.

40-1412. CONTROL OF BRIDGES AND HIGHWAYS IN DISSOLVED SYSTEMS AND DISTRICTS -- SIDEWALKS -- SPECIAL ASSESSMENTS. (1) After the dissolution of any county highway system, city highway system or highway district, the county-wide highway district of the county in which the dissolved system or district was situate, shall have the same control over all bridges and highways of the system or district as is vested in the commissioners, highway district commissioners or city councils as provided for in section 40-801, Idaho Code.

(2) A county-wide highway district may provide by general ordinance for the construction, repair, replacement or removal of sidewalks which are deemed by the highway district commissioners to be dangerous and unsafe, and assess the costs as provided in subsection (3) of this section to the property in front of which the same shall be constructed, repaired or laid.

(3) All special assessments levied to which the provisions of this chapter are made applicable shall be due and payable to the treasurer of the county-wide highway district, and if not paid within thirty (30) days after mailing of notification of assessment, shall be declared delinquent, be certified to the tax collector of the county by the district treasurer, and shall be placed by the tax collector upon the tax roll and collected in the same manner and subject to the same penalties as other taxes. All money received on special assessments shall be held by the treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and the money shall be used for no other purpose than to reimburse the highway district for money expended for the improvement.

(4) The tax collector of the county shall pay on demand to the treasurer all money received by him arising from ad valorem taxes or assessments levied.

40-1413. BALANCE OF FUNDS OF DISSOLVED SYSTEM OR DISTRICT -- DIS-

POSITION -- NO FUNDS TO CITY. (1) After final payment of all expenses of proceedings and of all legal claims, liabilities, bonded and other indebtedness in relation to dissolution of a dissolved system or district, and after liquidation and winding up of the affairs of the system or district, all surplus moneys of the dissolved district remaining in the special fund of the dissolved system or district shall immediately be delivered to the treasurer of the county-wide highway district.

(2) No city whose incorporated limits lie wholly or partially within the boundaries of a dissolved highway district shall be entitled to receive any share of the moneys of the dissolved highway district.

40-1414. CREATION OF LOCAL IMPROVEMENT DISTRICTS. In addition to the powers granted to county-wide highway districts under the provisions of this chapter, the districts are empowered to create local improvement districts for construction, reconstruction and maintenance of highways and accompanying cnrbs, gutters, culverts, sidewalks, paved medians, bulkheads and retaining walls within the boundaries of the highway districts.

The organization and operation of the local improvement districts shall be as nearly as practicable as prescribed in chapter 17, title 50, Idaho Code.

40-1415. RESPONSIBILITIES OF SINGLE COUNTY-WIDE HIGHWAY DISTRICTS WITHIN CITIES -- FINAL DECISION ON URBAN RENEWAL PROJECTS -- SETTLEMENT OF QUESTIONS. (1) County-wide highway districts organized under the provisions of this chapter, within the limits of any city shall be responsible for the design, construction, reconstruction and maintenance of city rights-of-way and accompanying cnrbs, gnttters, culverts, sidewalks, paved medians, bulkheads and retaining walls. Within city rights-of-way, design, constrnction, reconstruction and maintenance shall include:

(a) Traffic and safety engineering for both motorist and pedestrian traffic;

(b) Procurement and installation of highway lighting where it is primarily of benefit to the motorist. Energy costs and maintenance of lighting shall subsequently be a function of the city;

(c) Procurement, installation, operation and maintenance of traffic control devices where they are needed for traffic control; and

(d) Drainage where it is necessary for motorist safety or necessary for right-of-way maintenance.

(2) Acquisition and acceptance of rights-of-way shall be the responsibility of the county-wide highway district.

(3) In matters of urban renewal projects, the city involved shall make the final decision concerning approval of the project based on the overall plan of the city. Prior to approval of an urban renewal project, the city shall submit the plan to the highway district for review and recommendations in accordance with subsection (1) of this section. The highway district shall submit its written recommendations with respect to the proposed urban renewal plan to the city within thirty (30) days after receipt of the plan for review. Upon receipt of

the recommendations of the highway district, or if no recommendations are received within thirty (30) days, then the city may proceed without recommendations with the hearing on the proposed urban renewal project, and the highway district shall he responsible, as between the city and the highway district, for funding the district's responsibilities as provided by subsection (1) of this section. Agreements entered into hy a city pursuant to an urban renewal project prior to dissolution of the city highway system and organization of the successor highway district shall be binding upon the county-wide highway district.

(4) The highway district shall be responsible for planning and location of rights-of-way. In planning for and determining location of rights-of-way, the highway district shall submit to the appropriate planning agency the proposed location of the rights-of-way. In locating rights-of-way the highway district shall take into consideration the comprehensive general plan of the appropriate county or city planning agency. In planning for the location of rights-of-way, the highway district shall comply with all appropriate provisions of chapter 65, title 67, Idaho Code.

(5) The city shall retain jurisdiction and responsibility for outstanding local improvement district bonds or warrants sold or issued by the city prior to dissolution of the city highway system and organization of the successor highway district.

(6) All subdivision plats required to he submitted for acceptance and approval to the city and the county under the provisions of chapter 13, title 50, Idaho Code, shall be submitted to the highway district for consideration for acceptance and approval as to continuity of highway pattern, widths, drainage provisions, right-of-way construction standards, traffic flow, the traffic volume demand occasioned by the proposed subdivision either within or without the boundaries of the proposed subdivision, and other matters pertaining to the function of the highway district.

(7) Within the limits of any city, the city may expend city funds for the placement, care and removal of trees, shrubs, grass, and other plants, which are located within the rights of way of any highway of the county-wide highway district.

(8) A city, after advising the hoard of highway district commissioners of its intent, shall be responsible for the placement, care and removal of any parking meters within the limits of any city, and for the enforcement of ordinances regulating the use of parking meters, which are located within the rights-of-way of any highway of the county-wide highway district. The city shall be entitled to all of the revenues received from parking meters.

CHAPTER 15
CONSOLIDATION OF DISTRICTS

40-1501. HIGHWAY DISTRICTS -- CONSOLIDATION -- EFFECT OF CONSOLIDATION. Any highway district within the state, whether the same are situated entirely within the boundaries of any one (1) county or within two (2) or more adjoining counties, may be consolidated with any adjoining highway district, whether situated entirely within the

boundaries of any county or within two (2) or more adjoining counties, and a portion of one (1) highway district may consolidate with an adjoining district.

40-1502. PETITIONS FOR CONSOLIDATION. Whenever electors of two (2) or more existing adjoining highway districts or parts of them desire to consolidate those districts or parts of them, a petition from each of the districts or parts of them for consolidation, signed by not less than twenty-five (25) electors qualified to vote at a highway district election in each of the districts or its parts, shall be presented to the commissioners of the county in which the district or its parts are situated. The petitions shall state the name and, in a general way, describe the districts or parts which it is proposed to consolidate.

40-1503. ORDER FOR HEARING -- NOTICE. The commissioners of the counties concerned, shall at the earliest possible date, meet at a time and place as shall be agreed upon by them, and at the meeting shall, by order, entered in the minutes of the commissioners of each of the counties concerned, fix a time and place for a hearing upon the petitions, which time shall not be less than fifteen (15) days from and after the date of the first publication of notice of the petition and hearing on them. The hearing meeting shall be at the county seat of one of the counties concerned. At the meeting the commissioners shall prepare a notice of hearing to be signed by them and attested by the clerks, setting forth the filing of petitions; the name and general description of the districts proposed to he consolidated; the total bonded and current warrant and other indebtedness; the market value for assessment purposes and the last preceding ad valorem tax levy of each of the districts; a statement that at the hearing any elector qualified to vote at elections of highway district commissioners may, prior to or at the time of the hearing, file with the clerk of the commissioners of the county in which he resides, written objections to the proposed consolidation; and that at the hearing any qualified elector may appear and make oral objections to the consolidation.

40-1504. PUBLICATION OF NOTICE. The clerk of commissioners of each of the counties concerned shall cause to be published a copy of notice as provided by section 40-206, Idaho Code.

40-1505. HEARING -- ORDER FOR ELECTION -- CONSOLIDATION, WHEN DEFEATED. At the time and place specified in the notice, the commissioners shall proceed to consider the petition and all written and oral objections, and shall hear all persons in relation to it. Upon conclusion of the hearing, which may be continued from day to day, if a majority of the members of each of the commissioners of the counties involved are of the opinion that a consolidation is practical and to the best interests of each and all of the districts concerned, they shall make an order directing that the question of consolidation of districts he submitted to the electors at an election to be held separately within each of the districts at a date not less than thirty

(30) nor more than sixty (60) days from and after the date of the order. The date of the election shall be specified in the order. The order shall set forth: the name, number, and general description of the respective districts proposed to be consolidated; the market value for assessment purposes of all the property situated in each of the concerned districts, as shown by the last county assessment rolls; the total bonded and current warrant and other indebtedness of each of the districts; the preceding ad valorem highway tax levy of each of the districts; and the total bonded and current warrant and other indebtedness of the proposed consolidated district. A copy of the order shall be entered in the minutes of the commissioners of each county concerned. The proposed consolidation shall be defeated if a majority of the commissioners of either of the counties concerned vote against it, and in that event a record of that action shall be entered in the minutes of each of the counties concerned.

40-1506. POLLING PLACES AND ELECTION DISTRICTS -- ELECTION OFFICERS. The commissioners of each county concerned shall immediately meet, in either special or regular session and, by order, enter in their miotes and designate the polling places and the election districts in the concerned district or districts situated in the county, and appoint two (2) or more judges and one (1) or more clerks for each election district, who shall possess the qualifications necessary to entitle them to vote at an election of highway district commissioners in the district.

40-1507. NOTICE OF ELECTION -- PUBLICATION AND CONTENTS. The commissioners of each county shall require its clerk to give ootice of the election by causing notices to be posted in at least three (3) public places within each of the highway districts situated within the county and concerned in the proposed consolidation for at least twenty-one (21) days prior to the date of election, and in addition to the posting, shall cause a copy of the notice to be published in accordance with the provisions of section 40-206, Idaho Code. The notice shall state the purpose and date of the election, the hours during which the polls shall be open and list the polling places, election districts and the qualifications required of voters, in addition to the following: the name, number, and general description of the respective districts proposed to be consolidated; the market value for assessment purposes of all the property situated in each of the concerned districts, as shown by the last county assessment rolls; the total bonded and current warrant and other indebtedness of each of the districts; the preceding ad valorem highway tax levy of each of the districts; and the total bonded and current warrant and other indebtedness of the proposed consolidated district.

40-1508. SEPARATE ELECTIONS -- TIME OF HOLDING. An election held under the provisions of this chapter shall be separate and distinct in each of the districts and counties affected by the proposed consolidation and shall be held on the same day and between the hours of 1:00 p.m. and 7:00 p.m.

40-1509. CONDUCT OF ELECTIONS. (1) The polls shall be presided over by the appointed judges and clerks who must take an oath as judge and clerk of the district and which oath shall obligate the judges and clerks to faithfully perform the duties of a board of election.

(2) All elections shall be by secret and separate ballot, each ballot in type, print or legible writing, stating in the affirmative and negative the proposition to be voted upon, and all ballots shall be in a form that the voters may express a choice by the marking of a cross (X).

(3) In all elections it is intended that no informalities in conducting the election shall invalidate the election, if the election has been otherwise fairly conducted. The clerks of the commissioners shall prepare the necessary ballots for use in each of the districts.

40-1510. DEFEAT OF PROPOSAL. The failure to carry the proposal to consolidate a district by at least a majority vote in any one (1) of the districts concerned shall defeat the entire proposal.

40-1511. COUNT OF VOTES -- RETURN OF ELECTION -- CANVASS -- ORDER FOR CONSOLIDATION. Immediately following the close of the polls the boards of election shall compute the result of the election making the count in public view, and upon completion shall make a return of the election to the clerk of the commissioners of their respective counties, upon forms to be supplied by the clerk, and shall transmit with the returns all ballots cast at the election, whether or not the ballots were counted by the election board or rejected by them. Immediately thereafter, the commissioners shall meet separately at their respective county seats, and canvass the returns of the election hoards within their counties. On the tenth day after the canvass, unless that day is a Sunday or a legal holiday, then on the following day, the commissioners shall meet in joint session at a location as shall be agreed npon by them and compile the total votes cast in their respective counties for or against the proposal to consolidate the districts concerned. If the proposal carried in each nf the districts concerned, the commissioners in the joint meeting shall make and enter an order declaring the districts consolidated in one (1) highway district of a name or designation as may be ordered by them, and at that time the consolidation shall be effective.

40-1512. SUBDIVISION OF DISTRICT -- APPOINTMENT OF HIGHWAY COMMISSIONERS -- CONSOLIDATION, WHEN EFFECTIVE. At the joint meeting, as provided by section 40-1511, Idaho Code, by a majority vote of all the commissioners present, the territory consolidated in one (1) highway district shall be divided into three (3) subdistricts, and highway commissioners for the consolidated district shall be appointed as provided for by section 40-1303, Idaho Code.

40-1513. HIGHWAY DISTRICT LAWS APPLICABLE -- EXCEPTIONS -- TAX LEVIES. After the consolidation is effective, statutes relating to highway districts shall be applicable to the joint consolidated highway district, except as otherwise provided in this chapter. The assessing of property, the levying and collection of ad valorem taxes

and all accounts which from their nature should be separately kept, shall be done and kept and the report on them made as if each portion of the district were a separate district in the respective counties. Nothing in this chapter shall be construed as preventing the new highway district board from levying ad valorem taxes against property within the consolidated district in accordance with chapter 8 of this title.

40-1514. ORGANIZATION OF HIGHWAY DISTRICT COMMISSIONERS -- COMPUTATION OF INDEBTEDNESS OF FORMER DISTRICTS. Immediately after consolidation is effected and highway commissioners are appointed, they shall meet and organize as provided by law, appoint required officers and designate a place for their meetings and have and exercise the powers, jurisdiction, and authority and perform all duties and be subject to the responsibilities and liabilities as provided by law. Upon organization, the highway district shall ascertain and compute all indebtedness, including bonded, warrant and current indebtedness, separately, of each of the former districts comprising the consolidation.

40-1515. PROPERTY AND MONEYS OF FORMER DISTRICTS -- DELIVERY TO CONSOLIDATED DISTRICT -- SALE OF PROPERTY. All property rights of the former districts shall be vested in and become the property of the consolidated district, except as otherwise provided in this chapter. The officers of each of the former districts comprising the consolidated district shall, immediately after consolidation is effected and the consolidated highway district commissioners have met and organized, turn over and deliver to them all property of every kind and description belonging to the former districts, including all moneys, books and accounts. All personal property, excepting moneys, books and accounts, belonging to former districts shall be sold by the former highway board at public sale to the highest bidder after notice and at a time as the highway district commissioners shall determine. At the sale the consolidated highway district, through any of its commissioners, may bid, and in the event the consolidated district is the successful bidder, the amount of bid shall be credited by the treasurer to the account of the former district to which the property belonged.

40-1516. SEPARATE ACCOUNTS OF FUNDS AND PROCEEDS FROM FORMER DISTRICTS -- DUTIES OF TREASURER. The treasurer shall keep separate accounts of all moneys coming into his bands from each of the former districts, together with all moneys from the sale of any property belonging to those districts, together with all moneys received from special tax levies against the taxable property situated within the boundaries of the former districts and together with all moneys paid out upon the indebtedness of the former districts. He shall pay from the funds in the accounts the amounts as the highway commissioners may from time to time order.

40-1517. FUNDING OF INDEBTEDNESS OF FORMER DISTRICTS. If the consolidated district commissioners determine that valid outstanding

indebtedness of any of the former districts, existing prior to the consolidation may be funded or refunded to the profit and benefit of the taxpayers within the boundaries of the former highway district, and without incurring any additional liability, the commissioners have the power and authority to make provision for issuing of funding or refunding bonds in an amount equal to the unpaid principal and interest on the outstanding bonds or other indebtedness. Before the highway commissioners shall issue any bonds to refund any outstanding indebtedness, it shall cause all moneys of the former district on hand available for the payment and discharge of any indebtedness to be applied in payment and discharge of them and issue funding or refunding bonds only for the remainder of the indebtedness. The issuance of bonds shall not create any liability against the consolidated highway district or any of the property within its boundaries, excepting that the property within the boundaries of the former district shall be liable for the payment of the bonds.

40-1518. INDEBTEDNESS PRIOR TO CONSOLIDATION -- LIABILITY OF PROPERTY IN FORMER DISTRICTS. It is expressly provided that property situated within the boundaries of a former district shall be liable for the indebtedness of that district existing prior to consolidation, but shall not be liable for the indebtedness of any other district forming a consolidation and existing prior to the consolidation.

CHAPTER 16
DETACHMENT OR ANNEXATION OF TERRITORY

DETACHMENT

40-1601. DISTRICTS SUBJECT TO DETACHMENT. A portion of the territory of an existing highway district, whether the district is situated wholly in one (1) county or in two (2) or more counties, may be detached from the highway district as provided in this chapter.

40-1602. PETITION. Whenever electors of a portion of the territory embraced in any existing highway district desire that their portion be detached from the highway district, a petition describing the territory by its boundaries, signed by not less than twenty-five (25) electors qualified to vote at a highway district election and residing in the territory sought to be detached shall be presented to the commissioners of the county where the greatest portion of the highway district is located.

40-1603. ORDER FOR HEARING UPON PETITION. Immediately upon its next regular meeting or at a special meeting called for that purpose, the commissioners shall by order or resolution fix a time and place for a hearing of the petition, which time shall not be less than twenty-one (21) days from and after the date of the first publication of the notice of the petition and of the hearing.

40-1604. NOTICE OF HEARING AND PETITION. The commissioners shall require their clerk to have a notice published in accordance with the

provisions of section 40-206, Idaho Code, setting forth the fact that a petition has been filed with the commissioners. The notice shall state the name of the highway district from which territory is proposed to be detached; a concise general description of the territory so proposed to be detached and its boundaries; the current bonded and current warrant indebtedness of the district; a notice of the time and place when and where the petition will be heard by the commissioners; and notice that any elector qualified to vote at an election of the district may, prior to or at the time of the hearing, file with the clerk of the commissioners written objections to the proposed detachment of the territory.

40-1605. HEARING -- ORDER FOR ELECTION. At the time and place specified in the notice, the commissioners shall proceed to consider the petition and all written objections filed with them and shall hear all persons in relation to it. Upon the conclusion of the hearing, which may be continued from day to day, if the commissioners shall determine that the detachment from the highway district of the territory described in the petition is practicable and to the best interests of the territory and of the highway district, they shall enter an order directing that the question of the detachment of the territory be submitted to the qualified electors of the district at an election to be held within the district at a date not less than thirty (30) nor more than sixty (60) days from and after the date of the order.

40-1606. ELECTION OFFICERS AND POLLING DISTRICTS -- NOTICE OF ELECTION. The commissioners at the same time shall appoint two (2) or more judges and one (1) or more clerks for the election who shall be chosen from the electors of the district; shall also by order establish polling places; shall direct their clerk to cause notice of the election to be given by posting notices in at least three (3) public places within the district, one of which shall be on the front door of the office of the district; and in addition shall publish a copy of the notice in accordance with the provisions of section 40-206, Idaho Code. The notice shall state the date and purpose of the election, the boundaries of the territory proposed to be detached from the highway district, the places of holding the election, the various polling districts if the election is to be held in more than one (1) place, the qualifications required of voters, and the hours during which the polls shall be open, which shall be between the hours of 1:00 p.m. and 7:00 p.m.

40-1607. ELECTION PROCEDURE. The qualifications of voters at the elections, the conduct of elections, the counting of the votes, the return of the ballots, and the payment of expenses of the elettion shall be as prescribed in sections 40-1808 through 40-1810, Idaho Code.

40-1608. ORDER DECLARING TERRITORY DETACHED. If upon the canvass of the returns of the election the commissioners shall find that a majority of the votes cast in the distritt are in favor of the detachment from the highway district of the territory embraced in the pro-

posal for detachment, they shall immediately make and enter an order declaring that territory detached from the district to the extent and for the purposes set forth.

40-1609. EFFECT OF DETACHMENT OF TERRITORY -- APPORTIONMENT OF INDEBTEDNESS. The detachment of territory from the district shall be deemed to relate only to the operations of the district subsequent to the order of detachment. Territory detached and all taxable property in that territory shall be and remain liable for the proportionate share of all bonded, warrant, and other indebtedness incurred by the district prior to the time of detachment. The proportionate share of the indebtedness of the district incurred prior to the order of detachment to be borne by the detached territory is hereby established and shall be determined and computed as follows:

(1) The highway district commissioners shall, at the meeting at which an order of detachment is made, compute the total aggregate market value for assessment purposes of the property within the district for the preceding year, and shall separately compute the total aggregate market value for assessment purposes for the preceding year of all the property within the territory detached from the district.

(2) The highway district commissioners shall compute and determine as of the date of the order of detachment the cash and solvent credits owing to the district and the value of the highway equipment and other personal property owned by it at the time of the detachment of territory, all of which property shall be retained by the district.

(3) The proportion of the outstanding indebtedness of the district incurred prior to the withdrawal of territory for which the withdrawn territory shall be and remain liable is the proportion that the aggregate market value for assessment purposes of the property within the withdrawn territory bears to the market value for assessment purposes of the property within the entire highway district as shown by the assessment rolls of the preceding year, less credit for the proportionate share or interest of the withdrawn territory in the cash, solvent credits, and personal property of the district, that share being based upon the proportion that the market value for assessment purposes of the property within the detached territory for the preceding year bears to the market value for assessment purposes of the total property within the entire district for the year.

40-1610. DETACHED TERRITORY SUBJECT TO COUNTY LEVIES. After the detachment of any territory from a highway district the property within the detached portion shall be subject to taxation by the county for highway and other purposes to the same extent precisely as if it had never been included in the highway district.

40-1611. VALIDITY OF OUTSTANDING BONDS AND WARRANTS NOT AFFECTED. Nothing in this chapter shall be construed as impairing the validity of any bonds or warrants of a highway district outstanding at the time of the detachment of any territory.

40-1612 -- 40-1613 [RESERVED.]

ANNEXATION

40-1614. TERRITORY DISANNEXED FROM ANOTHER COUNTY OR ADJACENT TO AN EXISTING HIGHWAY DISTRICT AND WITHIN THE COUNTY. Any area not within a highway district, but within a territory previously detached from a county and annexed to another county, and adjacent to a highway district organized before annexation and situate wholly within the county to which the territory has been annexed, and any area not within a highway district, which is adjacent to an existing highway district and situate wholly within the county within which the highway is located, may be added to, and included in, the highway district upon the approval of its highway commissioners and the order of the commissioners of the county in which the highway district is situated.

40-1615. PETITION FOR ANNEXATION. (1) The proceedings for inclusion shall be initiated by petition of twenty per cent (20%) of the qualified electors in the area proposed to be annexed to and included within the highway district. The petition shall accurately describe the boundaries of the area to be annexed, and shall state the name and identify the highway district to which the annexation is sought, and shall be accompanied by a map showing and distinguishing the boundaries of the highway district and the boundaries of the area proposed to be annexed to the highway district.

(2) Proposals for the annexation of territory consisting entirely of public lands, or of a combination of public lands and privately held lands but which have no qualified electors to initiate a petition, may be initiated by petition of the highway commissioners of the district to which the proposed annexation is to be made.

40-1616. REQUIRED EXHIBITS IN CONNECTION WITH PETITION. The petition, accompanied by a map and also by a certified copy of a resolution of the highway commissioners of the highway district approving and consenting to the inclusion and annexation shall be filed with the clerk of the commissioners.

40-1617. HEARING ON PETITION -- NOTICE. Upon the filing of petitions, the commissioners shall fix a time for hearing the petition and shall cause a notice to be published in accordance with the provisions of section 40-206, Idaho Code, and shall describe the area proposed to be annexed to the highway district.

40-1618. OBJECTIONS TO PETITION -- HEARING. Any qualified elector in the area to be annexed, and any qualified elector of the highway district, may file objections to the petition and may be heard at the hearing. Objections must be filed prior to or at the time of the hearing.

40-1619. APPROVAL OR REJECTION OF PETITION. Upon the hearing of the petition the commissioners may approve or reject the petition. The commissioners, upon the approval of the highway commissioners, may modify the area described in the petition.

40-1620. ORDER OF ANNEXATION. If the commissioners shall find that the annexation by the highway district is for the best interests of the highway system in the county, then the commissioners shall order that the area, or any modifications of it made by the commissioners, shall be annexed to the highway district, and an order shall be entered in the minutes of the commissioners, and the area shall then constitute and be a part of the highway district.

40-1621. FILING OF CERTIFIED COPIES OF ORDER. The commissioners shall cause one (1) certified copy of the order to be filed for record in the office of the county recorder of the county in which the highway district is situate, and shall transmit a certified copy of the order to the highway commissioners of the highway district to which the area is annexed.

40-1622. EFFECT OF ANNEXATION. The area annexed to the highway district shall be placed by the highway commissioners of the district into the subdistrict or subdistricts of the district as they shall determine and shall be subject to taxation for the payment of all of the outstanding obligations of the district existing at the time of annexation, and subject to taxation as all other lands of the district for the operation of the highway system of the district.

40-1623. CONTESTING PROCEEDINGS -- TIME LIMIT. After the order of annexation is made by the commissioners, the validity of the proceedings shall not be affected by any defect in the petition or in the number or qualification of its signers, and no action shall be commenced or maintained or defense made affecting the validity of the annexation after six (6) months from and after the making and entering of the order by the commissioners.

40-1624. ANNEXATION OF CONTIGUOUS TERRITORY. Additional territory adjoining a highway district and lying contiguous with and within one (1) or more counties may be added to and be included in the district, by the affirmative vote of a majority of the qualified electors of the additional territory voting on the question at an election held for that purpose, which vote may be taken either at a general or a special election. Additional territory shall not be annexed to or included in the district unless annexation and inclusion shall be first approved by the commissioners of the county in which the area proposed to be annexed is located if it shall be deemed to be in the best public interest, and by the highway district commissioners of the existing district by resolution, entered on their minutes prior to the election on the question of annexation.

40-1625. ELECTION DATE WHERE TERRITORY LIES IN MORE THAN ONE COUNTY. Where territory to be annexed lies in more than one (1) county the election shall be held on the same day as it is mutually determined by agreement between the commissioners of both counties concerned.

40-1626. PETITION FOR SPECIAL ELECTION -- ELECTION. The election

shall be conducted in accordance with the general election laws of the state. A petition for the election shall be initiated by not less than twenty-five (25) property owners, or all property owners if there are less than twenty-five (25) in the proposed area to be annexed. The proposed area to be annexed shall be set forth with clarity as to be specifically identified by a map of the area. The petition upon being signed shall be submitted to the commissioners of the highway district and to the commissioners concerned. The petition shall, within thirty (30) days after presentment, be either approved or rejected by the recorded motion of the commissioners in their minutes. Upon the petition being approved by the commissioners of the county in which the territory or a part is situated and the commissioners of the highway district, a certified copy of the petition, together with a certified copy of the resolution of the highway commissioners approving the petition for annexation and with the proposed election precinct boundaries and polling place, shall within ten (10) days be transmitted by the highway commissioners to the county clerk of the county or counties, in which the territory to be annexed lies. The commissioners in the county in which the territory lies shall then within sixty (60) days fix a time for the election by giving notice as required for special elections by publication in accordance with the provisions of section 40-206, Idaho Code. The commissioners and county clerk shall do all things necessary for the holding of an election in conformity with the general election laws of the state as shall be applicable. Upon the election being had the result shall be canvassed, declared and the result certified by the commissioners.

40-1627. MAJORITY VOTE REQUIRED APPROVING ANNEXATION — ACTION OF COMMISSIONERS. If, after canvassing the election, a majority of the qualified electors of the additional territory voting are in favor of the annexation, then the commissioners must order that the additional area shall be annexed to the highway district and an order shall be entered in their minutes, and the area shall then constitute and be a part of the highway district. Where the area to be annexed lies in a county other than the county in which the election was held, duplicate copies of the result of the election, copy of the canvass and order annexing the area to the highway district shall be immediately transmitted by the county clerk of the county in which the election was held to the county clerk of the county in which the highway district lies, and shall be immediately approved by the commissioners and recorded in their minutes.

40-1628. CERTIFICATION BY COMMISSIONERS OF ORDER APPROVING ANNEXATION. The commissioners shall file one (1) certified copy of the order for record in the office of the county recorder of the county in which the highway district is situated, and shall transmit a certified copy of the order to the commissioners of the highway district of which the area is annexed.

40-1629. TAXATION OF ANNEXED AREA FOR OUTSTANDING OBLIGATIONS. Upon annexation, the area next to the highway district shall be and become a part of it and shall be subject to taxation for the payment

of all the outstanding obligations of the district existing at the time of annexation, and be subject to taxation as all other lands of the district for the operation of the highway system of the district.

40-1630. PAYMENT OF COSTS OF ELECTION. The costs of the election shall be paid by the highway district annexing the territory.

CHAPTER 17
COUNTY HIGHWAY REORGANIZATION

40-1701. COUNTY-WIDE ELECTION TO ADOPT METHOD OF SECONDARY HIGHWAY ADMINISTRATION -- PROCEDURE. (1) In any county where there is a petition for vote under this chapter, the commissioners shall refer by popular vote to the entire electorate of the county the question of administration, allowing the electorate at an election to adopt one (1) of the following systems for administration:

(a) To establish a county-wide highway system for the administration of the secondary highway system of the entire county, exclusive of those within cities, by county commissioners;

(b) For the formation of a county-wide highway district, exclusive of cities, independent of the administration of the county commissioners;

(c) For the division of the county or area into highway districts covering the entire county secondary highway system which could include parts of adjacent counties.

(d) For the continued existence of the present method of administration of the secondary highway system in the county.

(2) In any county, petitions signed by five per cent (5%) of the qualified voters of each highway district within the county may be filed with the county clerk and upon the commissioners finding that the petitions have been properly signed and filed, submit the matter to vote of the entire county by a special election not less than ninety (90) days from the filing of the petitions. All of the laws of the state relating to holding of elections at the county level shall apply to the holding of a special election, except as may be specifically modified in this chapter. In addition to the other requirements of law, the notice of election shall notify the electors of the issues to be voted upon at the election, and publication of a notice shall be in accordance with the provisions of section 40-206, Idaho Code. Public hearings within the county shall be held, as deemed advisable, by the commissioners.

(3) The commissioners in the notice of election shall designate polling places in each precinct to adequately provide for the vote at the election. Every qualified elector of the precinct who was registered to vote at the last general election may vote.

(4) The vote shall be canvassed by the commissioners within five (5) days of the election.

(5) Upon any one of the four (4) options receiving a majority of the valid votes cast at the election, that option shall be declared to have been selected.

(6) In the event that no one of the four (4) options voted upon receives a majority vote, then the commissioners shall provide a run-

off election to be held within the next thirty (30) days to determine which of the two (2) optional methods receiving the highest number of votes shall be adopted.

40-1702. SUBSEQUENT ELECTIONS. Another election may be similarly called and held by the submission of petitions as provided by section 40-1701, Idaho Code, and any subsequent election shall not be held more often than two (2) years after the holding of any election submitting this question to the vote of the county.

40-1703. DISTRICTS TO BE ECONOMICALLY WORKABLE. Highway districts organized or consolidated from existing highway districts under the provisions of this chapter shall consist of areas having sufficient mileage, valuation and budget to be considered economically workable. The commissioners shall organize the districts with regard to geographical locations for the most efficient operation.

40-1704. ORGANIZATION OF COUNTY-WIDE HIGHWAY DISTRICTS -- HIGHWAY DISTRICT COMMISSIONERS -- APPOINTMENT -- TERMS -- ELECTION. (1) County-wide highway districts may be organized under the laws applicable to highway districts and for county highway districts, new highway districts, consolidated or enlarged highway districts, and the number of highway commissioners to be elected shall be three (3). The formation of new districts shall be effected by the commissioners of the county so affected within sixty (60) days of the reorganization election, and upon the determination that a county highway system shall be reorganized as a county-wide highway district, new highway districts, consolidation, enlargement or other modification, the original highway district commissioners shall, within seventy (70) days of the election, be appointed by the governor. A new highway district shall be divided by the commissioners into three (3) subdistricts as nearly equal in mileage, market value for assessment purposes, and population as practicable under the circumstances, for the purpose of determining each highway commissioner's district, and each commissioner for a highway district shall represent and be elected or appointed from the district in which he resides.

(2) Upon appointment, qualification and acceptance of duties as highway commissioners, those originally appointed shall, by lot, determine two (2) of the original appointed highway commissioners who shall serve for terms of original appointment for two (2) years, or until the next regular election for highway commissioners. The remaining highway commissioner shall serve for a period of four (4) years, or until the next succeeding election for highway commissioners. Thereafter, the highway commissioners elected shall be elected for four (4) year terms as their terms expire, thus providing a continuation in office of highway district commissioners, and providing for the staggered election of the commissioners in subsequent elections.

(3) Laws applicable to the election of highway commissioners shall apply to the conduct of highway district elections throughout the county, and the election for highway commissioners shall be on a nonpartisan basis.

(4) Where a county-wide highway district, new highway district,

or consolidated or enlarged district results from an election under this chapter, it shall be the duty of the governor, in the appointment of the original highway commissioners for the county, where there shall have been in existence at the time of the creation of the county-wide highway district, any highway districts within the limits of the county to appoint whenever practicable, one (1) of the existing highway commissioners as they shall qualify by residence in the territorial limits of the districts of the county-wide highway district as a highway commissioner of the county-wide highway system.

40-1705. ADJUSTMENT OF HIGHWAY DISTRICT BORDERS -- NOTICE -- HEARING -- DECISION OF COMMISSIONERS -- APPEAL. In areas where more than one (1) highway district exists, the commissioners shall have the duty and obligation from time to time as shall be practical and for the best interests of the county-wide administration of the secondary highway systems, to adjust the borders of the highway districts coexisting in the county as shall most equitably and economically permit the administration, operation and construction of the secondary highway system within the county. Notice of a proposal to change the boundaries of the highway districts within the county shall be given by the commissioners through the county clerk to the districts affected and notice shall be published in accordance with the provisions of section 40-206, Idaho Code. At the hearing any person objecting may be heard in opposition, and upon the closing of the hearing, the commissioners shall within ten (10) days after the hearing, notify the districts affected of their decision, and any district aggrieved by the decision shall have the right through its highway commissioners to appeal the decision directly to the district court of the county in which the district lies. Matters referred to the district court on appeal shall be submitted by petition for hearing within twenty (20) days of the announcement of the decision of the commissioners and the matter disposed of by the district court by reversal or approval. Failure to diligently prosecute the matter before the district court shall justify the district court in dismissing the appeal without hearing.

40-1706. HIGHWAY DISTRICT SYSTEM AND COUNTY HIGHWAY SYSTEM NOT TO COEXIST WITHIN ONE COUNTY -- EXCEPTION. After a special election held as provided in section 40-1701, Idaho Code, no county shall exist as part of a highway district and part of a county highway system except under the provisions of section 40-1615, Idaho Code. In order to prevent existence of this condition, the commissioners are authorized to take action to redistrict at any time, subject to the limitations of this chapter.

40-1707. DISSOLUTION OF DISTRICT IN EXISTENCE AT TIME OF OPTION ELECTION. In any county where option (a) or option (b) of section 40-1701, Idaho Code, is selected by election and highway districts already exist at the time of reorganization under the provisions of this chapter, the commissioners shall take all steps required to dissolve the districts and transfer all funds.

40-1708. PAYMENT OF EXPENSES OF LOCAL OPTION ELECTIONS. In all cases where local option elections are held under the provisions of this chapter, commissioners shall first pay expenses of local option elections from the general fund of the county. The expense shall then be pro rated by the commissioners according to the mileage, market value for assessment purposes, and the population to highway districts and the county area, and upon certification of this pro rata share by the commissioners and the charge shall be paid to the county. Any appeals shall follow the appeals procedure set forth in section 40-1705, Idaho Code, for appeals from readjustment of district borders.

40-1709. INVENTORY AND FINANCIAL STATEMENT OF DISSOLVED DISTRICT -- DISPOSITION OF PROPERTY AND OBLIGATIONS OF DISSOLVED DISTRICT. (1) Upon an election being held under the provisions of this chapter and an option being chosen, all highway districts shall prepare and file with the commissioners an inventory and financial statement not later than ten (10) days subsequent to the canvass of the election.

(2) Title to all machinery, buildings, lands and property of every kind and nature, belonging to each district shall immediately upon the dissolution of the district and without further conveyance, be vested in the commissioners as custodians and be delivered to the succeeding operational unit. The succeeding unit shall be liable for any and all unliquidated obligations of the dissolved highway districts.

40-1710. APPORTIONMENT OF AREA OF DISSOLVED DISTRICT IN COUNTY WHERE SEVERAL HIGHWAY DISTRICTS EXIST. Upon a petition for dissolution being presented by any highway district in a county where several highway districts exist, subsequent to reorganization under the provisions of this chapter, the commissioners may apportion the area of the district to be dissolved in a manner as they see fit to other districts within the county.

40-1711. DECENNIAL COUNTY ELECTIONS FOR NEW TYPE OF HIGHWAY ADMINISTRATION -- EXCEPTIONS. Any county which does not administer its entire secondary highway system under one (1) of the first three (3) options shall at the general election in 1990, and at the general election each ten (10) years thereafter when the county is required to conduct an election by the provisions of this section, submit to the entire electorate of the county the question of whether a new type of administration of the secondary highway system shall be adopted by the county. However, any county which has a total of four (4) or fewer highway districts shall not be required to conduct the election.

40-1712. HIGHWAY STUDY COMMISSION -- ESTABLISHMENT -- MEMBERSHIP. In each county required to conduct an election under the provisions of section 40-1711, Idaho Code, there shall be established a local highway study commission. The local highway study commission in each county shall be composed as follows:

(1) One (1) member shall be appointed by the highway district commissioners of each highway district within the county;

(2) The city council of each city within the county shall appoint one (1) member;

(3) The commissioners shall appoint one (1) member; and

(4) The state highway district engineer of the state highway district within which the county lies shall be a member of and serve as chairman of the commission.

40-1713. MEETING OF HIGHWAY STUDY COMMISSION -- SELECTION OF OPTION FOR SUBMISSION -- ELECTION -- IMPLEMENTATION OF OPTION -- RETENTION OF EXISTING SYSTEM. (1) The highway study commission shall meet at the county courthouse, at the call of the chairman, no later than one hundred twenty (120) days prior to the election called for by this chapter. At that meeting, or at any other meetings as may be necessary to make the decision, the commission shall analyze the options for administration for the county's secondary highways prescribed in section 40-1701, Idaho Code, and select one (1) of those options for submission to the electorate at the election. The question to be submitted to the electorate shall be substantially as follows:

For the purpose of administering the secondary highway system of .... County, shall the county ..... ?

Yes ....

No ....

(2) If a majority of the voters casting votes on the question approve the question submitted, the commissioners shall implement the option selected as provided by this chapter. If a county-wide district is selected, the governor shall appoint the original highway district commissioners.

(3) If the proposal is defeated, the county shall retain its current system for the administration of its highways.

CHAPTER 18
DISSOLUTION OF HIGHWAY DISTRICTS

40-1801. DISTRICTS SUBJECT TO DISSOLUTION. Any highway district of the state may be dissolved as provided in this chapter.

40-1802. PETITION FOR DISSOLUTION -- CONTENTS. All proceedings for the dissolution of highway districts shall be initiated by a petition of twenty-five (25) or more qualified electors of the district, addressed to the commissioners of the county in which the district is situate, and which shall concisely state the grounds or reasons for the dissolution and contain a request for a hearing of the petition.

40-1803. ORDER FOR HEARING UPON PETITION. The petition shall be filed with the clerk of the commissioners and at its next regular meeting, or at any special meeting called for that purpose, and the commissioners shall by an order fix a time and place for the hearing of the petition, which time shall not be less than twenty-one (21) days from and after the date of the first publication of the notice of the petition and hearing.

40-1804. NOTICE OF PETITION AND HEARING. The commissioners shall

require their clerk to cause a notice to be published in accordance with the provisions of section 40-206, Idaho Code, setting forth that a petition has been filed, the prayer of the petition and notice of the time and place when and where the petition will be heard, and further notice that any elector of the district may, prior to or at the time of the hearing, file with the clerk written objections to the proposed dissolution.

40-1805. HEARING — ORDER FOR ELECTION. At the time and place specified in the notice, the commissioners shall proceed to consider the petition and all written objections to it, and shall hear all persons in relation to it, and shall hear or take testimony as may be offered or as they desire. Upon the conclusion of the hearing which may be continued from day to day, if the commissioners determine that the district ought to be dissolved and that the dissolution would be to the best interest of the district, it shall enter an order directing that the question of dissolution of the district be submitted to the qualified electors of the district at an election to be held not less than thirty (30) nor more than sixty (60) days from and after the order.

40-1806. ELECTION OFFICERS AND POLLING DISTRICTS — NOTICE OF ELECTION. The commissioners shall at the time of making the order appoint two (2) or more judges and one (1) or more clerks for the election, to be chosen from the electors of the district for each of the polling districts in the highway district, and shall by order establish polling districts and polling places. The commissioners shall direct their clerk to cause notice of the election to be given by posting notices in at least three (3) public places within the district, one (1) of which shall be on the front door of the office of the district, and in addition to that posting, shall cause a copy of the notice to be published in accordance with the provisions of section 40-206, Idaho Code. The notice shall state the purpose of the election; the places of holding it; the polling districts, if an election be held in more than one (1) place; the qualifications required of voters; and the hours during which the polls shall be opened, which shall be between the hours of 1:00 p.m. and 7:00 p.m.

40-1807. QUALIFICATIONS OF VOTERS. Any person residing in the district possessing the qualifications required by law for a voter at any general election of the state shall be entitled to vote in the election.

40-1808. CONDUCT OF ELECTIONS. (1) The polls in all elections shall be presided over by the judges and clerks appointed by the commissioners who must take an oath, to be administered by a qualified elector of the district, and which oath shall obligate the judges and clerks to faithfully perform the duties of the board of election.

(2) All elections shall be by secret and separate ballot, each ballot in type, print or legible writing, stating in the affirmative and negative the proposition to be voted upon, and all ballots shall be in a form that the voters may express a choice by the marking of a

cross (X).

(3) In all elections it is intended that no informalities in conducting the elections shall invalidate the election, if the election shall have been otherwise fairly conducted. The clerk of the commissioners shall prepare the necessary ballots for use in each of the districts.

40-1809. COUNTING VOTES -- RETURN OF ELECTION -- CANVASS -- ORDER OF DISSOLUTION. Immediately following the close of the polls at the time specified in the notices of election the board of election shall tally the result of the election, making the count in public view and shall immediately make return of the election to the clerk of the commissioners upon forms to be supplied by him, and shall transmit all ballots cast at the election, whether the ballots were counted or rejected by the election board. The commissioners shall immediately canvass the returns, and in the event a majority of the votes cast in the district are in favor of dissolution, the commissioners shall immediately make and enter an order declaring the district dissolved.

40-1810. EXPENSES OF DISSOLUTION -- HOW BORNE AND PAID. All expenses of proceedings to dissolve highway districts, including the posting and publication of notices of hearings on the petitions and of the election, the printing of ballots and compensation of judges and clerks of election, shall be borne by the highway district. In cases where the proposal to dissolve shall be defeated, either by order of the commissioners upon hearing the petitions, or at the election, the expense shall be paid by the appropriate district treasurer out of any current funds on hand on an order presented by the clerk of the commissioners; and, when the proposal to dissolve shall have been adopted at an election, the expense of all proceedings shall be paid by the county treasurer out of the first moneys received from or on account of the respective district.

40-1811. DISPOSITION OF SURPLUS FUNDS AND PROPERTY OF DISSOLVED SYSTEM OR DISTRICT. (1) After final payment of all expenses of proceedings in relation to dissolution and of all legal claims, liabilities, bonded and other indebtedness of the dissolved highway district, and after liquidation and winding up of the affairs of the district, all surplus moneys of the dissolved highway district remaining in the special fund of the dissolved district shall immediately be delivered to the treasurer of the succeeding operational unit. Title to all machinery, buildings, lands, and property of every kind and nature belonging to the dissolved system or district shall immediately upon entry of the order of dissolution, and without further conveyance, be vested in the succeeding operational unit.

(2) No city whose incorporated limits lie wholly or partially within the boundaries of a dissolved highway district shall be entitled to receive any share of the moneys of the dissolved highway district.

40-1812. PROVISION FOR PAYMENT OF CURRENT CLAIMS. As a part of the proceedings of and order for dissolution of a district, the com-

missioners shall make a determination, so nearly as may be done, of the total indebtedness of the dissolved district, including bonded, funded bond, and all warrant indebtedness, both as to registered and floating warrants, and current indebtedness of, or claims against, the district. They shall likewise determine the amount of funds on hand belonging to the dissolved district, and shall estimate the revenue to be derived from sale of district property, from uncollected taxes or assessments levied or assessed in the district, and the amount of highway users' funds as the highway district would be entitled to receive from the county in which the district is situated had the district not been dissolved. From that determination, the commissioners shall compute the probable amount of money which may be applied in payment of current indebtedness of the dissolved district and shall order and provide for the manner in which current claims against the district shall be presented to the commissioners for allowance and peyment by warrants drawn against the special fund of the district in the county treasury.

40-1813. DISSOLUTION OF DISTRICT SITUATED IN TWO OR MORE COUNTIES. When any highway district is to be dissolved, situate in two (2) or more counties, the commissioners of the county whose county seat is situated most nearly to the geographical center of the district, shall have jurisdiction of the dissolution of the district and the same procedure, including notices and elections, shall be followed as provided in this chapter and chapter 17 of this title, for dissolution of highway districts situated in one (1) county. Meetings shall be had at the county seat of the county having jurisdiction of the dissolution of the highway district before a joint session of the commissioners from all the counties affected by the dissolution. The commissioners of the counties affected shall cause to be made and entered an order for notice, election, and for the dissolution and winding up of the affairs of the highway district and specifying when the same shall be dissolved, and the succeeding operational unit, if any.

40-1814. DISTRICTS IN TWO OR MORE COUNTIES -- PROVISION FOR PAYMENT OF INDEBTEDNESS UPON DISSOLUTION. The commissioners of the county in which the petitions for dissolution are filed, shall determine the indebtedness of the entire district and shall provide for the payment of the indebtedness out of district funds on hand, or to be raised by special levies, levied by the county, and shall be certified to the clerk of the commissioners of each of the counties in which is situated any part of the dissolved district, and an ad valorem tax shall be levied and imposed by each of the counties upon property of the district as may be within the county. The tax shall be collected, and not less than quarterly, be remitted to the treasurer of the county where the petitions are filed, to be applied in payment of the indebtedness of the dissolved district.

40-1815. JURISDICTION OF PROPERTY OF DISSOLVED DISTRICT SITUATED IN TWO OR MORE COUNTIES. The succeeding operational unit of the county in which the proceedings for the dissolution of highway districts, situated in two (2) or more counties are had, or the commissioners of

the county or counties wherein the district was situate shall, after the order of dissolution, have exclusive jurisdiction over all of the property, business and affairs of the dissolved district, whether situate in the county or not, including the power to issue funding bonds against the whole territory of the district for the payment of funding of bonds, warrants, and for other indebtedness of the district when funds for payment cannot be secured by current taxation.

40-1816. CONTROL OF BRIDGES AND HIGHWAYS OF DISSOLVED DISTRICT. From and after the entry of the order for dissolution of any highway district, the commissioners of the county where the district was situate, or the succeeding operational unit, shall have the same control over all bridges and highways of the district situate in the county, as was or is vested in the commissioners in other territory of the county, including the power to levy ad valorem taxes upon the property situate therein for general highway and bridge purposes.

40-1817. LIMITATION ON NEW PROCEEDINGS FOR DISSOLUTION. When any proceedings for dissolution of any highway district shall have failed of adoption, either on account of order of the commissioners or at election, no new proceedings for dissolution of the district shall be initiated less than one (1) year thereafter.

40-1818. VALIDITY OF OUTSTANDING OBLIGATIONS. Nothing in this chapter shall be construed as impairing the validity of any outstanding bonds or warrants of a dissolved system or district.

40-1819. ACTS AND PROCEEDINGS ESTABLISHED OR COMMENCED BEFORE CHAPTER TAKES EFFECT NOT AFFECTED. This chapter shall not affect any act done, ratified or confirmed, or any right accrued or established, or any action or proceeding had or commenced in a civil or criminal cause before July 1, 1985, but those actions or proceedings may be prosecuted and continued by the county, district or city.

40-1820. CONTINUANCE IN SERVICE OF EMPLOYEES OF DISSOLVED SYSTEM OR DISTRICT. All persons in the employ of any dissolved city highway system or highway district may be continued in service so far as their services may be required by the succeeding operational unit.

40-1821. NO DISTRICT DISSOLVED UNTIL SUCCEEDING OPERATIONAL UNIT IN EXISTENCE. No highway districts dissolved under the terms and provisions of this chapter shall be deemed to have been dissolved and shall not cease to operate and perform their duties and obligations until there shall have been organized and existing a succeeding operational unit.

CHAPTER 19
BEAUTIFICATION OF HIGHWAYS

40-1901. LEGISLATIVE INTENT AND POLICY -- TOURIST RELATED ADVERTISING DEVICES. (1) The state of Idaho herewith finds and determines that the removal of tourist related signs which were lawfully created

under state law in force at the time of their erection which do not conform to the requirements of section 131(o), title 23, United States Code, which provide directional information about goods and services in the interest of the traveling public, and which were in existence on May 6, 1976, may work a substantial economic hardship in defined areas within the state.

(2) The legislature further finds and declares that outdoor advertising is a form of commercial use of the public highway and regulation and removal of outdoor advertising is a highway purpose. In order to provide for maximum visibility along highways and to permit unobstructed view of connecting highways and intersections, to prevent the distraction of operators of motor vehicles, to prevent confusion with respect to traffic lights, signs or signals, or otherwise interfere with the effectiveness of traffic regulations, to preserve and enhance the natural scenic beauty of areas traversed by interstate and primary highways, to protect the public investment in highways, to promote the recreational value of public travel, to conform to the expressed intent of congress to control the erection and maintenance of outdoor advertising displays, and to promote the maximum safety, comfort and well-being, of the users of highways, the legislature finds and declares it to be necessary in the public interest to regulate the erection and maintenance of outdoor advertising structures, signs and displays and the business or occupation, in areas adjacent to interstate and primary highways, in accordance with the terms of this chapter and regulations promulgated by the board.

40-1902. ERECTING AND MAINTAINING ADVERTISING DISPLAYS. The provisions of this chapter and the regulation of erecting and maintaining advertising displays, insofar as the regulation may affect erecting and maintaining advertising displays visible from the interstate or primary system of highways of this state, shall be exclusive of all regulations whether enacted by a law of this state or by a political subdivision the state.

40-1903. COUNTY ZONING ORDINANCES. It is the intention of the legislature to occupy the whole field of regulation by this chapter, except that nothing in this chapter prohibits enforcement of any or all of its provisions by persons designated to act by appropriate ordinances duly adopted by any county of this state, nor does this chapter prohibit the passage by any county of reasonable land use or zoning regulations affecting the placing of advertising displays in accordance with the provisions of chapter 65, title 67, Idaho Code.

40-1904. PRIVATE AND PUBLIC NOTICES. Nothing contained in this chapter applies to any advertising display used exclusively for:

(1) Directional and other official signs and notices erected or maintained by public officers or agencies pursuant to and in accordance with directioo or authorization contained in state or federal law, for the purpose of carrying out an official duty or responsibility;

(2) Structures, signs and displays advertising the sale or lease of property upon which they are located; and

(3) Structures, signs and displays advertising activities conducted on the property on which they are located.

40-1905. LICENSES REQUIRED -- APPLICATION. (1) No person shall engage in or carry on the business or occupation of outdoor advertising without first having paid the license fee provided by this chapter.

(2) An application for a license shall be made by each outdoor advertising business on a form furnished by the department.

40-1906. PERMITS FOR PLACING ADVERTISING DISPLAY -- APPLICATION. (1) No person shall place any advertising display within the area affected by the provisions of this chapter in this state without first having secured a written permit from the department.

(2) A separate application for a permit shall be made for each separate outdoor advertising structure, sign or display on a form furnished by the department, which application shall contain information as the department may require. Each application shall be accompanied by the written consent of the owner or tenant of the real property upon which the structure, sign or display is to be erected or maintained, unless the consent shall have previously been filed with the department. An application shall be made for a permit to maintain an existing outdoor advertising structure, sign or display or to renew a permit.

40-1907. PERMITS AND LICENSES -- ISSUANCE -- FEES. (1) The department, in accordance with the provisions of this chapter, shall issue or renew permits and licenses for a period of at least one (1) year for the erection or maintenance of all type of outdoor advertising structures, signs or displays. No permit or license shall be issued for the erection or construction of any sign which would be in violation of local law or ordinance at the time application is filed, and further provided that no permit shall be withheld or denied for a nonconforming sign which is to be removed pursuant to the terms of this chapter by reason of the sign being located upon land to which the state or the department has acquired a restrictive covenant regarding the erection of signs if the sign was in existence prior to October 22, 1965.

(2) The license fee for an original license, and for each annual renewal, is payable annually in advance, as follows:

(a) Fifty dollars ($50.00) for persons owning one or more but fewer than one hundred (100) signs subject to this chapter.

(b) One hundred dollars ($100) for persons owning more than one hundred (100) signs subject to this chapter.

(3) Licenses granted shall expire each year on December 31 and shall not be pro rated. Application for renewal of licenses shall be made not less than thirty (30) days prior to the date of expiration.

(4) A permit fee of ten dollars ($10.00) shall accompany each original permit application. An annual permit fee of three dollars ($3.00) shall accompany each renewal permit application.

(5) The issuance of a permit and payment of a permit fee for the placing of an advertising structure includes the right to change the

advertising copy thereon without obtaining any additional permit for the remainder of the calendar year in which the permit is issued and without the payment of any additional permit fee.

(6) Any license or permit issued pursuant to this chapter may be transferred to any person who acquires the business as a successor of the person for whom the license or permit was issued.

40-1908. BOND OF OUT-OF-STATE LICENSEE OR PERMITTEE. When an application for a license or permit or for renewal is made by a nonresident or by a foreign corporation engaged in the business of outdoor advertising, the department in its discretion, as a condition to the issuance of a license or permit or renewal, may require the corporation to deposit with the department a bond in an amount and with surety to be approved by the department, to secure the corporation's compliance with the provisions of this chapter.

40-1909. IDENTIFICATION OF ADVERTISING STRUCTURES -- PLACING STRUCTURE WITHOUT PERMIT PLATE -- VIOLATION. (1) The department shall require that each outdoor advertising structure, sign or display shall bear an identification tag or plate to be issued by the department, and if erected or maintained by an outdoor advertising business that it shall also bear his name.

(2) No person shall place any advertising structure, sign or display unless there is securely fastened upon the front a permit plate of the character specified in subsection (1) above. Placing an advertising display without having affixed a permit plate is prima facie evidence that the advertising display has been placed and is being maintained in violation of this chapter, and any such display shall be subject to removal.

40-1910. LOCATION OF DISPLAYS. No advertising display shall be placed or maintained in any of the following locations or positions or under any of the following conditions or if the advertising structure or sign is of the following nature:

(1) Within the right-of-way of any highway;

(2) Visible from any interstate or primary highway and simulating or imitating any directional, warning, danger or information sign permitted under the provisions of this chapter, or if intended or likely to be construed as giving warnings of traffic;

(3) Within any stream or drainage canal or below the flood water level of any stream or drainage canal where the advertising display might be deluged by flood waters and swept under any highway structure crossing the stream or drainage canal or against the supports of the highway structure;

(4) Not maintained in a safe condition;

(5) Visible from any interstate or primary highway and displaying any red, blue or blinking intermittent light likely to be mistaken for a warning or danger signal;

(6) Illuminated with such brilliance and so positioned as to blind or dazzle the vision of travelers on adjacent interstate or primary highways;

(7) Purported to direct the movement of traffic;

(8) Painted, affixed or attached to any natural feature as more particularly prohibited by section 18-7017, Idaho Code;

(9) Hinder the clear, unobstructed view of approaching or merging traffic, nor obscure from view any traffic sign or other official sign;

(10) Located as to obscure the view of any connecting highway or intersection; and

(11) Not clear or in good repair.

40-1911. GENERAL PROHIBITIONS. Notwithstanding any other provision of this chapter, no advertising display shall be erected or maintained within six hundred sixty (660) feet from the edge of the right-of-way of the interstate and primary system of highways within this state except the following:

(1) Directional or other official signs or notices that are required or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures;

(2) Signs advertising the sale or lease of property upon which they are located;

(3) Displays advertising activities conducted on the property upon which they are located, provided that not more than one (1) such sign, visible to traffic proceeding in any one direction, and advertising activities being conducted upon the real property where the sign is located may be permitted more than fifty (50) feet from the advertising activity;

(4) Displays located within areas zoned industrial, business or commercial under authority of state law, or in unzoned industrial or commercial areas as determined by the department;

(5) Displays erected or maintained by the department on the right-of-way pursuant to regulation of the department designed to give information in the specific interest of the traveling public. The department, by and through its director, may, upon receipt of a certified copy of an ordinance from a board of county commissioners, or a city council, accompanied by all economic studies required by federal rules and regulations showing that the removal of tourist-related advertising accivities would cause an economic hardship on a defined area, forward the ordinance to the secretary of the United States department of transportation for inclusion as a defined hardship area, qualifying for exemption pursuant to section 131(o), title 23, United States Code. The ordinance and economic studies shall show that (1) the tourist-related advertising devices provide directional information about goods and services in the interest of the traveling public, and (2) that the removal of the specific directional advertising displays will work a substantial economic hardship in the defined area;

(6) Signs lawfully in existence on October 22, 1965, determined to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the purposes of this chapter; and

(7) On or after July 1, 1985, no advertising structure or display shall be erected or maintained in this state, other than those allowed pursuant to subparagraphs (2), (3) and (4) of this section, which are

located beyond six hundred sixty (660) feet of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected for the purpose of the message being read from that main traveled way of the system.

40-1912. INDUSTRIAL OR COMMERCIAL ZONES. (1) The provisions of section 40-1911, Idaho Code, shall not apply to those segments of the interstate and primary system of highways which traverse and abut on commercial, business or industrial zones within the boundaries of incorporated cities, wherein the use of real property adjacent to and abutting on the interstate and primary system of highways is subject to city or county regulation or control, or which traverse and abut on other areas where the lend use is clearly established by state law or county zoning regulation, as industrial, business or commercial, or which are located within areas adjacent to the interstate and primary system of higbways which are in unzoned commercial or industrial areas as determined by the department from actual land uses. The department shall determine the size, lighting and spacing of signs in the zoned and unzoned industrial, business or commercial areas.

(2) For the purpose of this chapter, areas abutting interstate and primary highways of this state which are zoned commercial or industrial by counties and cities shall be valid as commercial or industrial zones only as to the portions actually used for commerce or industrial purposes and the land along the highway in urban areas for a distance of six hundred (600) feet immediately abutting to the area of the use, and does not include areas so zoned in anticipation of such uses at some uncertain future date, nor does it include areas zoned for the primary purpose of allowing advertising structures. All signs located within an unzoned area shall become nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of six (6) months.

40-1913. REMOVAL OF DISPLAYS. Any outdoor advertising which is not in compliance with the provisions of this chapter may be removed by the department. Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under state law, but the department shall not be required to purchase or remove any advertising displays as required under this chapter, until matching federal aid funds are available for the purchase or removal by the federal government.

40-1914. LOCAL ORDINANCES. The provisions of this chapter shall not be construed as permitting a person to place or maintain in existence on or adjacent to any interstate or primary highway, any outdoor advertising prohibited by law or by an ordinance of a city or county.

40-1915. NUISANCES. All advertising displays which are placed or which exist in violation of the provisions of this chapter are public nuisances and may be removed by any public employee as is further provided in this chapter.

40-1916. PENALTY -- REMEDIES CUMULATIVE. (1) Any person who

erects an advertising display, or who, as principal, agent or employee, causes or orders an advertising display to be erected, or one who permits an advertising display to be erected or maintained on land owned or leased by that person, in violation of the provisions of this chapter, shall be guilty of a misdemeanor.

(2) The remedies provided in this chapter for the removal of illegal advertising displays are cumulative and not exclusive of any other remedy provided by law.

40-1917 -- 40-1918 [RESERVED.]

40-1919. JUNKYARDS AS PUBLIC NUISANCES. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is declared by the legislature of the state of Idaho to be in the public interest and for a highway purpose to regulate and restrict the establishment, operation and maintenance of junkyards in areas adjacent to highways on interstate and primary systems within the state. The legislature finds and declares that junkyards that are not in compliance with the provisions of this chapter are public nuisances.

40-1920. LICENSE -- RENEWAL — FEE. No person shall operate, establish, or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any highway on the interstate or primary system without obtaining a license from the board. The license and each renewal shall be issued on a calendar year basis and shall expire on December 31 following the date of issuance. A fee of twenty-five dollars ($25.00) shall be charged for each original license or renewal license which shall be deposited in the state treasury in the highway distribution account.

40-1921. REQUIREMENTS FOR LICENSE. Licenses shall be granted for the operation of those junkyards within one thousand (1,000) feet of the nearest edge of the right-of-way of any highway on the interstate or primary system meeting the following requirements:

(1) Are screened by natural objects, plantings, fences or other appropriate means so as to render them invisible from the traveled way of the highway involved; or

(2) Located within areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the board; or

(3) Are not visible from the main traveled way of the highway involved; or

(4) Are to be screened by the board as provided in section 40-313(4), Idaho Code; or

(5) Are to be relocated, removed or disposed of by the board as provided in section 40-313(4), Idaho Code.

40-1922. DUMP PERMITS -- RENEWAL -- FEE -- SCREENING BY OWNER. No person shall operate, establish, or maintain a dump, any portion of

which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any highway on the interstate or primary system without obtaining a permit from the board. The permit and each renewal shall be issued on a calendar year basis and shall expire on the 31st day of December following the date of issuance. A fee of fifteen dollars ($15.00) shall be charged for each original permit or renewal permit which shall be deposited in the state treasury to the credit of the highway distribution account.

40-1923 -- 40-1924 [RESERVED.]

40-1925. ENFORCEMENT -- REVOCATION OF LICENSE OR PERMIT -- NOTICE -- HEARING. (1) The department or board may revoke any license or permit for the failure to comply with the provisions of this chapter and may remove and destroy any advertising display placed or maintained in violation of this chapter after written order posted on the structure or sign and copies served by certified mail upon both the owner of the display and the owner of the land upon which it is situate. The order shall be signed by the district engineer of the department in the applicable district. The parties shall have thirty (30) days within which to appeal the order to the board under the provisions of chapter 52, title 67, Idaho Code.

(2) Notwithstanding any other provision of this chapter, the department or any of its authorized employees may summarily and without notice remove and destroy any advertising display placed in violation of this chapter which is temporary in nature because of the materials of which it is constructed or because of the nature of the copy on it.

(3) Proceedings for review of any action taken by the department pursuant to this section shall be instituted under the provisions of chapter 52, title 67, Idaho Code.

40-1926. VIOLATIONS AS PUBLIC NUISANCES -- INJUNCTIONS -- VENUE. All violations of this chapter are hereby declared to be public nuisances. The board may apply to the district court of the county in which the unlawful junkyard or dump is located for an injunction prohibiting further operation of any junkyard or dump in violation of this chapter.

CHAPTER 20
HIGHWAY RELOCATION ASSISTANCE

40-2001. RELOCATION AID FOR PERSONS DISPLACED BY PUBLIC PROGRAMS -- LEGISLATIVE FINDING. The legislature finds and declares that the prompt and equitable relocation and reestablishment of persons, families, businesses, farmers, and nonprofit organizations displaced as a result of any state or local governmental program or project is a necessary purpose, is a cost of those programs and projects and is a public purpose. In order to insure that individuals do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole the legislature declares that relocation payments and relocation advisory assistance may be provided to all

persons so displaced in accordance with the terms and provisions of this chapter and rules and regulations promulgated by the board. The legislature finds and declares that rent supplement or purchase assistance payments to tenants and relocation payments to owner-occupants, businesses, and farmers in accordance with the provisions of this chapter are a public purpose and are necessary to enable all displaced persons to obtain decent, safe, and sanitary dwellings. The legislature further declares the provisions of this chapter may be applicable to all programs.

40-2002. RELOCATION ADVISORY ASSISTANCE. Any agency is authorized, as a part of the cost of any program or project, to give relocation advisory assistance to any individual, family, business or farm operation displaced because of the acquisition of real property for any project. If any agency determines that any person occupying property immediately adjacent to the real property acquired has been caused substantial economic injury because of the acquisition, it may offer him relocation advisory services.

40-2003. LOCAL RELOCATION ADVISORY ASSISTANCE OFFICES. Any agency may, as a part of the cost of any public program or project, establish a local relocation advisory assistance office or agency to assist in obtaining relocation facilities for individuals, families and businesses which must relocate because of the acquisition of right-of-way for any project.

40-2004. RELOCATION EXPENSE -- COMPENSATION OPTIONS -- LIMIT OF COMPENSATION FOR BUSINESS OR FARM RELOCATIONS. (1) As a part of the cost of any public program or project, any agency using any funds for public purposes may compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property, and for any actual direct losses of tangible personal property as the result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the agency, and for actual reasonable expenses in searching for a replacement business or farm. However, the compensation authorized by this section for actual and reasonable moving expenses, actual direct losses of tangible personal property, and expenses in searching for a replacement farm or business shall be limited to relocating a displaced person, family, business or farm operation within a reasonable distance from the location previously occupied and from which the displaced person has been required to move.

(2) Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section may receive a moving expense allowance, determined according to regulations and schedules established by the agency, not to exceed three hundred dollars ($300), and in addition a dislocation allowance of two hundred dollars ($200).

(3) Any displaced person who moves or discontinues his business

or farm operation who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that the payment shall not be less than two thousand five hundred dollars ($2,500) nor more than ten thousand dollars ($10,000). In the case of a business, no payment shall be made under this subsection unless the agency is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one (1) other establishment not being acquired which is engaged in the same or a similar business. In addition to the other requirements of this chapter, to be eligible for the payment authorized by this subsection the business or farm operation must make its financial statements, accounting records, and state income tax returns available to the agency for audit for confidential use in determining the payment or payments authorized by this subsection.

(4) If any agency determines that property, contiguous with property acquired, owned or occupied by an individual, family, business or farm operation, has been damaged as the result of a public program or project, it may offer the individual, family, business or farm operation the same compensation as it might offer to a displaced person under subsections (1), (2) or (3) of this section and under sections 40-2005 and 40-2007, Idaho Code.

40-2005. PURCHASE ASSISTANCE TO RELOCATING OWNER-OCCUPANT -- LEASE OR DOWN PAYMENT ASSISTANCE TO RELOCATING TENANT. (1) In addition to the payments authorized by section 40-2004, Idaho Code, an agency may make a payment to the owner of a dwelling, provided the dwelling has been owned and occupied by the owner for at least one hundred eighty (180) days prior to the first written offer for the acquisition of the property. The payment shall not exceed fifteen thousand dollars ($15,000) and shall be the amount, which, when added to the acquisition payment, equals the reasonable cost required for a comparable dwelling determined in accordance with standards established by the agency to be suitable to accommodate the displaced owner. The payment shall be made only to a displaced owner who purchases and occupies a dwelling that meets standards established by the agency, not later than the end of a one (1) year period beginning on the date on which he received final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date. Payment under this subsection will include an amount which will compensate the displaced person for any increased interest costs which the person is required to pay for financing the acquisition of any comparable replacement dwelling. This amount will be paid only if the dwelling acquired by the agency was encumbered by a mortgage which was a valid lien on the dwelling for not less than one hundred eighty (180) days prior to the first written offer for the acquisition of the dwelling. The amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling,

over the remainder term of the mortgage on the acquired dwelling, reduced to discounted current value. The discounted rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. This amount shall also include reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but shall not include prepaid expenses.

(2) In addition to the payments authorized by section 40-2004, Idaho Code, any agency may make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (1) of this section, which dwelling was actually and lawfully occupied by the individual or family for at least ninety (90) days prior to the first written offer for the acquisition of the property. The payment, not to exceed four thousand dollars ($4,000), shall be the additional amount which is necessary to enable the individual or family to lease or rent for a period not to exceed four (4) years, or to make a down payment, including reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of a dwelling of standards adequate to accommodate the individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, except that if the amount exceeds two thousand dollars ($2,000) the person must equally match any payment in excess of two thousand dollars ($2,000), in making the down payment.

40-2006. HOUSING REPLACEMENT AS LAST RESORT. (1) If any federally-assisted program or project construction cannot commence because comparable replacement sale or rental housing is not available, and the agency determines that housing cannot otherwise be made available, it may take action as is necessary or appropriate to provide housing by use of funds authorized for the project.

(2) No displaced person shall be required to move from his dwelling on account of any federally-assisted program or project, unless the agency is satisfied that replacement housing is available to the person, within a reasonable period of time and at rents or prices within the financial means of the families and individuals displaced, and reasonably accessible to their places of employment.

40-2007. COMPENSATION FOR MISCELLANEOUS EXPENSES. In addition to amounts authorized by this chapter, any agency as a part of the cost of any public program or project, may reimburse the owner of real property acquired for a project for reasonable and necessary expenses incurred for:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying the property;

(2) Penalty costs for prepayment of any mortgage entered into in good faith encumbering the real property if the mortgage is on record or has been filed for record under applicable state law on the date of final approval by the agency of the location of the project; and

(3) The pro rata share or portion of ad valorem taxes paid which are allocable to a period subsequent to the date of vesting of title

in the state or the effective date of possession of the real property by the agency, whichever is earlier.

40-2008. COMPUTATION OF REPLACEMENT HOUSING PAYMENT DURING CONDEMNATION PROCEEDINGS — ADJUSTMENT AFTER JUDGMENT. In the event an acquisition payment to an owner-occupant for a dwelling cannot be finally determined because condemnation proceedings may become necessary or are pending against the property, the replacement housing payment authorized by section 40-2005(1), Idaho Code, shall be made and computed as though the maximum offer of the state or agency for the property is the actual acquisition payment. In the event the final award and judgment rendered in the condemnation proceedings exceeds the state's highest offer, any difference between the offer and the judgment shall be deducted from the replacement housing payment, but in no event shall the judgment be reduced by more than the amount of the replacement housing payment.

40-2009. RELOCATION PAYMENTS NOT INCOME. No payment received under this chapter shall be considered as income for the purposes of the state personal income tax law or state corporation tax law, nor shall the payments be considered as income or resources to any recipient of public assistance and the payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under the state public assistance laws, nor shall the payments be considered as income or resources for the purpose of determining the eligibility or the extent of eligibility of any persons for public assistance.

40-2010. REVIEW OF DETERMINATIONS. Any displaced person aggrieved by a determination as to the eligibility for a payment authorized by this chapter, or the amount of the payment, may have his application reviewed. Proceedings for review of any action taken by the agency pursuant to this section shall be instituted under the provisions of chapter 52, title 67, Idaho Code.

40-2011. EMINENT DOMAIN DAMAGES UNAFFECTED. Nothing contained in this chapter shall be construed as creating, in any condemnation proceedings brought under the power of eminent domain, any element of damages not in existence under the laws of the state of Idaho on July 1, 1985.

CHAPTER 21
[RESERVED.]

CHAPTER 22
[RESERVED.]

CHAPTER 23
MISCELLANEOUS PROVISIONS

40-2301. RIGHT OF ENTRY TO MAKE SURVEYS. The board, county and highway commissioners, and their agents and employees, shall have the

right to enter upon any land to make surveys for any of the purposes of this title in the manner provided by law.

40-2302. PUBLIC ACQUIRES FEE SIMPLE TITLE -- RECORD AND DEDICATION OF HIGHWAYS. (1) By taking or accepting land for a highway, the public acquires the fee simple title to the property. The person or persons having jurisdiction of the highway may take or accept lesser estate as they may deem requisite for their purposes.

(2) In all cases where consent to use the right-of-way for a highway is voluntarily given, purchased, or condemned and paid for, either an instrument in writing conveying the right-of-way and incidents to it, signed and acknowledged by the party making it, or a certified copy of the decree of the court condemning it, must be made, filed and recorded in the office of the recorder of the county in which the land conveyed or condemned shall be particularly described.

(3) No highway dedicated by the owner to the public shall be deemed a public highway, or be under the use or control of a county or highway district unless the dedication shall be accepted and confirmed by the commissioners of the county or highway district.

40-2303. PUBLIC USE OF PRIVATE DAM OR BRIDGE. No right shall be deemed to have vested in the public for highway or other purposes, where free use may be granted to the public to a right-of-way for the purposes of travel, over and upon any dam or bridge constructed over and across any of the streams of this state, and owned by any person.

40-2304. CONSTRUCTION OF SIDEWALKS. Any owner or occupant of land may construct a sidewalk on the highway along the line of his land subject to authority conferred by law on the respective highway or county commissioners and the director of highways. Any person using the sidewalk with a horse or team without permission of the owner, is liable to the owner or occupant in the sum of twenty-five dollars ($25.00) for each trespass, and for all damages suffered.

40-2305. ADJOINING OWNERS MAY PLANT TREES -- PENALTY FOR INJURY. (1) Any owner or occupant of land adjoining a highway at least fifty (50) feet wide, may plant trees on the side contiguous to his land. The trees must be set in regular rows, at least six (6) feet apart and not more than six (6) feet from the boundary of the highway. If the highway is more than one hundred (100) feet wide, the row must be no less than six (6) feet nor more then twelve (12) feet from the boundary of the highway.

(2) Whoever digs up, cuts down, or otherwise injures or destroys any shade or ornamental tree planted and standing on any highway, shall pay one hundred dollars ($100) for each tree injured or destroyed.

40-2306. FELLING TREE INTO HIGHWAY -- PENALTY. Whoever cuts down a tree so that it falls upon a highway shall remove the tree, and is liable to a penalty of ten dollars ($10.00) for every day the tree remains on the highway.

40-2307. REMOVAL OF FALLEN TREES. Any person may notify the occupant or owner of any land from which a tree or other obstruction has fallen upon any highway to remove the tree or obstruction. If it is not removed, the owner or occupant is liable to a penalty of ten dollars ($10.00) for every day until it is removed, in addition to the cost of removal.

40-2308. CORPORATIONS MAY LAY TRACKS AND WATER MAINS. Every gas, water, or railroad corporation has the power to lay conductors and tracks through the public ways and squares in any city with the consent of the city authorities, and under reasonable regulations and for just compensation, as the city authorities and the law prescribe.

40-2309. RAILROAD CROSSINGS. Whenever highways are laid out to cross railroads on public lands, the owners or corporations using the same highway shall, at their own expense, so prepare the highway that it may cross without danger or delay, and when the right-of-way for a public highway is obtained through the judgment of any court, over any railroad, no damage shall be awarded for the simple right to cross.

40-2310. CATTLE GUARDS ACROSS ROADS -- LANDOWNER'S RIGHT TO CONSTRUCT -- GATES. (1) The owner, or lessee of any land crossed by any highway, except highways maintained by the department, who encloses the land with a lawful fence, shall, with the consent of the commissioners, highway district commissioners, or other governing body having jurisdiction over the highway, have the right to enclose the land, by erecting or constructing cattle guards across the highway. Cattle guards shall be constructed in accordance with plans and specifications as the respective commissioners or other governing body having jurisdiction of the highway shall prescribe.

(2) Any owner or lessee of land constructing a cattle guard across a highway under the provisions of subsection (1) above, shall cause a gate not less than twelve (12) feet long to be constructed and maintained in the fence connected to the cattle guard. The gate shall not be more than thirty-three (33) feet from the highway. The surface of the guard adjoining the highway and gate shall be so leveled and maintained that a vehicle can pass from the highway through the gate on either side of the fence, and the gate shall be unlocked at all times.

40-2311. PENALTY FOR DEFACING OR DESTROYING SIGNS, SIGNPOSTS OR FACILITIES. It shall be unlawful for any person to deface or destroy any signs, signposts, guideposts, or any inscription on them, or facilities erected by or under the direction of the board, a director of highways, county, or highway district commissioners. Any person found guilty shall be deemed guilty of a misdemeanor. The defacing or destroying of each sign, signpost, guidepost, or inscription, or facility shall constitute a separate offense.

40-2312. WIDTH OF HIGHWAYS. All highways, except bridges and those located within cities, shall be not less than fifty (50) feet wide, except those of a lesser width presently existing, and may be as

wide as required for proper construction and maintenance in the discretion of the authority in charge of the construction and maintenance. Bridges located outside incorporated cities shall be the same width to and across the river, creek or stream as the highway leading to it.

40-2313. TRAILS FOR LIVESTOCK -- LAYING OUT -- RULES CONCERNING USE — PENALTY. (1) County or highway commissioners are authorized to lay out highways or designate existing highways, within their respective jurisdictions, to be used as trails for livestock. These highways may be of a width as determined by the respective commissioners, and they may lay out, alter, establish and secure lands for those highways in the same manner and under the same provisions as the laying out, or establishing, or securing rights-of-way for regular highways. A regular highway not established or designated as a livestock trail under the provisions of this section may be used for trailing livestock in a number and at a time as may be indicated in rules and regulations made for that purpose by the respective commissioners.

(2) Rules and regulations shall be entered on the minutes of the respective commissioners. When highways are provided by counties or districts and are available for use as livestock trails, the respective commissioners may by rule or regulation prohibit the use of any regular highway, or portion of it, in their respective jurisdictions, for trails over which to drive livestock.

(3) Any person driving livestock over a regular public highway in violation of rules or regulations prohibiting the use of the highway, or portion of it shall, in addition to any other penalties provided by law, be deemed guilty of a misdemeanor.

40-2314. PASSAGEWAYS FOR STOCK. Passageways for stock passing beneath any highway must be bridged with suitable plauk not less than eighteen (18) feet in length, and it shall be lawful for the fences of either side to converge to the bridge over the passageway. The passageway must be kept securely bridged and in good repair by the person who owns the adjoiniug lands. The bridge shall not be placed more than one (1) foot above the level of the passageway. Approaches to the bridge over the passageway shall be kept in good repair by the owner.

40-2315. DAMAGE TO HIGHWAYS OR DITCHES BY LIVESTOCK. (1) Any person owning livestock or an employee or agent of the owner of livestock, who shall drive, range or graze the livestock along or across the public highways or ditches, or who shall permit them to range or graze along or across public highways or ditches, and thereby obstruct or partially obstruct the highway, by rolling rocks, brush or other debris on it, or destroy or injure any grades, ditches, bridges or approaches to bridges, shall immediately repair the damage done to the highway or ditch at their own expense. Any person owning livestock who shall refuse or neglect to repair any and all damage done to highways or ditches, within twenty-four (24) hours, shall be deemed guilty of a misdemeanor.

(2) All commissioners, directors of highways, highway district commissioners, and the board and their deputies, are directed to

supervise the enforcement of this section.

40-2316. PRIVATE HIGHWAYS -- ESTABLISHMENT. Private highways may be opened for the convenience of one or more residents of any county highway system or highway district in the same manner as public highways are opened, whenever the appropriate commissioners may order the highway to be opened. The person for whose benefit the highway is required shall pay any damages awarded to landowners, and keep the private highway in repair.

40-2317. REMOVAL OF FENCES. When the alteration of an old or the opening of a new highway makes it necessary to remove fences on land given, purchased or condemned by order of a court for highway purposes, notice to remove the fences shall be given by the director of highways to the owner, his occupant, or agent, or by posting the notice on the fence. If removal is not accomplished within ten (10) days, or commenced and prosecuted as speedily as possible, the director of highways may cause it to be carefully removed at the expense of the owner, and recover from him the cost of removal. The fence material may be sold to satisfy the judgment.

40-2318. TURNING HIGHWAYS ACROSS PRIVATE LANDS. If any person, through whose land any public highway is established, is desirous of turning the highway through any other part of his land, that person may, by petition, apply to the appropriate commissioners to permit him to turn the highway through another part of his land without materially increasing the distance of travel to the public. Upon receipt of a petition, accompanied by a sufficient bond to pay the cost and expense to be incurred, the appropriate commissioners may appoint three (3) disinterested viewers and a surveyor, if they deem it necessary, who shall view the ground over which the highway is proposed to be turned, and ascertain the distance the highway will be increased by the proposed alteration, and report in writing stating the several distances found, together with their opinion as to the usefulness of making the alterations. If the viewers report to the respective commissioners that the prayer of the petitioner is reasonable, the respective commissioners upon receiving satisfactory evidence that the proposed new highway has been opened a legal width, and in all respects made equal to the old highway for the convenience of travelers, may declare the new highway a public highway, make record of it, and at the same time vacate so much of the old highway as is embraced in the new. The person petitioning for the alteration shall pay all costs and expense of the view and survey, if ordered. When any person wishes to change the line or location of any public highway, he shall cause notice of his intention to apply to the appropriate commissioners having jurisdiction of the highway at its next session for permission to change the highway at his own expense, the notice to be in accordance with the provisions of section 40-206, Idaho Code, and shall also cause a copy of the notice to be posted at the post office, and at three (3) other public places in the county or district, at least twenty (20) days before the meeting of the respective commissioners. The notice must clearly show the proposed change or changes,

and when, where, and by whom the petition will be presented, and at the time and place designated in the notice he must present his petition, which must conform to the notice. Any person objecting to the change may, within ten (10) days, file a ptotest in writing against it. Any person aggrieved by the action of the respective commissioners may appeal to the district court of the county in the same manner and with like effect as in other cases of appeal from the action of the respective commissioners.

40-2319. ENCROACHMENTS -- REMOVAL -- NOTICE -- PENALTY FOR FAILURE TO REMOVE -- REMOVAL BY DIRECTOR OF HIGHWAYS -- ABATEMENT. (1) If any highway laid out or erected is encroached upon by fences, buildings, or otherwise, the director of highways of the district may, orally or in writing, require the encroachment to be removed from the highway.

(2) Notice shall be given to the occupant or owner of the land, or person causing or owning the encroachment, or left at his place of residence if he resides in the county. If not, it shall be posted on the encroachment, specifying the breadth of the highway, the place and extent of the encroachment, and requiring him to remove the encroachment within ten (10) days.

(3) If the encroachment is not removed, or commenced to be removed, prior to the expiration of ten (10) days from the service or posting the notice, the person who caused, owns or controls the encroachment shall forfeit fifty dollars ($50.00) for each day the encroachment continues unmoved. If the encroachment is of a nature as to effectually obstruct and prevent the use of the highway for vehicles, the director of highways shall immediately remove the encroachment.

(4) If the encroachment is denied, and the owner, occupant, or person controlling the encroachment, refuses either to remove it or to permit its removal, the director of highways shall commence in the proper court an action to abate the encroachment as a nuisance. If the director of highways recovers judgment, he may, in addition to having the encroachment abated, recover fifty dollars ($50.00) for every day the nuisance remained after notice, as well as costs of the legal action.

(5) If the encroachment is not denied, but is not removed for five (5) days after the notice is complete, the director of highways may remove it at the expense of the owner, occupant, or person controlling the encroachment, and recover his costs and expenses, as well as the sum of fifty dollars ($50.00) for each day the encroachment remained after notice was complete.

40-2320. GATES -- PENALTIES. (1) No gates shall be allowed on any public highway, except on highways runniug through land subject to overflow to an extent as to remove the fences. When allowed they shall be erected and maintained at the expense of the owner or occupant at whose request or for whose benefit they were erected. If the expense is not paid, the gate shall be removed as an obstruction.

(2) Any person who leaves a gate open, or who willfully and unnecessarily rides over ground adjoining the highway on which the

gate is erected, shall forfeit treble damages to the injured party.

40-2321. BRIDGES AND CULVERTS. Any person intending to run water across any public highway must first, under the direction and with the approval of the directors of highways of the county or district, or if the highway be the boundary of two (2) counties or districts, then, under the direction and with the approval of the director of highways of both counties or districts, construct a ditch of sufficient size to carry all the water, and must build a substantial bridge, with easy grades on and off the bridge over the ditch not less than sixteen (16) feet wide. When the quantity of water of any ditch is such that a pipe or culvert will carry the water, the water may be conducted across the highway by means of a pipe or culvert, which must be adapted to the surface of the highway, and the highest point of which shall be at least two (2) feet beneath the surface of the highway, be built of a length not less than sixteen (16) feet, and in a substantial manner permitting uninterrupted travel. All such bridges or culverts shall be of concrete, and all pipes of concrete, steel or other mineral substance. No wooden bridges, pipes or culverts shall be constructed, unless it appears to the satisfaction of the respective commissioners that the cost of the bridge, pipe or culvert would be unreasonably increased by being made of concrete, steel or other mineral substance, and that there is not sufficient travel over the highway to make it necessary for the protection and convenience of public travel that the bridge, pipe or culvert be constructed of those materials. The respective commissioners may in their discretion and by resolution, permit the bridge, pipe or culvert to be constructed of wood or other material, but no bridge, pipe or culvert shall be constructed of wood or any materials other than those specified in this section except upon a resolution of the appropriate commissioners setting forth the reasons and particularly specifying the place of the construction. When a bridge, pipe or culvert shall have been constructed as required, and accepted and approved by the director of highways, it shall become county property and be maintained as other county bridges.

40-2322. CONSTRUCTION OR REPAIR OF BRIDGES AND CULVERTS BY DIRECTOR OF HIGHWAYS. If any person owning or having ditches across any public highway, fails or neglects to build bridges or culverts over them as required, or to keep them, or the public highway in good repair, it is the duty of the director of highways of the county or district to build or repair them at the expense of that person, and the cost of them is a lien upon the land and premises of the ditch owner, and may be sued for and collected, by and in the name of the director of highways, in any court of competent jurisdiction.

40-2323. ABATEMENT OF FLOODING OF HIGHWAYS -- RIGHT OF ENTRY -- COURT ACTION FOR ABATEMENT. (1) If the owner or occupant of land lying adjacent to or near any highway laid out or constructed, or any other person, shall maintain or cause to be maintained, or allow any dam, dike, or levee across any swale, hollow, or natural water drain or channel, either inside or outside any fence or other enclosure which may enclose the land, and shall thereby cause water to back upon,

overflow or accumulate upon the highway, the director of highways of the county or district, or other official having direct supervision of the maintenance of the highway, or any other agent appointed by the respective commissioners, may go npon the premises and at the expense of the connty or district install culverts and drains as may be necessary, and in a manner as to cause water to drain from the highway to be carried down its natural channel to some point where it may be disposed of without damage to the highway and adjoining landowners.

(2) Whenever it is necessary or convenient to do so, in carrying out the provisions of subsection (1) above, the respective commissioners who have by law the general snpervision and control of the highway, are empowered to go upon and work upon the lands and premises where the dams, dikes and levees are sitnated.

(3) If it is denied that the dam, dike or levee causes water to back up, overflow or accumulate on the highway, or if the owner or occupant of the land, or person causing the dam, dike or levee to be maintained, refuses either to install suitable culverts or drains or does not allow the director of highways or other official having immediate supervision of the maintenance of the highway to do so, then the officer shall report the facts to the appropriate commissioners and they shall commence an action in the proper court to procure culverts or drains to be installed or the dam, dike, or levee abated as a nuisance. If the respective commissioners recover judgment, they may, in addition to having culverts installed or the dam, dike or levee abated as a nuisance, recover fifty dollars ($50.00) for every day the culverts remained uninstalled after the date of rendition of judgment in the action, and may also recover the costs of the action, and in an appropriate action, may also recover the cost and expenses of the installation of culverts or drains and the costs of suit.

SECTION 3. That Section 21-136, Idaho Code, be, and the same ia hereby amended to read as follows:

21-136. APPOINTMENT OF MEMBERS -- TERM -- VACANCIES. For the purposes of selection of members of the advisory board of aeronautics aud public transportation, one (1) member shall be appointed from each of the three (3) districts as provided in section ~~48-114~~ 40-303, Idaho Code.

Each of ~~said~~ the enumerated districts shall, at all times, be represented by one (1) board member, appointed from ~~said~~ that district. ~~Within thirty (30) days after the passage and approval of this act,--t~~The governor shall appoint, subject to confirmation by the senate, the board members for terms ~~as follows: One (1) for a term--to expire--July--31, 1977; one (1) for a term to expire January 31, 1978, and one (1) for a term to expire January 31, 1979~~ of three (3) years. The term of each member shall begin immediately upon his appointment and qualification. Each member shall hold office after the expiration of his term until his successor has been appointed. Not less than fifteen (15) days before the expiration of the term of appointment of each member, the governor shall appoint a successor ~~to--serve--for--a term--of three (3) years~~ and submit ~~such~~ the appointment to the senate for confirmation. Should any member of the board resign, die, remove

from the district from which he was appointed, or otherwise be removed from office, a vacancy shall exist, and during the recess of the legislature, the governor shall within thirty (30) days appoint a successor with like qualifications, to serve for the remainder of the retiring member's unexpired term~~,--provided--however,-that-if~~. If a vacancy occurs within forty-five (45) days after the convening of the legislature and while it is still in session, the governor shall make and submit to the senate for its approval a nomination to fill ~~such~~ the vacancy.

SECTION 4. That Section 34-625, Idaho Code, be, and the same is hereby amended to read as follows:

34-625. ELECTION OF HIGHWAY DISTRICT COMMISSIONERS IN SINGLE COUNTY-WIDE DISTRICTS -- QUALIFICATIONS. (1) ~~At-the-general-election, 1972,-and-i~~In each subsequent general election, highway district commissioners in single county-wide districts shall be elected as provided for in section ~~40-3004~~ 40-1404, Idaho Code.

(2) No person shall be elected to the office of highway district commissioner unless he shall have attained the age of eighteen (18) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioners subdistrict for which he seeks office.

(3) Each candidate shall file a declaration of candidacy with the county clerk not more than ninety (90) days nor less than forty-five (45) days prior to the general election. Each declaration of candidacy shall also bear the following words: "I am a resident within the boundaries of Highway District Commissioners Subdistrict Number ....."

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars ($10.00) which shall be deposited in the county ~~treasury~~ current expense fund.

SECTION 5. That Section 49-916, Idaho Code, be, and the same is hereby amended to read as follows:

49-916. EXCEPTION TO WEIGHT AND SIZE LIMITATIONS. 1. If federal law permits ~~various-states,-including-the-state-of~~ Idaho~~,~~ to establish size and weight limits in excess of those prescribed by section 49-901, Idaho Code, and section 49-913, Idaho Code, the Idaho transportation board, as provided in subsection 2 of this section, may authorize the movement on highways under its jurisdiction of vehicles, motor vehicles, trailers and/or semi-trailers, or combinations thereof, of a size or weight in excess of the limits prescribed in section 49-901, Idaho Code, and section 49-913, Idaho Code, but within the limits necessary to qualify for federal-aid highway funds.

2. The authority granted the Idaho transportation board by this section shall be exercised by adoption of rules or regulations pursuant to section 40-~~120(13)~~312, Idaho Code, or by issuance of permits pursuant to section 49-905, Idaho Code, except that the maximum size and weight limits authorized by this section apply.

SECTION 6. 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 funds as provided by section 40-485~~(2)~~701, Idaho Code.

SECTION 7. 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 40-485~~A~~709, Idaho Code, and one-half (1/2) shall be transmitted to the state treasurer for deposit in the highway distribution account, as created in section 40-485701, Idaho Code.

SECTION 8. That Section 50-313, Idaho Code, be, and the same is hereby amended to read as follows:

50-313. PUBLIC WAYS -- SUPERVISION. The city councils of cities shall have the care, supervision, aod control of all public highways~~,~~ and bridges~~,--streets,--and--alleys~~ within the corporate limits, and shall cause ~~the-same~~ them to be kept open and in repair and free from nuisances~~;--provided,--however,-w~~. Where any ~~street~~ highway within the corporate limits has been designated a part of the state highway system, the provisions of section ~~48-123~~ 40-502, Idaho Code, shall be applicable.

SECTION 9. 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 the commissiou under the provisions of section 63-2409, Idaho Code, shall be ~~paid-over-to-the-state-treasurer-by--the--commission,-to-be~~ distributed periodically as follows:

(a) As soon as possible after the beginning of each fiscal year, ~~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~~ retained by the commission. The amount ~~transferred-back-to~~ retained by the commission shall not exceed the amount authorized to be expended by

appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the gasoline tax requirements by the commission at the end of each fiscal year shall be distributed as listed in paragraph (e) of this subsection on that date.

(b) An amount of money shall be ~~transferred~~ distributed to the gasoline refund account, which is hereby created in the ~~dedicated~~ trust and agency 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~~ As soon as possible after the beginniog of each fiscal year, the sum of one hundred thousand dollars ($100,000) shall be ~~transferred~~ distributed 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~~ As soon as possible after the beginning of each fiscal year, the sum of fifty thousand dollars ($50,000) shall be ~~transferred~~ distributed to the local bridge inspection account in the dedicated fund, to pay the amounts from the account pursuant to the provisions of section 40-~~405B~~703, 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:~~

~~(f)~~ From the balance remaining with the ~~state--treasurer~~ commission after ~~transferring~~ distributing the amounts in paragraphs (a), (b), (c) and (d) of subsection (1) of this section:

1. One per cent (1%) shall be ~~transferred~~ distributed to the waterways improvement account, as created in chapter 15, title 57, Idaho Code, until the distribution equals three hundred thousand dollars ($300,000), at which time the one percent (1%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code;

2. One per cent (1%) shall be ~~transferred~~ distributed to the off-road motor vehicle account as created in section 57-1901, Idaho Code, until the distribution equals three hundred thousand dollars ($300,000), at which time the one percent (1%) shall be distributed into the park and recreation capital improvement account as created in section 57-1801, Idaho Code; and

3. Ninety-eight per cent (98%) shall be ~~transferred~~ distributed to the highway distribution account, created in section 40-~~405~~701, 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~~ distributed to the aircraft engine fuel tax refund account, which is hereby created in the ~~dedicated~~ trust and agency 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~~ distributed to the state aeronautics account, as provided in section 21-211, Idaho Code.

SECTION 10. 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 the commission under the provisions of section 63-2438, Idaho Code, shall be ~~paid to the state treasurer by the commission, to be~~ distributed periodically as follows:

(1) An amount of money equal to the actual cost of collecting, administering and enforcing the special fnels tax provisions by the commission, as determined by it ~~and certified quarterly to the state auditor,~~ shall be ~~transferred back to~~ retained by the commission. The amount ~~transferred back~~ retained by the commission shall not exceed the amount authorized to be expended by appropriation by the legislature. Any unencumbered balance in excess of the actual cost of collecting, administering and enforcing the special fuels tax requirements by the commission at the end of each fiscal year shall be distributed to the highway distribution account.

(2) An amount of money shall be ~~transferred~~ distributed to the special fuels refund account, which is hereby created in the ~~dedicated~~ trust and agency 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 balauce remaining with the ~~state treasurer~~ commission after ~~transferring~~ distributing the amounts specified in subsections (1) and (2) of this section shall be ~~transferred~~ distributed to the highway distribution account, created in section 40-405701, Idaho Code.

SECTION 11. 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 the 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 the 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 40-701, 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 the vehicle is owned grants a substantially similar exemption to vehicles owned by the state of Idaho, its agencies or political subdivisions.

Approved March 21, 1985.

CHAPTER 254
(H.B. No. 273)

AN ACT

RELATING TO THE SALE OF STATE-OWNED TIMBER; REPEALING SECTIONS 58-411, 58-412, 58-413 AND 58-414, IDAHO CODE; AMENDING CHAPTER 4, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-411, IDAHO CODE, TO PROVIDE TERMS FOR THE SALE OF STATE-OWNED TIMBER; AMENDING CHAPTER 4, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-412, IDAHO CODE, TO PROVIDE THAT THIRTY DAYS' WRITTEN NOTICE, AN ACCEPTABLE GUARANTEE OF PAYMENT, AND A PERMIT SHALL BE REQUIRED BEFORE A PURCHASER OF STATE-OWNED TIMBER MAY CUT THE TIMBER; AMENDING CHAPTER 4, TITLE 58, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 58-413, IDAHO CODE, TO PROVIDE THAT THE STATE BOARD OF LAND COMMISSIONERS MAY GRANT EXTENSIONS ON TIMBER SALE CONTRACTS UPON PAYMENT OF ADDITIONAL INTEREST AND EXTENSION FEES AS THE BOARD MAY REQUIRE; AMENDING SECTION 58-415, IDAHO CODE, TO REDESIGNATE THE SECTION, TO ELIMINATE REFERENCE TO TIMBER LANDS AND TO PROVIDE A CORRECT CITATION; AND AMENDING SECTION 58-416, IDAHO CODE, TO REDESIGNATE THE SECTION.

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

SECTION 1. That Sections 58-411, 58-412, 58-413 and 58-414, Idaho Code, be, and the same are hereby repealed.

SECTION 2. That Chapter 4, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-411, Idaho Code, and to read as follows:

58-411. SALE OF TIMBER. Timber belonging to the state of Idaho may be sold at public auction by the state board of land commissioners, at their option, as follows: ten percent (10%) of the estimated value of the timber, after deducting the development credits attendant to the sale of the timber, shall be due and payable on the day of sale, and if the purchase price is greater than the estimated value of the timber, ten percent (10%) of the difference shall be due and payable within ten (10) days of the date of sale. This sum shall be retained by the director of the department of lands as a cash reserve for the duration of the sale. The balance of such purchase price shall be paid at such time as the timber is scaled and billed with interest computed from the date of sale to the date of billing at the rate per annum set by the state board of land commissioners. Lump sum sales may be sold for cash at the time of sale or upon such terms and conditions as the state board of land commissioners may prescribe.

SECTION 3. That Chapter 4, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-412, Idaho Code, and to read as follows:

58-412. NOTICE OF INTENT TO CUT TIMBER -- CUTTING PERMITS. No timber shall be cut under the above provisions of this act except as follows: thirty (30) days' written notice shall be given to the state board of land commissioners, by filing such notice with the director, department of lands, of the particular land, described by legal subdivision or cutting unit, upon which the purchaser desires to cut timber. In addition, the purchaser shall provide the director of the department of lands with an adequate cash deposit, letter of credit, payment bond or other acceptable guarantee of payment, which shall be at least equal to the estimated value of the amount of timber to be harvested during the next ninety (90) day period. Permits to cut timber under these provisions shall be issued under rules and regulations adopted by the state board of land commissioners. The right to cut timber under the terms of this act does not accrue until the permit has been issued.

SECTION 4. That Chapter 4, Title 58, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 58-413, Idaho Code, and to read as follows:

58-413. TIME IN WHICH TO CUT TIMBER -- EXTENSION OF TIME. The timber cut on lands, where the timber only is purchased, must be cut within the time specified in the contract of sale, but not to exceed fifteen (15) years. The state board of land commissioners shall specify the time within which timber must be cut at the time of sale. If, at the expiration of the contract period named at the time of sale in which the timber must be removed, the purchaser desires further time for the removal of said timber, application may be made to the state board of land commissioners for such extension, giving the legal subdivision or cutting unit upon which such extension is desired, and making satisfactory proof that the timber purchased under the contract has not been cut or removed, and the state board of land commissioners may extend the time from year to year, for a period of not to exceed fifteen (15) years from date of sale, upon payment of such additional interest and extension fees as the board may require. All timber remaining after such period shall be the property of the state.

SECTION 5. That Section 58-415, Idaho Code, be, and the same is hereby amended to read as follows:

58-415~~4~~. ~~INSTALMENT SALES~~--- OTHER STATUTES UNAFFECTED. Nothing in sections 58-411 ~~to~~ through 58-415~~3~~, ~~inclusive~~ Idaho Code, shall be construed as changing or modifying any other statute relative to the sales of timber ~~and timber lands~~, but shall be construed as being in addition thereto, and as authorizing the sale of timber ~~and timber lands~~ on ~~payment of instalments~~ such terms and conditions as provided in sections 58-411 ~~to~~ through 58-415~~3~~, ~~inclusive~~ Idaho Code.

SECTION 6. That Section 58-416, Idaho Code, be, and the same is hereby amended to read as follows:

58-416~~5~~. MEASURING METHOD USED IN SALE OF STATE-OWNED TIMBER -- COST OF SCALING -- PAYMENT. In all cases of sales of timber from state lands, the state board of land commissioners shall cause the timber to be scaled, in lieu of measurement by cruising, unless in the discretion of the state board of land commissioners it shall be, in any particular instance, in the public interest to use the cruising method. In addition to the purchase price, the state board of land commissioners shall, in all cases where the scaling method is used, require the purchaser to pay, in addition to the purchase price, and not as part thereof, the cost of scaling, as may be determined by the board in each case. The sum so collected shall in each case be remitted to the director of the department of lands to be by him placed in the land department's scaling trust account to be used for the purpose of paying the salaries and expenses of the scaling of state timber sales.

Approved March 21, 1985.

CHAPTER 255
(H.B. No. 276)

AN ACT

RELATING TO NOTARIES PUBLIC; AMENDING SECTION 51-111, IDAHO CODE, TO REMOVE THE DUTY OF A NONRESIDENT NOTARY PUBLIC TO NOTIFY THE SECRETARY OF STATE OF ANY CHANGE OF BUSINESS ADDRESS; AMENDING SECTION 51-114, IDAHO CODE, TO REMOVE A REFERENCE TO DISQUALIFICATION OF A NOTARY PUBLIC ON THE BASIS OF EMPLOYMENT; AMENDING SECTION 51-121, IDAHO CODE, TO REMOVE THE FEE FOR FILING A NOTICE OF CHANGE OF PLACE OF EMPLOYMENT.

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

SECTION 1. That Section 51-111, Idaho Code, be, and the same is hereby amended to read as follows:

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.~~

SECTION 2. That Section 51-114, Idaho Code, be, and the same is hereby amended to read as follows:

51-114. REMOVAL PROCEDURE. (1) If a notary puhlic 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 wbicb 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.

SECTION 3. That Section 51-121, Idaho Code, be, and the same is hereby amended to read as follows:

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).

Approved March 21, 1985.

CHAPTER 256
(H.B. No. 287)

AN ACT

RELATING TO SALES TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622BB, IDAHO CODE, TO PROVIDE AN EXEMPTION FOR PROPERTY PRIMARILY OR DIRECTLY USED OR CONSUMED IN CONNECTION WITH RESEARCH, DEVELOPMENT, EXPERIMENTAL AND TESTING ACTIVITIES, WHEN EXCLUSIVELY FINANCED BY THE UNITED STATES IN CONNECTION WITH THE IDAHO NATIONAL ENGINEERING LABORATORY; AND AMENDING SECTION 63-3615, IDAHO CODE, TO STRIKE REFERENCE TO PROPERTY PRIMARILY OR DIRECTLY USED OR CONSUMED IN CONNECTION WITH RESEARCH, DEVELOPMENT, EXPERIMENTAL AND TESTING ACTIVITIES, WHEN EXCLUSIVELY FINANCED BY THE UNITED STATES IN CONNECTION WITH THE IDAHO NATIONAL REACTOR TESTING STATION; AND DECLARING AN EMERGENCY.

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 63-3622BB, Idaho Code, and to read as follows:

63-3622BB. RESEARCH AND DEVELOPMENT AT THE INEL. There is exempted from the taxes imposed by this chapter, the sale or use of that property primarily or directly used or consumed in connection with research, development, experimental and testing activities, when exclusively financed by the United States in connection with the Idaho national engineering laboratory.

SECTION 2. 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 research, development, experimental and testing activities when~~

~~exclusively financed by the United States in connection with the Idaho national reactor testing station.~~

(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.

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 22, 1985.

CHAPTER 257
(H.B. No. 289)

AN ACT

RELATING TO SCHOOL DISTRICT ELECTIONS; AMENDING SECTION 33-405, IDAHO CODE, TO AUTHORIZE ELECTION OFFICIALS TO REQUIRE AN ELECTOR TO FURNISH PROOF OF RESIDENCE WHEN HE OFFERS TO VOTE.

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

SECTION 1. That Section 33-405, Idaho Code, be, and the same is hereby amended to read as follows:

33-405. QUALIFICATIONS OF SCHOOL ELECTORS. Any person voting, or offering to vote, in any school election must be, at the time of the election eighteen (18) years of age and a United States citizen who has resided in this state and in the school district at least thirty (30) days next preceding the election in which the elector desires to vote. In the case of election of trustees, the elector must be a resident of the same trustee zone as the candidate or candidates for school district trustees for whom the elector offers to vote for at least thirty (30) days next preceding the election in which the elector desires to vote.

While registration requirements set forth in chapter 4, title 34, Idaho Code, shall not be applicable to school elections, in addition to the foregoing qualifications, a school elector shall have executed, in writing and immediately before voting, a form of elector's oath attesting that he or she possesses the qualifications of a school elector prescribed by this section and indicating the mailing address, residence address or any other necessary information definitely locating the residence of the school elector. The elector may be required to furnish to the election official proof of residence, which proof shall be established by either an Idaho motor vehicle operator's li-

cense or any other document definitely establishing the elector's residence within the school district or trustee zone. The forms of electors' oaths shall be included in the records and returns of the board of election.

Approved March 21, 1985.

CHAPTER 258
(H.B. No. 299)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE BOAHD OF EDUCATION FOR THE IDAHO STATE HISTORICAL SOCIETY FOR FISCAL YEAR 1986, AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION FOR THE IDAHO STATE HISTORICAL SOCIETY.

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, 1985, through June 30, 1986:

FROM:	
General Account	$ 683,000
State Historical Society Foundation Account	206,200
Historical Preservation Account	484,300
TOTAL	$1,373,500

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
A. HISTORICAL PRESERVATION AND EDUCATION:					
FROM:					
General Account	$418,300	$168,500	$20,000	$ 2,500	$ 609,300
State Historical Society Foundation Account	1,000	102,200	5,900		109,100
Historical Preservation Account	222,600	221,700		40,000	484,300
TOTAL	$641,900	$492,400	$25,900	$42,500	$1,202,700

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
B. HISTORIC SITES MAINTENANCE AND INTERPRETATION:					
FROM:					
General Account	$ 35,100	$ 32,100	$ 6,500		$ 73,700
State Historical Society Foundation Account	75,200	21,400	500		97,100
TOTAL	$110,300	$ 53,500	$ 7,000		$ 170,800
GRAND TOTAL	$752,200	$545,900	$32,900	$42,500	$1,373,500

SECTION 3. There is hereby reappropriated to the State Board of Education for the Idaho State Historical Society any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 278, Laws of 1984, for the period July 1, 1985, through June 30, 1986, to be used for nonrecurring expenditures only.

Approved March 21, 1985.

CHAPTER 259
(H.B. No. 300)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE DIVISION OF VOCATIONAL REHABILITATION FOR FISCAL YEAR 1986; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION FOR THE DIVISION OF VOCATIONAL REHABILITATION.

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

SECTION 1. It is legislative intent that the appropriation for the Division of Vocational Rehabilitation not exceed the following amounts for the period July 1, 1985, through June 30, 1986:

FROM:	
General Account	$2,005,100
Federal Vocational Rehabilitation Account	5,006,800
Interagency Billing and Receipts Account	52,500
TOTAL	$7,064,400

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 according to the designated expense classes from the listed accounts for the period July 1, 1985, through June 30, 1986:

A. RENAL DISEASE:	
FROM:	
General Account	$ 333,500
FOR:	
Capital Outlay	$ 9,500
Trustee and Benefit Payments	324,000
TOTAL	$ 333,500
B. VOCATIONAL REHABILITATION:	
FROM:	
General Account	$1,671,600
Federal Vocational Rehabilitation Account	5,006,800
Interagency Billing and Receipts Account	52,500
TOTAL	$6,730,900
FOR:	
Personnel Costs	$2,620,300
Operating Expenditures	595,100
Capital Outlay	37,000
Trustee and Benefit Payments	3,478,500
TOTAL	$6,730,900
GRAND TOTAL	$7,064,400

SECTION 3. There is hereby reappropriated to the State Board of Education for the Division of Vocational Rehabilitation any unexpended and unencumbered balances of the General Account moneys appropriated by Section 2, Chapter 220, Laws of 1984, for the period July 1, 1985, through June 30, 1986, to be used for nonrecurring expenditures only.

Approved March 21, 1985.

CHAPTER 260
(H.B. No. 301)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE STATE LIBRARY BOARD FOR FISCAL YEAR 1986; AND REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES TO THE STATE BOARD OF EDUCATION FOR THE STATE LIBRARY BOARD.

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
STATE LIBRARY SERVICES:					
FROM:					
General Account	$826,300	$392,100	$ 93,600	$ 26,200	$1,338,200
Library Services and Construction Act Account	55,000	77,000	18,000	595,200	745,200
Interagency Billing and Receipts Account		10,000	7,000	8,000	25,000
TOTAL	$881,300	$479,100	$118,600	$629,400	$2,108,400

SECTION 2. There is hereby reappropriated to the State Board of Education for the Idaho State Library Board any unexpended and unencumbered balances of the General Account moneys appropriated by Section 1, Chapter 216, Laws of 1984, not to exceed $39,300, for the period July 1, 1985, through June 30, 1986, to be used for nonrecurring expenditures only.

Approved March 21, 1985.

CHAPTER 261
(H.B. No. 304)

AN ACT

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

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	$150,000
FROM:	
General Account	$150,000

Approved March 21, 1985.

CHAPTER 262
(H.B. No. 305)

AN ACT

APPROPRIATING MONEYS FROM THE GENERAL ACCOUNT FOR DEPOSIT IN THE PUBLIC HEALTH TRUST ACCOUNT FOR FISCAL YEAR 1986; APPROPRIATING MONEYS FROM THE PUBLIC HEALTH TRUST ACCOUNT FOR FISCAL YEAR 1986.

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, 1985 through June 30, 1986:

FOR:

Public Health District Programs	$2,326,200

FROM:

General Account	$2,326,200

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, 1985 through June 30, 1986:

FOR:

Public Health District Programs	$2,326,200

FROM:

Public Health Trust Account	$2,326,200

Approved March 21, 1985.

CHAPTER 263
(H.B. No. 310)

AN ACT

APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR TRE COMMISSION ON HUMAN RIGHTS, FOR FISCAL YEAR 1986.

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	TOTAL
FROM:			
General Account	$124,700	$70,200	$194,900
Human Rights Account	64,100	25,100	89,200
TOTAL	$188,800	$95,300	$284,100

Approved March 21, 1985.

CHAPTER 264
(H.B. No. 311)

AN ACT

APPROPRIATING MONEYS TO THE STATE TREASURER FOR FISCAL YEAR 1986; 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, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
FROM:				
General Account	$377,200	$82,300	$2,500	$462,000
Interagency Billing and Receipts Account	36,800			36,800
TOTAL	$414,000	$82,300	$2,500	$498,800

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 March 21, 1985.

CHAPTER 265
(H.B. No. 312)

AN ACT
EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF WATER RESOURCES FOR FISCAL YEAR 1986, 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, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$3,418,100
Operating Expenditures	1,552,500
Capital Outlay	81,400
Trustee & Benefit Payments	157,500
TOTAL	$5,209,500
FROM:	
General Account	$3,399,800
Water Conservation and Development Account	20,000
Watermaster Service Account	130,900
Miscellaneous Federal Account	377,400
Federal Energy Account	1,281,400
TOTAL	$5,209,500

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
I. MANAGEMENT & SUPPORT SERVICES:					
FROM:					
General Account	$ 306,300	$ 229,000	$23,500		$ 558,800
Water Conservation and Development Account		20,000			20,000
Miscellaneous Federal Account	117,800	34,500			152,300
TOTAL	$ 424,100	$ 283,500	$23,500		$ 731,100
II. RESOURCES ANALYSIS:					
FROM:					
General Account	$ 675,800	$ 151,800	$ 500	$157,500	$ 985,600
Miscellaneous Federal Account	186,700	27,800			214,500
TOTAL	$ 862,500	$ 179,600	$ 500	$157,500	$1,200,100

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
III. ENERGY RESOURCES:					
FROM:					
General Account	$ 92,800	$ 23,200			$ 116,000
Federal Energy Account	596,100	685,300			1,281,400
TOTAL	$ 688,900	$ 708,500			$1,397,400
IV. REGIONAL OFFICES:					
FROM:					
General Account	$ 766,600	$ 243,500	$44,600		$1,054,700
Watermaster Services Account	109,600	21,300			130,900
TOTAL	$ 876,200	$ 264,800	$44,600		$1,185,600
V. OPERATIONS BUREAU:					
FROM:					
General Account	$ 555,800	$ 116,100	$12,800		$ 684,700
Miscellaneous Federal Account	10,600				10,600
TOTAL	$ 566,400	$ 116,100	$12,800		$ 695,300
GRAND TOTAL	$3,418,100	$1,552,500	$81,400	$157,500	$5,209,500

Approved March 21, 1985.

CHAPTER 266
(H.B. No. 313)

AN ACT

APPROPRIATING MONEYS TO THE DEPARTMENT OF LANDS IN ADDITION TO THE APPROPRIATION MADE BY SECTION 2, CHAPTER 212, LAWS OF 1984; 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 212, Laws of 1984, there is hereby appropriated to the Department of Lands for the Forest and Range Fire Protection Program the following amount to be expended according to the designated expense class from the listed accounts for the period July 1, 1984, through June 30, 1985:

FOR:	
Trustee and Benefit Payments	$399,100
FROM:	
General Account	$378,600
Timber Fire Protection Deficiency Warrant Account	20,500
TOTAL	$399,100

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 21, 1985.

CHAPTER 267
(H.B. No. 316)

AN ACT

RELATING TO THE AUTHORITY AND DUTIES OF THE LEGISLATIVE AUDITOR; AMENDING SECTION 67-449, IDAHO CODE, TO CLARIFY THE DUTIES OF THE LEGISLATIVE AUDITOR.

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

SECTION 1. That Section 67-449, Idaho Code, be, and the same is hereby amended to read as follows:

67-449. ADDITIONAL AUTHORITY AND DUTIES OF LEGISLATIVE AUDITOR. As directed by the joint finance-appropriations committee or the legislature, the legislative auditor ~~is hereby authorized:~~

~~(1) To~~ shall make a complete audit of any and every fund in the state treasury at least once in every two (2) fiscal years~~;~~ and is hereby authorized:

~~(2)~~ 1) To supervise and examine the accounts and expenditures of the several departments and public institutions of the state and to prescribe, after approval by the joint finance-appropriations committee, rules and regulations necessary to assure the adequacy and timeliness of all audits performed for or on behalf of all political subdivisions thereof;

~~(3)~~ 2) To inspect securities held by the several departments and public institutions of the state and the political subdivisions thereof;

~~(4)~~ 3) To examine, at any and all times, the accounts of every private corporation, institution, association, or board receiving appropriations from the legislature or contracting for health and welfare services with the state of Idaho;

~~(5)~~ 4) To demand and receive reports from the state treasurer, state auditor, state commissioner of finance, and any other officer or agency, and from the several state depositories;

~~(6)~~ 5) To publish, from time to time, for the information of the several departments and of the general public, bulletins of the works of government;

~~(7)~~ 6) To be the official depository of all audits of the several departments and public institutions of the state and its political subdivisions; the filing of an audit with the official depository shall satisfy all requirements for the filing of an audit with the state, any other provision of law notwithstanding;

(~~8~~7) To review or have reviewed the work papers or other documentation utilized in the audit of a state department or public institution of the state and its political subdivisions, and to reject for filing in the official depository any report based upon unsatisfactory work papers or inadequately supported documentation;

(~~9~~8) To review and approve the terms and conditions or other statement of services to be provided on any or all contracts or agreements by state government agencies for audits or audit type services; and

(~~10~~9) To report to the attorney general, for such action, civil or criminal, as the attorney general may deem necessary, all facts showing illegal expenditure of the public money or misappropriation of the public money or misappropriation of the public property.

All reports, findings and audits of the legislative auditor shall be submitted to the legislature and to the governor.

Approved March 21, 1985.

CHAPTER 268
(H.B. No. 317)

AN ACT

EXPRESSING LEGISLATIVE INTENT; APPROPRIATING MONEYS TO THE DEPARTMENT OF LAW ENFORCEMENT FOR FISCAL YEAR 1986, 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 Law Enforcement not exceed the following amounts for the period July 1, 1985, through June 30, 1986:

FOR:	
Personnel Costs	$10,698,500
Operating Expenditures	4,468,700
Capital Outlay	1,021,900
Trustee and Benefit Payments	142,000
TOTAL	$16,331,100
FROM:	
General Account	$ 5,407,000
Idaho Law Enforcement Telecommunications Account	165,400
Idaho Law Enforcemeot Drug Donation Account	25,000
Idaho Law Enforcement Account	7,864,000
Idaho State Horse Racing Commission Account	215,000
State Brand Board Account	1,419,800
Small Track Fund Account	46,000
Breeder Fund Account	46,000
Interagency Billing and Receipts Account	187,500
Peace Officers Account	598,600
Federal Motor Carrier Safety Account	356,800
TOTAL	$16,331,100

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTA
I. CENTRAL ADMINISTRATION:					
FROM:					
General Account	$ 831,900	$ 302,500	$ 20,000		$ 1,154,
II. POLICE SERVICES:					
FROM:					
General Account	$ 2,041,500	$1,211,800	$ 186,500		$ 3,439,
Idaho Law Enforcement Telecommunications Account		165,400			165,
Idaho Law Enforcement Drug Donation Account			25,000		25,
Interagency Billing and Receipts Account	133,100	54,400			187,
TOTAL	$ 2,174,600	$1,431,600	$ 211,500		$ 3,817,
III. IDAHO STATE POLICE DIVISION:					
FROM:					
General Account	$ 131,600	$ 68,400			$ 200,
Idaho Law Enforcement Account	5,315,600	1,848,400	$ 700,000		7,864,
Federal Motor Carrier Safety Account	273,800	83,000			356,
TOTAL	$ 5,721,000	$1,999,800	$ 700,000		$ 8,420,
IV. BRAND INSPECTION:					
FROM:					
State Brand Board Account	$ 1,204,700	$ 181,100	$ 34,000		$ 1,419,
V. HORSE RACING COMMISSION:					
FROM:					
Idaho State Horse Racing Commission Account	$ 127,300	$ 87,700			$ 215,
Small Track Fund Account				$ 46,000	46,
Breeder Fund Account				46,000	46,
TOTAL	$ 127,300	$ 87,700		$ 92,000	$ 307,
VI. ALCOHOL BEVERAGE CONTROL:					
FROM:					
General Account	$ 426,200	$ 168,600	$ 18,000		$ 612,

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	FOR TRUSTEE AND BENEFIT PAYMENTS	TOTAL
VII. POST ACADEMY:					
FROM:					
Peace Officers Account	$ 212,800	$ 297,400	$ 38,400	$ 50,000	$ 598,600
GRAND TOTAL	$10,698,500	$4,468,700	$1,021,900	$142,000	$16,331,100

Approved March 21, 1985.

CHAPTER 269
(H.B. No. 318)

AN ACT

AMENDING SECTION 2, CHAPTER 219, LAWS OF 1984, RELATING TO THE APPROPRIATION TO THE STATE TAX COMMISSION; AMENDING SECTION 3, CHAPTER 219, LAWS OF 1984, RELATING TO THE APPROPRIATION TO THE BOARD OF TAX APPEALS; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 219, Laws of 1984, be and the same is hereby amended to read as follows:

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	$ ~~7,106,200~~	7,182,100
Interagency Billing and Receipts Account		2,600
Highway Suspense Account	~~634,000~~	714,800
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	~~67,000~~	100,000
TOTAL	$ ~~7,950,100~~	8,058,200

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~~ 13,775,900

SECTION 2. That Section 3, Chapter 219, Laws of 1984, be and the same is hereby amended to read as follows:

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 ~~$47,800~~ 51,100

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 21, 1985.

CHAPTER 270
(H.B. No. 319)

AN ACT

EXPRESSING LEGISLATIVE INTENT, APPROPRIATING MONEYS TO THE DEPARTMENT OF FISH AND GAME FOR FISCAL YEAR 1986; 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, 1985 through June 30, 1986:

FOR:	
Personnel Costs	$11,824,500
Operating Expenditures	6,874,400
Capital Outlay	2,613,000
TOTAL	$21,311,900
FROM:	
Fish and Game Account	$21,311,900

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, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
I. ADMINISTRATION:				
FROM:				
Fish & Game Account	$1,683,700	$ 86,700	$ 160,900	$ 1,931,300
II. ENFORCEMENT:				
FROM:				
Fish & Game Account	$2,833,000	$ 686,400	$ 374,700	$ 3,894,100
III. FISHERIES:				
FROM:				
Fish & Game Account	$3,905,400	$3,574,700	$1,214,200	$ 8,694,300
IV. WILDLIFE:				
FROM:				
Fish & Game Account	$2,323,000	$1,743,800	$ 704,900	$ 4,771,900
V. INFORMATION AND EDUCATION:				
FROM:				
Fish & Game Account	$ 479,100	$ 371,100	$ 80,500	$ 930,700
VI. ENGINEERING:				
FROM:				
Fish & Game Account	$ 430,600	$ 48,600	$ 71,900	$ 551,100
VII. PROGRAM COORDINATION:				
FROM:				
Fish & Game Account	$ 114,500	$ 22,500	$ 1,700	$ 138,700
VIII. WINTER FEEDING AND DEPRADATION CONTROL:				
FROM:				
Fish & Game Account	$ 55,200	$ 340,600	$ 4,200	$ 400,000
GRAND TOTAL	$11,824,500	$6,874,400	$2,613,000	$21,311,900

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 March 21, 1985.

CHAPTER 271
(H.B. No. 320)

AN ACT

AMENDING SECTION 2, CHAPTER 208, LAWS OF 1984, RELATING TO THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 2, Chapter 208, Laws of 1984, 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 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~~
		1,937,100		7,073,900
Penitentiary Income Account		852,000		852,000
Interagency Billing and Receipts Account		69,300		69,300
TOTAL	$4,999,800	~~$2,810,400~~	$137,000	~~$ 7,955,200~~
		2,858,400		7,995,200
C. IDAHO CORRECTIONAL INSTITUTION - OROFINO:				
FROM:				
General Account	$ 590,800	~~$ 325,800~~	$ 30,800	~~$ 947,400~~
		285,800		907,400
Interagency Billing and Receipts Account		40,000		40,000
TOTAL	$ 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

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
F. PAROLE COMMISSION:				
FROM:				
General Account	$ 63,900	$ 14,600	$ 1,400	$ 79,900
GRAND TOTAL	$8,842,300	~~$4,413,200~~ 4,453,200	$286,100	~~$13,541,600~~ 13,581,600

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 21, 1985.

CHAPTER 272
(H.B. No. 321)

AN ACT

APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR THE IDAHO EDUCATIONAL PUBLIC BROADCASTING SYSTEM FOR FISCAL YEAR 1986; AND APPROPRIATING MONEYS TO THE STATE BOARD OF EDUCATION FOR A "BROADCASTING EQUIPMENT CHALLENGE GRANT" AND PROVIDING GRANT GUIDELINES.

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 amounts, to be expended according to the designated expense classes from the listed accounts for the period July 1, 1985, through June 30, 1986:

	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
General Account	$479,600	$144,800	$25,600	$ 650,000
Corporation for Public Broadcasting	337,300	317,100		654,400
TOTAL	$816,900	$461,900	$25,600	$1,304,400

SECTION 2. There is hereby appropriated from the General Account to the State Board of Education an amount not to exceed $100,000 for the period July 1, 1985, through September 30, 1986. This appropriation shall be administered by the State Board of Education as a "Broadcasting Equipment Challenge Grant" for the Idaho Educational Public Broadcesting System, and is contingent on adherence to the guidelines set forth in this section.

At such time that the total amount of gifts and contributions

received by the Idaho Educational Public Broadcasting System during the period July 1, 1985, through June 30, 1986, exceeds $950,000, the System may request allotment of a like amount of such excess from the appropriation provided herein, not to exceed the maximum amount provided in the appropriation.

It is legislative intent that the gifts and contributions in excess of $950,000 combined with the challenge grant secured under the provisions of this section be used to secure federal matching funds for broadcasting equipment through the Corporation for Public Broadcasting. This appropriation is made available to the Idaho Educational Public Broadcasting System through the State Board of Education to the extent that the guidelines are met and the final amount of gifts and contributions is determined by a formal audit authorized by the State Board of Education.

Approved March 21, 1985.

CHAPTER 273
(H.B. No. 323)

AN ACT
APPROPRIATING MONEYS TO THE OFFICE OF THE GOVERNOR FOR THE MILITARY DIVISION FOR FISCAL YEAR 1986.

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 for the designated programs according to the designated expense classes from the listed accounts for the period July 1, 1985, through June 30, 1986:

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
A. ADMINISTRATION:				
FROM:				
General Account	$ 375,800	$ 21,400	$ 6,700	$ 403,900
B. OPERATION OF MILITARY FACILITIES:				
FROM:				
General Account	$ 133,000	$ 398,200	$ 24,600	$ 555,800
C. ADMINISTERING FEDERAL-STATE CONTRACTS:				
FROM:				
General Account	$ 92,600	$ 136,200	$ 12,500	$ 241,300
Adjutant General Receipts Account	1,455,500	1,228,000	37,500	2,721,000
TOTAL	$1,548,100	$1,364,200	$ 50,000	$2,962,300

PROGRAM	FOR PERSONNEL COSTS	FOR OPERATING EXPENDITURES	FOR CAPITAL OUTLAY	TOTAL
D. BUREAU OF DISASTER SERVICES:				
FROM:				
General Account	$ 154,900	$ 51,200	$ 1,800	$ 207,900
Civil Defense--Federal Administration and Personnel Account	382,800	133,700	1,800	518,300
Federal Indirect Cost Account	29,400			29,400
TOTAL	$ 567,100	$ 184,900	$ 3,600	$ 755,600
E. MILITARY OPERATIONS, TRAINING AND RETENTION:				
FROM:				
General Account	$ 102,500	$ 60,700	$ 3,200	$ 166,400
Adjutant General Receipts Account		148,900		148,900
Interagency Billing and Receipts Account	34,600			34,600
TOTAL	$ 137,100	$ 209,600	$ 3,200	$ 349,900
GRAND TOTAL	$2,761,100	$2,178,300	$88,100	$5,027,500

Approved March 21, 1985.

CHAPTER 274
(H.B. No. 325)

AN ACT

APPROPRIATING MONEYS TO THE SECRETARY OF STATE FOR OFFICE AUTOMATION FOR FISCAL YEAR 1986.

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

SECTION 1. There is hereby appropriated to the Secretary of State, Operation of the Secretary of State Program for office automation, the following amount, from the listed account, to be expended according to the designated expense class for the period July 1, 1985, through June 30, 1986:

FOR:	
Operating Expenditures	$100,000
FROM:	
General Account	$100,000

Approved March 21, 1985.

SENATE CONCURRENT RESOLUTIONS

(S.C.R. No. 101)

A CONCURRENT RESOLUTION
AUTHORIZING THE CONTINUATION OF IDAHO'S PARTICIPATION IN THE WESTERN STATES FORESTRY TASK FORCE.

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

WHEREAS, the State of Idaho has participated in the formation and work of the Western States Forestry Task Force; and

WHEREAS, the Western States Forestry Task Force is now a working entity, and is diligently pursuing the several subjects important to forest management of the member states; and

WHEREAS, it is to the benefit of the State of Idaho that we continue to participate in the Task Force so that the involved member states have every opportunity to foster sound forest management.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the State of Idaho continue to participate in and be a member of the Western States Forestry Task Force through the medium of a legislative delegation, which is authorized to serve for the duration of the Forty-eighth Idaho Legislature.

BE IT FURTHER RESOLVED that the President Pro Tempore of the Senate is authorized to appoint two members of the Senate to serve as members of the Task Force, one each from the majority and minority parties, and that the Speaker of the House is authorized to appoint two members of the House, one each from the majority and minority parties, to serve as members of the Task Force. The appointing officers may also designate alternates. The members or alternates of the Task Force shall be entitled to compensation and allowances as provided by law for members of other legislative interim committees, to be paid from the Legislative Account.

Adopted by the Senate January 30, 1985.
Adopted by the House March 4, 1985.

(S.C.R. No. 102)

A CONCURRENT RESOLUTION
EXPRESSING LEGISLATIVE INTENT AND AMENDING JOINT RULES 2 AND 6 OF THE TEMPORARY JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.

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

WHEREAS, the Senate and House of Representatives deem it necessary and desirable to amend Joint Rules 2 and 6 of the temporary joint rules of the Senate and the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein that Joint Rules 2 and 6 of the temporary joint rules of the Senate and the House of Representatives be amended to read as follows:

JOINT RULE 2

Definitions.-As used in these Joint Rules, unless the context clearly requires otherwise, the following terms shall have the meanings hereinafter respectively ascribed to them.

Resolution.-This term denotes the adoption of a motion, the subject matter of which would not properly constitute a statute. EXAMPLES: An alteration of the rules, a vote of thanks, a vote of censure, etc.

Concurrent Resolution.-This term denotes a resolution that originates in one house of the legislature where it is passed and is then sent to the other house for passage. It is signed by the presiding officers of both houses.

Joint Resolution.-A joint resolution is a resolution passed by both houses of the legislature proposing an amendment to the Constitution of the State of Idaho.

Proclamation.-A proclamation is an instrument, the subject matter of which does not constitute a statute, which after being introduced in the proper committee shall be sent immediately to the floor for action without being referred back to committee. A proclamation may be passed by voice vote. If a proclamation is passed by the house of origin it shall be sent to the other house for passage where it shall be placed on the floor for action without being referred to a committee. An example of a proclamation shall include but not be limited to a vote of thanks, praise or honor for a special achievement, accomplishment, anniversary or birthday. For purposes of the calendars of the Senate and House of Representatives a proclamation shall be considered a petition.

Bill.-This term denotes the draft of a law or amendment thereto submitted to the legislature for its approval or rejection. Bills may be originated in either house and may be amended or rejected in the other, except that bills for raising revenue must originate in the House of Representatives and a bill originating in one house and amended in the other may not again be amended in the house of origin except pursuant to report of a conference committee.

The enacting clause of every bill must read "Be It Enacted by the Legislature of the State of Idaho." All bills must be signed by the presiding officers of the respective houses. Every act or joint resolution shall be plainly worded avoiding as far as practicable the use of technical terms.

Joint Memorial.-A petition or representation made by the House of Representatives and concurred in by the Senate, or vice versa, addreased to whoever can effectuate the request of the memorial.

Engrossed Bill.-Amn amended bill with the amendments correctly drafted and before the house of origin for further action.

Enrolled Bill.-A Bbill that has passed both houses and awaits only the signatures of the presiding officers thereof.

JOINT RULE 6

Proclamations, Resolutions and Memorials.-Joint Rresolutions shall be treated in every respect as are bills except that they shall be passed only by 2/3 majority of the membership of each house.

Concurrent resolutions and memorials shall be printed as are bills and concurrent resolutions, proclamations and memorials shall also be printed in full in the journal of the house of origin and by number and author only in the journal of the other house. When passed in one house and transmitted to the other, they shall be accepted or rejected only and shall not be subject to amendment. Joint resolutions, concurrent resolutions and memorials shall, after being passed, be filed with the Secretary of State, rather than being submitted to the Governor for consideration.

A proclamation shall not be printed in the same manner as bills, resolutions or memorials but enough copies shall be reproduced so that each member of both houses shall be entitled to a copy and, if the proclamation is passed by both houses, copies shall be sent to the person, persons or entity being addressed by the proclamation. When a proclamation is passed in one house and transmitted to the other, it shall be accepted or rejected only and shall not be subject to amendment.

Adopted by the Senate January 31, 1985.
Adopted by the House March 12, 1985.

(S.C.R. No. 103)

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 11, 1985, and the report of the Idaho Personnel Commission dated October 1, 1984; 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 First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives 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 3% is rejected.
3. Recommendation No. 2 of the Personnel Commission and concurred with by the Chief Executive is hereby adopted.
4. Agencies are authorized to grant discretionary or merit increases, on a one-time, temporary basis, from salary savings during fiscal year 1986.

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 Senate February 5, 1985.
Adopted by the House February 8, 1985.

(S.C.R. No. 104)

A CONCURRENT RESOLUTION
TO THE STATE LAND BOARD REQUESTING CONTROL OF GRASSHOPPERS.

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

WHEREAS, the State of Idaho has a continuing commitment to good management practices on our state lands; and

WHEREAS, the threat of another year of grasshopper infestations on the range lands of this state poses serious concerns for both the private and public sectors; and

WHEREAS, there are moneys available to the State Land Board and

the State Department of Lands for the control of insects on state lands.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the State Land Board take all necessary actions to ensure that all of the resources available to the Board and to the Department of Lands for the control of the threatened grasshopper infestation during 1985 are used expeditiously and fully.

Adopted by the Senate February 12, 1985.
Adopted by the House March 4, 1985.

(S.C.R. No. 105)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE OF LEGISLATORS TO UNDERTAKE AND COMPLETE A STUDY OF THE COMPULSORY EDUCATION REQUIREMENTS AND THE SCHOOL ALTERNATIVES AVAILABLE IN IDAHO, AND URGING THE STATE DEPARTMENT OF EDUCATION TO COMMUNICATE THE DESIRE OF THE LEGISLATURE THAT LOCAL SCHOOL BOARDS EMPHASIZE COOPERATION IN THE INTERIM.

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

WHEREAS, the Legislature is cognizant of the responsibility to establish a uniform and thorough system of public, free, common schools to provide that educational opportunities are genuinely available to all of our citizens; and

WHEREAS, during the current legislative session, a significant debate has been conducted concerning legislation to assure home instruction alternatives; and

WHEREAS, the home instruction debate raised questions relating to standards of public as well as home instruction alternatives, the comparability of various educational systems, and the legitimate and responsible role of school officials in supporting quality education alternatives; and

WHEREAS, there was a substantial anxiety voiced by parents in public hearings which indicated their concern that rights of parents may be compromised or sacrificed in strict adherence to the current compulsory education standard; and

WHEREAS, the continued quest for excellence in fulfilling the constitutional mandate for a general, uniform and thorough system of public, free, common schools warrants thorough and comprehensive study by the Legislature.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein that the Legislative Coun-

cil shall appoint a committee of legislators to undertake and complete a study of the compulsory education requirements and the school alternatives available in Idaho. The study shall specifically examine development of guidelines which are capable of sustaining quality education in public and home study settings. The guidelines should support a system in which parents and children are assured of quality choices and a supportive system for educational achievement.

BE IT FURTHER RESOLVED that the Council shall report its findings, including recommended legislation, if any, to the Second Regular Session of the Forty-eighth Idaho Legislature.

BE IT FURTHER RESOLVED that the Legislature is aware of the urgency attached to this issue and pending actions based upon the compulsory education requirements of state law. We urge the State Department of Education in the interim, pending action on the report of the Legislative Council, to communicate the desire of the Legislature that the local school boards will emphasize cooperation and will support responsible home instruction, and avoid, wherever possible, an adversary role in relation to home instruction.

Adopted by the Senate March 5, 1985.
Adopted by the House March 13, 1985.

(S.C.R. No. 106)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO STUDY MATTERS RELATING TO THE STATE PERSONNEL SYSTEM AND THE COMPENSATION AND BENEFIT SYSTEM.

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

WHEREAS, the Legislature recognizes the importance, to efficient and effective government operation, of an efficient, fair and workable system of compensation of state employees; and

WHEREAS, the Hay methodology, which is the basis of the personnel system of this State, should be the subject of continuing legislative examination in order to consider possible improvements; and

WHEREAS, the number of positions encompassed in nonclassified status warrants scrutiny in order to assure that this status is appropriately applied; and

WHEREAS, recently, reported irregularities in promotions within departments have been the subject of public concern, and warrant investigation by the Legislature; and

WHEREAS, all employee benefits, including the public retirement system, are an integral part of the compensation and benefits package and should be examined as a part of a comprehensive personnel study; and

WHEREAS, the actuarial soundness of the Public Employee Retirement

System is essential; and

WHEREAS, these personnel issues, in addition to all other aspects of the State Personnel System should be evaluated.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is hereby authorized and directed to appoint a committee to undertake and complete a study of the State Personnel System to include, but not be limited to, matters relating to possible revisions in the Hay methodology, nonclassified personnel, promotion policies, employee benefits, including the retirement system, and other issues as the study may determine.

BE IT FURTHER RESOLVED that the Committee shall report findings, and recommended legislation, if any, to the Second Regular Session of the Forty-eighth Idaho Legislature.

BE IT FURTHER RESOLVED that the compensation and expenses of the committee members shall be paid from the Legislative Account.

Adopted by the Senate March 9, 1985.
Adopted by the House March 13, 1985.

HOUSE CONCURRENT RESOLUTIONS

(H.C.R. No. 1)

A CONCURRENT RESOLUTION

PROVIDING FOR A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE FIRST REGULAR SESSION OF THE FORTY-EIGHTH IDAHO LEGISLATURE FOR THE PURPOSE OF HEARING A MESSAGE FROM THE GOVERNOR.

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

WHEREAS, the Governor has informed the House of Representatives and the Senate that he desires to deliver a message to a Joint Session of the House of Representatives and the Senate of the First Regular Session of the Forty-eighth Idaho Legislature in the Chamber of the House of Representatives at 1 p.m. on Monday, January 7, 1985.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth 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 7, 1985, at 1 p.m. for the purpose of hearing the message from the Governor.

Adopted by the House January 7, 1985.
Adopted by the Senate January 7, 1985.

(H.C.R. No. 2)

A CONCURRENT RESOLUTION

PROVIDING FOR OFFSET PRINTING OF HOUSE AND SENATE BILLS, RESOLUTIONS, MEMORIALS AND AMENDMENTS, AND FIXING THE PRICE FOR PRINTING THE SAME.

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

WHEREAS, the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee have, according to law, made provisions for the offset printing of the House and Senate bills, resolutions, memorials and amendments;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee;

BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the offset printing of the House and Senate bills, resolutions, memorials and amendments, in accordance with the provisions of law and in accordance with the written contract between the Joint Committee as party of the first part, and INTERMOUNTAIN PRINTING, Boise, Idaho, as party of the second part, be, and the same is hereby ratified and concurred in, and is incorporated herein, and made a part of this resolution in words and figures following, to-wit:

PRINTING AGREEMENT

THIS AGREEMENT, made and entered into this 7th day of January, 1985, by and between the SENATE JUDICIARY AND RULES COMMITTEE and the HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE of the First Regular Session of the Forty-eighth Idaho Legislature, hereinafter referred to as the Joint Committee, and INTERMOUNTAIN PRINTING, hereinafter referred to as Intermountain.

WITNESSETH:

That pursuant to written bids submitted to and considered by the Joint Committee, a contract for legislative printing is hereby awarded to Intermountain in accordance with its letter response dated December 3, 1984, included as Attachment A, for the First and Second Regular Sessions and any Extraordinary Sessions of the Forty-eighth Idaho Legislature upon the following additional terms and conditions:

1. That Intermountain will utilize an offset process from "Camera Ready" copies, as these terms are used and recognized in the trade, to print Senate and House bills, resolutions, memorials and amendments.

2. That Intermountain concurrently with the execution of this contract, deliver to the Joint Committee a good and sufficient surety bond in the manner and form, and with a surety acceptable to the Joint Committee, in the sum of five thousand dollars ($5,000), guaranteeing the satisfactory and faithful performance by Intermountain of all the terms and conditions of this contract.

3. That Intermountain will maintain at all times a high standard of workmanship to the end that all printing will be neat, clean and legible.

4. That Intermountain will print the bills, resolutions and memorials on white paper and amendments on pink paper.

5. That Intermountain will insure that the bills, resolutions, memorials and amendments have neat and proper headings, underlining and strikeovers and that the paper used will be properly punched and sized.

6. That for the purposes of this contract, all printing will be assigned by the presiding officer of each house or his designee, and will be picked up each day that the Legislature is in session at the

offices of the Legislative Data Center.

7. That Intermountain will deliver all standard lot printed material conforming to the above requirements by 9:00 a.m. the next morning after receipt of copy to the presiding office of each house or his designee, unless prior arrangements have been made.

8. Upon failure to deliver such bills in the manner and within the time herein specified, this contract may be deemed terminated forthwith at the option of the Joint Committee and recourse had against the Intermountain bond.

9. That a standard lot of printed material will be eight hundred (800) copies of individual bills, resolutions, memorials or amendments at a cost of eighteen dollars and twenty cents ($18.20) per printed page. Additional copies may be obtained by the Joint Committee at the rate of one dollar and ninety-seven cents ($1.97) per printed page in units of one hundred (100).

10. That Intermountain will make available to and sell to the general public any bill, resolution, memorial or amendment in lots of one hundred (100) copies at a cost of one dollar and ninety-seven cents ($1.97) per printed page, provided the order for such is received prior to the time the bill, resolution, memorial or amendment is printed.

11. That the Joint Committee reserves to itself the sole and exclusive decision as to the proper fulfillment of the terms and conditions of this agreement by Intermountain, and that the Joint Committee may terminate this agreement upon twenty-four hours' notice to Intermountain, with no liability accruing to the Joint Committee or the State except for printing already completed and delivered.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands as of the day and year first above written.

SENATE JUDICIARY AND RULES COMMITTEE

By _____
ROGER FAIRCHILD, Chairman

By _____
JAMES E. RITSH, President Pro Tempore

HOUSE JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

By _____
LARRY W. HARRIS, Chairman

By _____
TOM W. STIVERS, Speaker

INTERMOUNTAIN PRINTING

By _____
RON L. WILLIAMS, Owner

Adopted by the House January 18, 1985.
Adopted by the Senate January 24, 1985.

(H.C.R. No. 4)

A CONCURRENT RESOLUTION
STATING LEGISLATIVE FINDINGS AND DIRECTING THE LEGISLATIVE COUNCIL TO ESTABLISH A COMMITTEE TO REVIEW INDIAN AFFAIRS ISSUES.

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

WHEREAS, there are Indian tribes in the State of Idaho with unique rights which are inherent or acknowledged by treaties, statutes or case law and these tribes are recognized by the United States as sovereign dependent nations; and

WHEREAS, due to the unique character of tribal governments, there are many complex issues relating to law enforcement, water rights, zoning and land use, natural resources, wildlife management, health and welfare services, education, and taxation which should continue to be addressed in a coordinated manner by legislative bodies of federal, state and tribal governments; and

WHEREAS, the United States Congress, as the ultimate authority on Indian tribes, has not acted in a decisive manner to resolve many of these legal, social and economic issues relating to Indian tribes in Idaho; and

WHEREAS, the Legislature of the State of Idaho and tribal councils of the five Idaho Indian tribes have started a successful effort toward resolving these complex issues through cooperation, negotiation, and mutual agreement; and

WHEREAS, failure to address Indian affairs issues will result in expensive court litigation which has strained tribal-state relations in the past and has not satisfactorily resolved any of these important issues; and

WHEREAS, it is the goal of the Legislature of the State of Idaho to address current Indian affairs issues through coordinated legislative action based upon improved communications and better understanding between the federal, state and tribal governments; and

WHEREAS, the Legislative Council Committee on Indian Affairs in meeting in 1983 and 1984, studied Indian affairs issues and determined that it would be beneficial for a special joint committee of the Legislature to continue to meet with tribal and federal government representatives in order to address important issues of mutual concern.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council shall appoint a committee comprised of eight members to review Indian affairs issues. This 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 and with consideration given to individuals who have served on the previous Indian Affairs Committees.

BE IT FURTHER RESOLVED that the Committee may seek opinions of and information from the various Indian tribes, both jointly and individually, state agencies, local government, citizens living on or near Indian reservations and other interested persons and entities, to assist the Committee in its deliberations as the members deem appropriate for studying Indian-related issues of the various tribes in Idaho.

BE IT FURTHER RESOLVED that the Committee shall initially give priority to Indian affairs issues and may recommend legislation and suggest solutions to resolve those issues.

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-ninth Idaho Legislature and that the Legislative Council shall submit a progress report of the Committee to the Second Regular Session of the Forty-eighth Idaho Legislature.

Adopted by the House January 23, 1985
Adopted by the Senate February 8, 1985.

(H.C.R. No. 5)

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 1986 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 First Regular Session of the Forty-eighth 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 1985-1986 fiscal

year.

Revenue Projections for 1985-1986 fiscal year:

Court System	$ 2,250,000
Secretary of State	580,000
State Treasurer	10,500,000
Department of Insurance	17,000,000
Department of Lands	180,000
Department of Law Enforcement	1,000,000
Department of Revenue and Taxation:	
Individual Income Tax	264,000,000
Corporate Income Tax	43,000,000
Kilowatt Hour Tax	2,000,000
Beer Tax	1,700,000
Mine License Tax	600,000
Wine Tax	850,000
Cigarette Tax	6,700,000
Unclaimed Property	1,000,000
Miscellaneous Agencies and Transfers	900,000
Liquor	4,945,000
Sales Tax	218,000,000
TOTAL	$575,205,000

Adopted by the House January 21, 1985.
Adopted by the Senate January 30, 1985.

(H.C.R. No. 6)

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 total revenue available.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring, that we find the total revenue available as of June 30, 1985 to be: $550,223,500.

Adopted by the House January 21, 1985.
Adopted by the Senate January 30, 1985.

(H.C.R. No. 7)

A CONCURRENT RESOLUTION
PROPOSING AN AMENDMENT TO JOINT RULE 16 OF THE RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.

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

WHEREAS, the House of Representatives and the Senate deem it necessary and desirable to amend Joint Rule 16 of the Joint Rules of the Senate and the House of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that Joint Rule 16 of the Joint Rules of the Senate and the House of Representatives be amended to read as follows:

JOINT RULE 16

Hours Chambers Open.--The Chambers of the Senate and House of Representatives shall be open, during any regular or special session, during the hours of ~~7:00~~ 6:00 a.m. to ~~11:00~~ 10:00 p.m., Monday through Friday; ~~7:00~~ 9:00 a.m. to 5:00 p.m. Saturdays and Sundays; ~~and 10:00 a.m. to 5:00 p.m. on Sundays;~~ and all other times that the Senate or House shall be in session.

Adopted by the House January 22, 1985.
Adopted by the Senate February 1, 1985.

(H.C.R. No. 13)

A CONCURRENT RESOLUTION
AUTHORIZING AND DIRECTING THE ATTORNEY GENERAL OF THE STATE OF IDAHO TO PETITION TO ENTER AS A PARTY OR AS AMICUS CURIAE IN AN ACTION NOW PENDING BEFORE THE UNITED STATES DISTRICT COURT FOR THE WESTERN DIVISION OF THE DISTRICT OF SOUTH DAKOTA.

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

WHEREAS, the State of South Dakota has filed a complaint in the United States District Court for the Western Division of the District of South Dakota to enjoin the Secretary of the United States Department of Transportation from enforcing the provisions of federal law which require the withholding of federal moneys from states which allow persons under twenty-one years of age to purchase and consume alcoholic beverages; and

WHEREAS, the State of Idaho subscribes to and supports the statement of facts recited by the Attorney General of the State of South

Dakota in this action, and declares that each of them is generally applicable to the State of Idaho, and in particular:

> That Congress is without jurisdiction to enact any law which affects the power of the State of Idaho to allow or prohibit the sale of alcoholic beverages; and
>
> That Congress' enactment of 23 U.S.C. section 158 is beyond its power granted by the people through the United States Constitution, which power is reserved to the State of Idaho and other states, and is therefore unconstitutional; and
>
> That the Secretary of the United States Department of Transportation is without authority due to the unconstitutionality of 23 U.S.C. section 158 to withhold any funds from the State of Idaho or any other state; and

WHEREAS, the federal government has not demonstrated any particular ability to control its spending patterns, and is now again attempting to intrude in the internal and local affairs of the several states; and

WHEREAS, the action on the part of the federal government is violative of states' rights and should not go unchecked or unnoticed.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Attorney General of the State of Idaho, be, and he is hereby authorized and directed to petition to intervene as a party, or, in the alternative, to petition to enter as amicus curiae in the civil action now pending in the United States District Court for the Western Division of the District of South Dakota, designated by that court as Civil Action No. 84-5137, in order that the rights and privileges of the citizens of the State of Idaho are not abridged, denied or thwarted by any lack of concern or effort on the part of the official organs of government of this State.

BE IT FURTHER RESOLVED that the Attorney General is authorized and directed to commence this action in as timely a manner as possible, and to pursue this action through to its conclusion, including appeals.

Adopted by the House February 7, 1985.
Adopted by the Senate February 19, 1985.

(H.C.R. No. 16)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE INTENT AND REQUESTING THAT THE GOVERNOR AND THE ATTORNEY GENERAL ENTER INTO NEGOTIATIONS WITH FEDERALLY RECOGNIZED INDIAN TRIBES PRIOR TO FILING A PETITION TO COMMENCE A COMPREHENSIVE ADJUDICATION OF WATER RIGHTS IN THE SNAKE RIVER BASIN.

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

WHEREAS, the First Regular Session of the Forty-eighth Idaho Legislature has authorized the Director of the Department of Water Resources through the Attorney General to commence in State District Court an adjudication within the terms of the McCarran Amendment, 43 U.S.C. Section 666, for the purpose of a comprehensive determination of all water rights within the Snake River Basin; and

WHEREAS, such an adjudication will involve consideration of numerous water rights and legal issues which may be capable of resolution without extensive and expensive litigation; and

WHEREAS, representatives of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation have initiated a proposal to enter into full, frank and honest negotiations between those Tribes and the State on a government to government basis to resolve important issues regarding the extent of the Tribes' federally reserved water rights in the Snake River Basin.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that prior to filing a petition to commence a comprehensive adjudication of water rights in the Snake River Basin, the State of Idaho, acting through the Governor and the Attorney General of the State of Idaho should attempt to negotiate with the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation or any other affected tribes to resolve as many issues as possible regarding the extent of their water rights.

BE IT FURTHER RESOLVED, that the Governor and the Attorney General should enter into a negotiated framework with those Indian tribes for resolution of relevant water rights issues in the form of a written memorandum of understanding.

BE IT FURTHER RESOLVED that the Governor and the Attorney General should report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives regarding the status of negotiations and that the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall keep members of the Legislature informed about the negotiations.

Adopted by the House February 6, 1985.
Adopted by the Senate February 19, 1985.

(H.C.R. No. 18)

A CONCURRENT RESOLUTION

STATING THE SENSE OF THE LECISLATURE THAT THE STATE BOARD OF LAND COMMISSIONERS SHALL TRANSMIT NOTICE TO CERTAIN LEGISLATIVE COMMITTEES AND SHALL HOLD PUBLIC HEARINGS REGARDING EXCHANGES OF STATE LANDS FOR SIMILAR PUBLIC OR PRIVATE LANDS OF EQUAL VALUE.

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

WHEREAS, the State Board of Land Commissioners has commenced exchanging state lands for similar public or private lands of equal value in order to consolidate state lands or aid the state in the control and management or use of state lands; and

WHEREAS, state lands are being exchanged for other lands when the State Board of Land Commissioners deems it in the best interests of the State of Idaho; and

WHEREAS, the Legislature of the State of Idaho deems it in the best interest of the State of Idaho to have meaningful input and dialogue from the citizenry about the exchange of such lands.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that it is the sense of the Legialature, that prior to an exchange of state lands for other lands, the State Board of Land Commissioners shall transmit notice of the intended action, accompanied by a map and a complete legal description of the landa being proposed to be exchanged to each member of the House of Representatives Resources and Conservation Committee and the Senate Resources and Environment Committee.

BE IT FURTHER RESOLVED that it is the sense of the Legislature that the State Board of Land Commissioners shall cause to be published at least a twenty days' notice as provided in Section 60-109, Idaho Code, with the publication commencing at least three weeks prior to the State Board of Land Commissioners' approval of the trade.

BE IT FURTHER RESOLVED that it is the sense of the Legislature, that the State Board of Land Commissioners or their designee shall hold a public hearing on the proposed land exchange and that record shall remain open for ten days after the hearing for fnrther written comments from the public.

BE IT FURTHER RESOLVED that copies of this Resolution shall be sent to members of the State Board of Land Commissioners and to the Director of the Department of Lands.

Adopted by the House February 20, 1985.
Adopted by the Senate March 8, 1985.

(H.C. R. No. 19)

A CONCURRENT RESOLUTION

DIRECTING TO THE IDAHO MEMBERS OF THE PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION COUNCIL A STATEMENT OF LEGISLATIVE INTENT AND CONCERN RELATIVE TO THE ADOPTION AND PROMULGATION OF MODEL CONSERVATION STANDARDS AND A METHODOLOGY FOR IMPOSING SURCHARGES ON CUSTOMERS OF BONNEVILLE POWER ADMINISTRATION LOCATED WITH LOCAL JURISDICTIONS IN IDAHO THAT FAIL TO ADOPT SAID STANDARDS BY JANUARY, 1, 1986.

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

WHEREAS, the Legislature may, by concurrent resolution, direct to the Idaho members of the Pacific Northwest Electric Power and Conservation Planning Council a statement reflecting legislative intent and concern relative to any actions or activities undertaken or sought to be undertaken by the Council under the provisions of Section 61-1207, Idaho Code; and

WHEREAS, the Council has prepared and adopted the Northwest Conservation and Electric Power Plan April 27, 1983, which contains several elements including, (1) an energy conservation program and model conservation standards, and (2) a method for calculating surcharges to be imposed on a utility that fails to implement model conservation standards or programs that achieve comparable savings; and

WHEREAS, under the Council's plan, the model conservation standards are applicable to, (1) new and existing residential and nonresidential structures, (2) utility, customer, and governmental conservation programs, and (3) other consumer actions for achieving conservation; and

WHEREAS, under the Council's plan, the model conservation standards shall be designed to produce all power savings that are cost effective for the region and economically feasible for consumers; and

WHEREAS, the Council has adopted and promulgated model conservation standards and is promoting their adoption, implementation and enforcement by utilities, local government and customers in the State of Idaho, by a self-imposed deadline of January 1, 1986; and

WHEREAS, the model conservation standards adopted by the Council have not been demonstrated by builder experience in the residential standards demonstration program conducted by the Idaho Department of Water Resources to be cost effective for the region and economically feasible for the consumers in the State of Idaho; and

WHEREAS, the Council has adopted a methodology to impose a minimum ten percent surcharge on customers of Bonneville Power Administration located in local jursidictions in the State of Idaho where the model conservation standards are not adopted by the Council's self-imposed deadline of January 1, 1986; and

WHEREAS, grave concerns in these matters have been expressed to the Idaho members of the Council in proceedings before the Idaho Legislature by residential and commercial builders, realtors, cities,

counties, utilities and other entities.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that this statement of legislative concern be directed to the Idaho members of the Northwest Power Planning Council for the purpose of seeking reconsideration and relief from the implementation of the Model Conservation Standards as proposed until they have been demonstrated to be economically feasible to consumers in Idaho by extending, completing and analyzing the Residential Standards Demonstration Program; and for the further purpose of seeking reconsideration and relief from the planned imposition of surcharges in those local jurisdictions that do not adopt the proposed Model Conservation Standards by January 1, 1986.

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 Resolution to the Idaho members of the Pacific Northwest Electric Power and Conservation Planning Council, to the Governor of the State of Idaho, to the President of the United States, to the Senators and Representatives representing the State of Idaho in the Congress of the United States, and to the governors and legislatures in the states of Oregon, Washington and Montana.

Adopted by the House February 20, 1985.
Adopted by the Senate March 8, 1985.

(H.C.R. No. 20, As Amended)

A CONCURRENT RESOLUTION

STATING LEGISLATIVE CONCERNS AND FINDINGS AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY OF THE IDAHO CRIMINAL SENTENCING SYSTEM AND THE ADVISABILITY OF IMPLEMENTING A PRESUMPTIVE SENTENCING SYSTEM.

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

WHEREAS, under Idaho's current sentencing laws the disparity of sentences given among judicial districts and among individual judges for the conviction of the same or a similar crime is perceived to be a problem by many Idaho judges and reduces the respect and confidence of the public in the criminal system, and results in unfair treatment of, and bitterness in, the person convicted; and

WHEREAS, under Idaho's current sentencing and parole laws, the sentences which are being handed down by the courts are seldom served to their full extent, creating a truth-in-sentencing problem and therefore reducing the respect and confidence of the public in the Idaho criminal system and reducing the deterrent effect of Idaho's criminal sanctions; and

WHEREAS, Idaho's criminal and sentencing laws were enacted at different times and therefore reflect different sentencing

philosophies, which have resulted in a somewhat uncoordinated interaction among the sentencing, correction and parole systems, and in sentencing statutes which are sometimes inconsistent, confusing and pose difficult problems of construction to the courts; and

WHEREAS, nine other states have undertaken a review of their criminal justice systems and found many problems which are the same as or similar to Idaho's current problems, and have responded to these problems by enacting presumptive sentencing systems; and

WHEREAS, President Ronald Reagan has expressed his support for legislation adopting a presumptive sentencing system be enacted on the federal level; and

WHEREAS, a comprehensive review and reform, possibly through the implementation of a presumptive sentencing system, of Idaho's laws concerning criminal sentencing, corrections and pardons and paroles, could result in a greater philosophical coherency, remove inconsistencies, reduce sentencing disparity, increase truth-in-sentencing, and therefore result in greater citizen confidence and respect for Idaho's criminal justice system, greater deterrence to would-be criminals and justice for persons convicted.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislative Council is directed to establish a committee to undertake and complete a study of all matters relating to the criminal sentencing system of the State of Idaho and to evaluate and determine the advantages and disadvantages of the implementation of a presumptive sentencing system in the State of Idaho and to present to the Second Regular Session of the Forty-eighth Idaho Legislature the Committee's final report, together with recommended legislation, if any. The Legislative Council is hereby authorized to create and appoint a Criminal Sentencing Alternatives Committee to be composed of not less than 10, and not more than 20, members from the Idaho House of Representatives and the Idaho Senate. The Chairman of the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee shall serve as Co-Chairmen of the Criminal Sentencing Alternatives Committee.

BE IT FURTHER RESOLVED that all costs incurred by the Criminal Sentencing Alternatives Committee shall be paid from the Legislative Account.

Adopted by the House February 25, 1985.
Adopted by the Senate March 4, 1985.

(H.C.R. No. 24, As Amended)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING CERTAIN RULES OF THE BOARD OF HEALTH AND WELFARE RELATING TO CONTROL OF AIR POLLUTION IN IDAHO.

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 Board of Health and Welfare, to be effective April 1, 1985, relating to control of air pollution in Idaho, should be amended.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that Manual Sections 1-1002.74, 1-1002.76, 1-1153.07(d) and 1-1153.07(e), Chapter 1, Title 1, "Rules and Regulations for the Control of Air Pollution in Idaho," Rules and Regulations of the Department of Health and Welfare, be, and the same are hereby amended as follows:

1-1002.74 Smoke Management Plan. A document issued by the Director to ~~establish open burning policy and procedures~~ implement Manual Section 1-1153, Categories of Allowable Burning. ( )

1-1002.76 Smoke Sensitive Area. An area of relatively ~~dense population, existing air pollution, or intensive recreation or tourist use~~ great sensitivity to smoke from open burning. ( )

1-1153.07 (d) General Provisions. The following provisions apply to all agricultural field burning: ( )

(1) Any person conducting agricultural field burning must make every reasonable effort to burn only when weather conditions are conducive to good smoke dissipation. "Reasonable efforts" include, but are not limited to, obtaining any available information on local meteorological conditions and observing the smoke plume from small test fires or from other field burns. "Good smoke dissipation" means smoke rises well above ground level or is transported in a direction that minimizes its impact on smoke sensitive areas. ( )

(2) ~~No person shall conduct or allow agricultural field burning of any field grass, forage grass, or turf grass field without first registering each field with the Department each year burning is conducted. Approved forms may be obtained at any Division of Environment Office. This provision is not met unless the registration form contains all~~

~~required--information--and--is--received--and approved--by--the--Department--prior-to-field ignition.~~ ~~(--------)~~

~~(3)~~ The open burning of crop residue shall be conducted in the field where it was generated. ( )

1-1153.07 (e) Additional Provisions. Agricultural field burning conducted in Kootenai or Benewah Counties is an allowable form of open burning only when the provisions of this section are met. ( )

(1) The Department will develop in coordination with grass growers and other interested parties a Smoke Management Plan for conducting agricultural field burning in Kootenai and Benewah Counties. Smoke sensitive areas are those areas designated in Section 3.2 of the 1984 Smoke Management Plan for Field Burning in Northern Idaho. The Plan will be put into effect by the Department ~~only after considering--testimony--received-at~~ public hearing. ~~The-Department-will-update-the-Plan--annually to-reflect-technological-advances,-population shifts,-and-land-use-changes.~~ ( )

(2) No person shall conduct or allow any agricultural field burning without first registering each field with the Department each year burning is conducted. Approved forms for registering fields and providing justification for burning when needed may be obtained at the Division of Environment's Coeur d'Alene Field Office. This provision is not met unless the forms contain all required information and are received and approved by the Department prior to field ignition. ( )

(3) The open burning of any grass field scheduled to be torn out shall be prohibited unless justification is provided during registration and approved by the Department. ( )

(4) The open burning of any agricultural field other than turf grass, field grass and forage grass fields shall be prohibited unless justification is provided during registration and approved by the Department. Approved open burning can occur only after Labor Day. ( )

(5) Between August 1 and September 30, the Department will conduct a Smoke Management Program in accordance with the Smoke Management Plan. Between October 1 and July 31, agricultural field burning shall be conducted in accordance with any voluntary agricultural field burning advisory program that is equivalent to the Department conducted Smoke Management Program and which has been approved by the Department. ( )

(6) No person shall conduct or allow agricultural field burning between August 1 and September 30, without receiving approval from the Department and meeting all conditions of that approval and between October 1 and July 31, without complying with a Department approved agricultural field burning advisory program. ( )

(7) Any person conducting or allowing agricultural field burning under this section shall be immediately accessible by telephone or radio during any approved burning periods, and should approval be rescinded, shall use all reasonable efforts to extinguish ongoing fires and shall start no new fires.( )

(8) If the demand for conducting agricultural field burning exceeds the capacity of the atmosphere to transport and dissipate smoke during the period of August 1 to September 30, the Department will use the following scheme to determine which fields may be burned. The Department will give priority in descending order to Class I - turf grasses, Class II - cereal grain fields, Class III - field and forage grasses, and Class IV - other agricultural field burning. If additional priority must be assigned within a class, it will be based upon the earliest received, complete registration. The Department may make priority adjustments based on written documentation of extreme economic hardship, disease outbreak, insect infestation, and irreparable damage to land. ( )

(9) Agricultural field burning shall not be conducted on Saturdays, Sundays and weekends or holidays ~~(state and national) only when~~

~~allowed--by--procedures--adopted-in-the-Smoke Management-Plan~~ except after Labor Day or under emergency circumstances. ( )

Adopted by the House March 9, 1985.
Adopted by the Senate March 12, 1985.

(H.C.R. No. 26)

A CONCURRENT RESOLUTION

AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A TOTAL AND THOROUGH RECODIFICATION OF THE MOTOR VEHICLE LAWS OF THE STATE OF IDAHO.

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

WHEREAS, the motor vehicle laws of the State of Idaho contain many obsolete, confusing and conflicting provisions; and

WHEREAS, the motor vehicle laws have had additions and amendments made in a haphazard manner over the years; and

WHEREAS, it is in the best interests of the people of the State of Idaho that a complete and thorough recodification of the motor vehicle laws be undertaken and completed.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is directed to appoint a committee comprised of four members of the House of Representatives and three members of the Senate to undertake and complete a thorough recodification of the motor vehicle laws of the State of Idaho.

BE IT FURTHER RESOLVED that the Committee sball submit the recommended recodification legislation to the First Regular Session of the Forty-ninth Idaho Legislature.

Adopted by the House March 1, 1985.
Adopted by the Senate March 7, 1985.

(H.C.R. No. 28)

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AMENDING RULES AND REGULATIONS OF THE DEPARTMENT OF EMPLOYMENT RELATING TO INCLUSION OF TIPS AND GRATUITIES AS WAGES.

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 Employment should be amended as provided herein.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that Rules 35.065 and 35.251 of the Department of Employment be, and the same are hereby amended to read as follows:

35.065 Wages. - All remuneration for personal service performed from whatever source, including commissions and bonuses, and the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include:

35.065,01 Bonuses, prizes, and gifts given to an employee in recognition of past services or to stimulate future services, sales, or production;

35.065,02 Commissions for past services in covered employment;

35.065,03 Salaries or remuneration paid to corporate officers;

35.065,04 Salary advances against commissions;

35.065,05 All forms of profit sharing for services rendered;

35.065,06 Excess travel allowances over actual expense, unless returned to the employer;

35.065,07 Vacation or "idle-time" pay, no matter when paid;

35.065,08 Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent.

~~35.065,09 All gratuities or tips.~~
Ref. Sec. 72-1328 Idaho Code (11-84)

Gratuities

35.251 ~~All~~ gGratuities or tips paid to an employee by an employer, from money left by a customer or patron, ~~or collected and distributed by the employer shall~~ constitute "wages" as defined in Section 72-1328 of the Idaho Code, and must be reported for the purpose of determining his contribution liability under the law, when the employer utilizes such money to enhance any employee's remuneration; or, when the employer requires patrons to pay an amount as a service charge to be divided solely at the discretion of the

employer; or, to the extent any employer uses such tip or gratuity in meeting the minimum wage law.

Ref. Sec. 72-1328 Idaho Code (11-84)

Adopted by the House March 4, 1985.
Adopted by the Senate March 12, 1985.

(H.C.R. No. 29)

A CONCURRENT RESOLUTION

PROVIDING FOR PRINTING THE SESSION LAWS, FIXING THE PRICE FOR PRINTING THE SAME, AND THE PRICE WHICH THE PUBLIC SHALL BE CHARGED FOR COPIES OF THE SESSION LAWS.

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

WHEREAS, Section 67-904, Idaho Code, has made provisions for the printing of the Session Laws;

NOW, THEREFORE, in accordance with a written contract duly made and entered into by the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Printing Committee of the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho;

BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the contract for the printing of the Session Laws of the First and Second Regular Sessions, Forty-eighth Idaho Legislature, and the Session Laws of any Extraordinary Session, Forty-eighth Idaho Legislature, in accordance with the provisions of law and in accordance with the written contract between the Speaker of the House of Representatives and the President Pro Tempore of the Senate and the Joint Printing Committee as party of the first part, and CAXTON PRINTERS, LTD., of Caldwell, Idabo, as party of the second part, be, and the same is hereby ratified, confirmed and concurred in, and is incorporated herein and made a part of this resolution, in words and figures following, to-wit:

PRINTING CONTRACT

THIS AGREEMENT, made and entered into this 19th day of February, 1985, by and between the Speaker of the House of Representatives, T. W. Stivers, and the President Pro Tempore of the Senate, James E. Risch, the Joint Printing Committee of the House Judiciary, Rules and Administration Committee and the Senate Judiciary and Rules Committee of the Legislature of the State of Idaho, hereinafter mentioned as party of the first part, and THE CAXTON PRINTERS, LTD., of Caldwell, Idaho, hereinafter mentioned as party of the second part;

WITNESSETH:

That pursuant to a resolution of said committee and written bid submitted to the said committee by the party of the second part, contract for legislative printing is hereby awarded to said CAXTON PRINTERS, LTD., as follows:

SESSION LAWS

For printing and binding 1200 copies of the Session Laws of the First Regular Session of the Forty-eighth Legislature and for printing and binding 1200 copies of the Session Laws of the Second Regular Session of the Forty-eighth Legislature and the Session Laws of any Extraordinary Session of the Forty-eighth Legislature: $21.80 per page, f.o.b. Boise, Idaho, if produced by offset lithography with camera-ready copy being furnished party of the second part, plus $5.30 per volume for binding. The party of the second part shall provide an additional quantity to be made available to the general public at $28.00 per single volume, and $33.30 per set of two volumes, if a second volume is required. The Session Laws of any Extraordinary Session adjourned prior to June 1, 1985, shall be included in the Session Laws of the First Regular Session, or if adjourned prior to June 1, 1986, shall be included in the Session Laws of the Second Regular Session. No charge shall be made by the party of the second part for proofreading or blank pages.

IT IS AGREED between the parties hereto that all of said printing shall be done in the form and manner as submitted in written bid dated January 24, 1985, by party of the second part, and in compliance with the statutes of the State of Idaho; where not otherwise provided, such statutes shall be controlling.

IT IS FURTHER AGREED that said Session Laws shall be printed, delivered to and be ready for distribution by the Secretary of State in conformity with the provisions of Section 67-904, Idaho Code, which section is hereby referred to and by such reference made a part of this contract as though set forth at length herein, and particularly as follows:

1. The Session Laws shall be printed and made available for distribution within 60 days after the last day on which the Governor may sign or approve bills following adjournment of the session of the legislature which enacted or passed the measures included in the Session Laws, or within 30 days after the delivery to the party of the second part of the proper title pages, certificate pages, tables of laws and statutes amended and repealed and a proper index of the contents of the Session Laws, whichever date is first in time.

Such printing and delivery of said Session Laws to the Secretary of State are to be made as provided by law; that for each day's failure to so deliver volumes of such Session Laws as herein provided, there shall be deducted from the contract price for printing said Session Laws the sum of $50.00 per day for each day's delay; provided, however, that the party of the second part shall not be held responsible for delay occasioned by failure to furnish copy for such printing to the party of the second part and such delay shall, to the same extent, extend the time for the performance of this agreement.

IN WITNESS WHEREOF, the party of the second part has caused these

presents to be executed by its proper officials, and the party of the first part, by concurrent resolution has caused these presents to be executed by its proper officials.

SPEAKER OF THE HOUSE OF REPRESENTATIVES
By _____
T. W. Stivers

HOUSE JUDICIARY, RULES AND
ADMINISTRATION COMMITTEE
By _____
Larry W. Harris, Chairman

PRESIDENT PRO TEMPORE OF THE SENATE
By _____
James E. Risch

SENATE JUDICIARY AND RULES COMMITTEE
By _____
Roger Fairchild, Chairman

Party of the First Part

THE CAXTON PRINTERS, LTD.

By _____
Jim Gipson

Party of the Second Part.

Adopted by the House February 25, 1985.
Adopted by the Senate March 6, 1985.

(H.C.R. No. 32)

A CONCURRENT RESOLUTION
CONFIRMING THE APPOINTMENT OF MR. BRUCE BALDERSTON TO THE POSITION OF LEGISLATIVE AUDITOR FOR THE STATE OF IDAHO.

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

WHEREAS, Section 67-441, Idaho Code, provides that a Legislative Auditor for the State of Idaho shall be appointed by the Joint Senate Finance-House Appropriations Committee, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to Section 67-441, Idaho Code, the Joint Senate Finance-House Appropriations Committee has appointed Mr. Bruce Balderston to the position of Legislative Auditor, and the appointment is now before the Legislature of the State of Idaho.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we do confirm the appointment of Mr. Bruce Balderston to the position of Legislative Auditor for the State of Idaho, effective August 1, 1985.

Adopted by the House March 5, 1985.
Adopted by the Senate March 7, 1985.

(H.C.R. No. 33)

A CONCURRENT RESOLUTION
AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO UNDERTAKE AND COMPLETE A STUDY REGARDING THE MARKETING OF WATER RIGHTS IN THIS STATE.

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

WHEREAS, issues relating to water use and the appropriate allocatioo of the water resources of the State of Idaho are of paramount importance to each and every citizen of this State; and

WHEREAS, extremely comprehensive and complex legislation was introduced in the Legislature of the State of Idaho in 1984 which would provide for the establishment of a system for the marketing of water rights within the State; and

WHEREAS, a workable, pragmatic system for the marketing of water rights could benefit water users in this State including irrigators, energy producers, and the general public.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized and directed to appoint a committee of eight members, composed of four members from the Senate and four members from the House of Representatives, to undertake and complete a study of the feasibility of establishiog a comprehensive system for the marketing of water rights in this State. The Committee shall consult with and receive information from representatives of the Water Resource Board, the Public Utilities Commission, the office of the Attorney General, regulated utilities, water users, industrial users and consumer groups as well as any others interested and affected by water allocations in this State. The Committee shall use House Bill No. 233, First Regular Session of the Forty-eighth Idaho Legislature, as a starting point in its deliberations. The Committee may hold meetings throughout the State of Idaho as the co-chairmen deem necessary.

BE IT FURTHER RESOLVED that the Committee shall report findings,

recommendations and recommended legislation, if any, to the Second Regular Session of the Forty-eighth Idaho Legislature.

Adopted by the House March 9, 1985.
Adopted by the Senate March 12, 1985.

(H.C.R. No. 36)

A CONCURRENT RESOLUTION

AUTHORIZING AND DIRECTING THE LEGISLATIVE COUNCIL TO DETERMINE THE EXTENT OF INVOLVEMENT THE STATE SHOULD HAVE IN THE SALE OF ALCOHOLIC BEVERAGES AND UNDERTAKE AND COMPLETE A THOROUGH RECODIFICATION OF THE ALCOHOLIC BEVERAGE LAWS OF THE STATE OF IDAHO.

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

WHEREAS, the alcoholic beverage laws of the State of Idaho contain many confusing and redundant provisions; and

WHEREAS, the alcoholic beverage laws have had additions and amendments made in a haphazard manner over the years; and

WHEREAS, there is a great amount of concern in respect to the extent of State involvement in the sale of alcoholic beverages; and

WHEREAS, it is in the best interests of the people of the State of Idaho that a thorough recodification of the alcoholic beverage laws be undertaken and completed.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is directed to appoint a committee of twelve members, comprised of six members of the House of Representatives and six members of the Senate to determine the extent of the involvement the State of Idaho should have in the sale of alcoholic beverages, and undertake and complete a thorougb recodification of the alcoholic beverage laws of the State of Idaho.

BE IT FURTHER RESOLVED that the Committee appoint an advisory committee to assist the Committee in their deliberations.

BE IT FURTHER RESOLVED that the Committee shall submit recommended recodification legislation to the Second Regular Session of the Forty-eighth Idaho Legislature.

Adopted by the House March 11, 1985.
Adopted by the Senate March 13, 1985.

SENATE JOINT MEMORIALS

(S.J.M. No. 101)

A JOINT MEMORIAL

TO THE HONORABLE RONALD REAGAN, PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Forty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, suicide has overtaken homicide as the number two killer of American youth fifteen to twenty-four years old with over 6,000 deaths estimated by the National Center for Health Statistics to have occurred in 1983; and

WHEREAS, at a rate that has increased by more than 300% since 1955, suicide now claims more young lives than cancer; and

WHEREAS, the actual number of suicides may be as great as four times the number reported because deaths are often classified as either accidents or homicides in order to spare a family grief and avoid stigmatizing a community; and

WHEREAS, the underlying causes of youth suicide and the related behavioral difficulties faced by adolescents are not adequately researched, documented and understood.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States to create a Federal Commission on Youth Suicide Prevention. This Federal Commission should be charged with a broad mandate to: amass a national data base on youth suicide; research and analyze the underlying causes of youth suicide in our society; formulate policy and legislative recommendations for the President and Congress; and provide guidance to state and local governments, and school systems in the development of suicide prevention and related programs.

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 Honorable Ronald Reagan, President of the United States,

the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 11, 1985.
Adopted by the House February 25, 1985.

(S.J.M. No. 102)

A JOINT MEMORIAL

TO PRESIDENT RONALD REAGAN, SECRETARY OF AGRICULTURE JOHN R. BLOCK, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE HONORABLE JESSE HELMS, CHAIRMAN OF THE SENATE AGRICULTURE COMMITTEE AND TO THE HONORABLE E. DE LA GARZA, CHAIRMAN OF THE HOUSE AGRICULTURE COMMITTEE IN CONGRESS, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Forty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, a financial crisis appears imminent in the agricultural sector of our economy as the result of high interest rates, declining commodity prices and declining prices of farmland; and

WHEREAS, there have been a high number of foreclosures on farms both in Idaho and the Nation; and

WHEREAS, many farmers in the State of Idaho and the United States are having difficulty obtaining needed operating loans for planting spring crops and implementing vital soil conservation practices; and

WHEREAS, side effects of this financial crisis is showing up with fertilizer dealers going out of business, implement dealers filing for bankruptcy, farm machinery manufacturers going broke and thousands of people being thrown out of work; and

WHEREAS, necessary steps must be taken to save the existence of thousands of rural banks, Production Credit Associations, ranches and farms in this State and Nation from heading into bankruptcy.

NOW, THEREFORE, BE IT RESOLVED by members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the President of the United States and the Congress of the United States take immediate action to provide needed loan moneys at reasonable interest rates which are necessary to avert the collapse of the nation's farm economy.

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 Agriculture, the President of the Senate and the Speaker of the House of Representatives of Congress, the Chairman of the Senate Agriculture

and House Agriculture Committees in Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 21, 1985.
Adopted by the House March 6, 1985.

(S.J.M. No. 103)

A JOINT MEMORIAL

TO PRESIDENT RONALD REAGAN, SECRETARY OF AGRICULTURE JOHN R. BLOCK, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, THE CHAIRMAN OF THE SENATE AGRICULTURE AND HOUSE AGRICULTURE COMMITTEES IN CONGRESS, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN CONGRESS.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Forty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the economy of the State of Idaho was severely damaged by an infestation of grasshoppers during 1984; and

WHEREAS, our experts have reported that the threat of an even greater infestation during 1985 is very probable; and

WHEREAS, it is our observation that the federal government made only minimal efforts to control and eradicate the grasshoppers which came off of federal lands in 1984; and

WHEREAS, the citizens of this state and the state ageucies responsible for control of grasshoppers on private and state owned lands are ready, willing and able to work in a highly cooperative effort witb the federal agencies for the control of a grasshopper infestation io 1985; and

WHEREAS, the Legislature of the State of Idaho is firmly committed to a program or programs for the control and eradication of grassboppers on state and private lands in this state, and has directed the appropriate state agencies accordingly.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein that the President, the Secretary of Agriculture, aod the Congress take all necessary steps to require that the appropriate federal agencies have the resources and commitments to control and eradicate any grasshopper infestations in the State of Idaho in 1985.

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 President Ronald Reagan, Secretary of Agriculture John R. Block, the President of the Senate and the Speaker of the House of Representatives of Congress, the Chairman of the Senate Agriculture and House Agriculture Committees in Congress and to the congressional

delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate February 12, 1985.
Adopted by the House March 4, 1985.

(S.J.M. No.104)

A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Forty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, international trade is and will continue to be a significant factor of the United States' economy; and

WHEREAS, the economy of the State of Idaho is dependent upon domestic and international trade; and

WHEREAS, shallow-draft and deep-draft waterborne commerce plays a dominant role in the transportation of Idaho's major commodities; grain, forest products, manufactured goods and petroleum; and

WHEREAS, almost 9 million tons of cargo moved through the lock at Bonneville Dam in 1984, which brings Bonneville Lock close to its annual capacity of 13 million tons; and

WHEREAS, a new lock is necessary at Bonneville Dam to make it conform with the dimensions of the other lock systems on the Columbia-Snake River system; and

WHEREAS, the increasing volumes moving through Bonneville Lock are causing congestion and time delays for barge traffic and could surpass Bonneville's capacity by the end of the decade; and

WHEREAS, a study conducted by 34 ports along the Columbia-Snake River system in Idaho, Oregon, and Washington have identified Bonneville Lock as the major constraint to growth on the system; and

WHEREAS, a potential threefold increase in the amount of cargo moving on the system by the end of the century is foreseen if the constraiota are removed; and

WHEREAS, the Idaho congressional delegation has made authorization of the new Bonneville Lock a priority issue because of its importance to the economic health of the region.

NOW, THEREFORE, BE IT RESOLVED by members of the First Regular Session of the Forty-eighth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Congress of the United States support construction of a new lock at Bonneville Dam with dimensions of 86 feet by 675 feet that would thereby make it compatible with other lock systems on the 465 mile Columbia-Snake

River system.

BE IT FURTHER RESOLVED that the Congress of the United States is urged to make timely approval of project authorization for the construction of the new lock at Bonneville Dam.

BE IT FURTHER RESOLVED that the Secretary of the Seoate be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the United States, the President of the Senate and Speaker of the House of Representatives of Congress, and to the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the Senate March 6, 1985.
Adopted by the House March 11, 1985.

HOUSE JOINT MEMORIALS

(H.J.M. No. 5)

A JOINT MEMORIAL

TO THE HONORABLE RONALD REAGAN, PRESIDENT OF THE UNITED STATES, THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Forty-eightb Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the Soviet Union does not work toward the best interest of the Free World but rather works to advance the oppressive and suppressive principles of Communism; and

WHEREAS, the Constitution of the United States is based on the principles of freedom, including freedom from oppression; and

WHEREAS, the government of the United States is burdened with a tremendous fiscal deficit.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that we urge the Congress of the United States to take action necessary to prevent loans to the Soviet Union including, but not limited to, notifying banks that the United States will no longer guarantee loans to the Soviet Union and that any existing loans should be collected and paid in full.

BE IT FURTHER RESOLVED that tbe Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to Ronald Reagan, the honorable President of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House February 7, 1985.
Adopted by the Senate February 13, 1985.

(H.J.M. No. 12)

A JOINT MEMORIAL

TO PRESIDENT RONALD REAGAN, SECRETARY OF DEFENSE CASPAR WEINBERGER, DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY WILLIAM J. CASEY, TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the First Regular Session of the Forty-eighth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, Afghanistan has endured five years of occupation by Soviet military forces; and

WHEREAS, the Afghan people have been subjected to devastating bombing of their civilian population; and

WHEREAS, strong evidence indicates that chemical and/or biological weapons have been used against the Afghan people; and

WHEREAS, the valiant Afghan Freedom Fighters continue to bravely resist the Soviet occupation forces; and

WHEREAS, the Freedom Fighters are ill-equipped to resist the powerful and sophisticated Soviet war machine with the World War II vintage weapons available to them; and

WHEREAS, the Mujahedin will fight to the last man to resist the Soviet aggressors, and with a minimum amount of modern weaponry could inflict great and costly damage, especially to the Soviet Air Force.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Forty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature condemns the unforgivable actions of the Soviet Union against the people of Afghanistan.

BE IT FURTHER RESOLVED that the Idaho Legislature recognizes the valor of the Afghan people and honors, supports and encourages them in their struggle for freedom.

BE IT FURTHER RESOLVED that the Idaho Legislature urges the President of the United States and the Congress of the United States to increase our support for the Freedom Fighters to include the supply and delivery of modern anti-tank and surface-to-air missiles to allow the totally committed and brave Afghan people a chance for victory, and causing costly losses to the Soviet Union.

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 Defense Caspar Weinberger, Director of the Central Intelligence Agency William J. Casey, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

Adopted by the House March 4, 1985.
Adopted by the Senate March 11, 1985.

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-eighth Legislature of the State of Idaho, First Regular Session thereof, which convened January 7, 1985, and adjourned March 13, 1985, 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 5th day of April, 1985.

Pete T. Cenarrusa

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. 84-8

KEEP IDAHO GREEN EXECUTIVE COMMITTEE

WHEREAS, the Governor's KEEP IDAHO GREEN Executive Committee was established in the Executive Office of the Governor in 1946 at the request of the Idaho Jaycees; and

WHEREAS, there continues to be a vital need to protect Idaho's vast renewable natural resources from wildfire; and

WHEREAS, it is in the best interest of all Idaho citizens to protect our state's scenic splendor and economic base from man-caused wildfire; and

WHEREAS, concerned volunteers have worked over the years to combine the resources of state, federal and private interests to keep wildfire prevention in the minds of all who experience Idaho's out-of-doors;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me, do hereby order the continuation of the Governor's KEEP IDAHO GREEN Executive Committee.

The Committee shall consist of members appointed by the Governor who represent state, federal and private interests as well as volunteer groups.

The Committee shall direct and approve an annual wildfire prevention campaign to be carried out by the KEEP IDAHO GREEN Director and employees of the Idaho Department of Lands.

The Committee shall meet at least once a year with additional meetings at the discretion of the Director.

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 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. 84-9

DESIGNATING THE IDAHO TRANSPORTATION DEPARTMENT AND ITS DIRECTOR, DARRELL V. MANNING, AS THE RECIPIENT OF FEDERAL FUNDS FOR PUBLIC TRANSPORTATION

WHEREAS, the federal government, under authority granted by the

Urban Mass Transportation Act, as amended, is authorized to provide financial assistance to states to improve public transportation; and

WHEREAS, such aid has been offered to Idaho; and

WHEREAS, it is necessary that an agency of the State of Idaho be designated and authorized 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 government for public transportation assistance as provided under the applicable federal statutes.

This Executive Order repeals and replaces Executive Order No. 82-14.

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 first day of June 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. 84-10

CHANGING THE NAME OF THE IDAHO YOUTH COMMISSION TO THE IDAHO COMMISSION FOR CHILDREN AND YOUTH AND THE OFFICE OF JUVENILE JUSTICE TO THE OFFICE FOR CHILDREN AND YOUTH—REPEALING AND REPLACING EXECUTIVE ORDER NO. 83-17.

WHEREAS, parent training and support services to families promotes infant and toddler development, reduces child abuse and neglect and provides assistance to parents in choosing quality day care; and

WHEREAS, the quality preschool programs reduce the number of juveniles who need special education, drop out of school or come into conflict with the law; and

WHEREAS, children and youth have the right to an environment that promotes positive mental health and protects them from physical and sexual abuse or neglect; and

WHEREAS, over 20,000 children and youth in the State of Idaho are having problems with substance abuse and 60 percent of child abuse can be attributed to alcohol; and

WHEREAS, prevention and early rehabilitation and diversion programs can have a major impact on reducing the numbers of children and youth coming into conflict with the law; and

WHEREAS, the State of Idaho must offer our children and youth who come into conflict with the law opportunities to reevaluate their conduct and its impact on their future; and

WHEREAS, services for children and youth in Idaho are fragmented and unevenly distributed; and

WHEREAS, the continuation and enhancement of children and youth service programs requires community involvement and a focus reflecting the experience and values of Idaho; and

WHEREAS, the continuation and enhancement of children and youth service 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 Commission for Children and Youth and the Office for Children and Youth within the Office of the Governor.

The Commission's responsibilities will be:

1. To be informed about children and youth programs throughout the State and advise the Governor regarding their operation;
2. 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;
3. To provide an advocacy function in promoting legislation pertaining to services and laws affecting children and youth;
4. To mediate among service providers as a third party in areas of disagreement;
5. To encourage inter-agency cooperation and coordination on the State and local levels and help to eliminate duplication of services where appropriate;
6. To provide guidance in the development and implementation of improved policies for children and youth in the State; e.g., judicial, health, education, employment, rehabilitation, recreation, social services;
7. 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;
8. 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;
9. To oversee and evaluate such activities and events as may be deemed necessary by the Governor;
10. To represent the Governor at national and State functions regarding children and youth; and
11. To present to the Governor on June 30 of each year a report on the Commission's achievements and impact on youth service 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 Commission membership may be drawn from representatives of:

--local law enforcement, probation, and corrections agencies
--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
--early childhood development groups

Commission members will serve a term of three years or at the pleasure of the Governor. The Governor will appoint a chairman and vice-chairman, whose terms will be one year. The Commission may establish an executive committee and subcommittees at its discretion.

The Office for Children and Youth will be headed by an Administrator appointed by the Governor. The position of the Administrator will be exempt from the provisions of Chapter 53, Title 67, Idaho Code, and the Administrator will be reaponsible for hiring and supervising the support staff who shall be classified as "limited service employees."

The Office for Children and Youth shall assist the Idaho Commission for Children and Youth 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-eighth day of June, 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. 84-11

CONTINUATION OF THE IDAHO CONSORTIUM FOR HUMAN AND ANIMAL HEALTH, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-16

WHEREAS, it is in the public interest to promote the well being of the people of Idaho by optimal use of resources related to human and animal health; and

WHEREAS, the most efficient and effective use of scarce resources requires cooperative planning as well as sharing information, technical capability and equipment; and

WHEREAS, the public agencies that are responsible for various aspects of human and animal health at the state, local and federal levels need to maintain and enhance open lines of communication; and

WHEREAS, the State of Idaho has experienced complicated and perplexing crises such as the PCB contaminated livestock episode in 1979 and the ash fallout from Mount St. Helens volcano in 1980, both having serious implications for human and animal health;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the authority vested in me, do hereby continue the Idaho Consortium for Human and Animal Health, which shall be composed of the State Health Officer, the Chief of the State Bureau of Laboratories in the Department of Health and Welfare, the Administrator of the Division of Animal Industries, the Chief of the Bureau of Plant Chemicals, the Dean of the Faculty of the University of Idaho School of Veterinarian Medicine, the Director of the University of Idaho Veterinarian Teaching Center in Caldwell and the Director of the Department of Fish and Game.

The appointment of this Consortium is made with the understanding that policy-making responsibilities and the administration of affected state programs as provided by the Idaho Code will be maintained as legally required, and the Consortium will report to the Governor's Office, Department Directors and Agency Boards that have different degrees of responsibility for programs related to human and animal health.

The appointment of this Consortium is made with the understanding that its main responsibility will be to maximize the use of all government resources that can be applied to an optimum understanding of human and animal health concerns, particularly those functions involving laboratory study, research initiatives and the coordination of acute information needs necessary for accurate technical analysis. This will require the coordination of ongoing programs and the investigation of high-priority health problems that require the prompt organization of diverse data necessary for the prevention of widespread, costly illness in humans and animals.

The appointment of this Consortium is made with the understanding that the people serving in these positions have extensive technical knowledge and experience available in state government for the protection and maintenance of human and animal health in the State of Idaho and, therefore, have access to other state, local and federal government resources. Since these resources extend far beyond the

members of the Consortium, yet remain essential to laboratory coordination and research direction for health-related concerns, the Consortium must make every effort to maximize their effectiveness and consider the resources of other state and federal agencies.

The appointment of the Chairperson of the Consortium shall be made by the Governor from a list of recommendations submitted by the Consortium. The Chairperson will serve at the pleasure of the Governor. Regular meetings of the Consortium will be held twice annually and emergency meetings may be called at any time.

This Executive Order repeals and replaces Executive Order No. 82-16.

IN WITNESS WHEREOF, I have hereunto set my band and caused to be affixed the Great Seal of the State of Idaho, at Boise, the Capital, the tenth day of July, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-12

REDUCTION OF GENERAL ACCOUNT ALLOTMENTS

WHEREAS, Article 7, Section 11, of the Idaho Constitution provides that state government expenditures shall not exceed state government revenue; and

WHEREAS, I have determined that expenditures from the General Account authorized by the Legislature for the current fiscal year will exceed anticipated monies available to meet those expenditurea;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-3512A, Idaho Code, do hereby order:

1. That the Ceneral Account allotments on file in the Office of the State Auditor be reduced in the amounts indicated for each of the following agencies:

Office of the Governor:

Governor's Office	$ 20,600
Div. of Financial Management	26,600
Div. of Economic and Community Affairs	10,200
Office on Aging	21,200
Human Rights Commission	2,600
Commission for the Blind	18,900

Military Division	44,400
Department of Administration	57,700
Department of Revenue and Taxation	190,000
Department of Finance	12,900
Department of Insurance	22,600
Department of Agriculture	38,600
Department of Correction	187,600
Department of Law Enforcement	73,700
State Board of Education	12,207,800
Department of Health and Welfare	1,044,400
Public Health Districts	32,600
Department of Parks and Recreation	56,500
Department of Lands	148,500
Department of Water Resources	94,900
STATE TOTAL	$14,312,300

2. Elected officers of the Executive Department and the Legislative and Judicial branches of government are requested to reduce expenditures for FY1985 to the extent possible without impairing the discharge of their constitutional duties.

This Order shall take effect immediately upon its execution and shall continue in effect until January 31, 1985, unless improving fiscal conditions allow it to be revoked or modified at an earlier date.

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 July, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-13

CONTINUATION OF THE IDAHO STATEHOOD CENTENNIAL COMMISSION

WHEREAS, On July 3, 1890, Idaho became the Nation's Forty-third State when President Benjamin Harrison signed the Idaho Admission Act; and

WHEREAS, Idaho convened a Constitutional Convention on July 4, 1889, to adopt a State Constitution later ratified by the people of

our Great Gem State; and

WHEREAS, on July 3, 1990, Idaho will celebrate the one hundredth anniversary of Statehood; and

WHEREAS, the people of Idaho share an abiding pride in the state's pioneer heritage, and the Idaho Statehood Centennial offers all Idahoans an opportunity to renew that spirit of independence and self-reliance as we look to the future;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority invested in me, do hereby order the establishment of the Idaho Statehood Centennial Commission in the Office of the Governor.

The Commission shall consist of not less than seven members appointed by the Governor. The term of office shall be two years. The Governor shall further designate one of the members as the Commission Chairperson.

The Idaho Statehood Centennial Commission shall be responsible for:

1. Planning of Idaho's Statehood Centennial celebration to include projects of permanent value to the people of Idaho as well as statewide commemorative events;
2. Cooperating with local government and community organizations to stimulate local Centennial initiatives;
3. Identifying sources of funding, particularly in the private sector, to support Centennial programs and the work of the State Commission;
4. Promoting national recognition of the Idaho Centennial by coordinating with neighboring states that share the state admission history of 1889-1890 (Montana, Washington, Wyoming, North Dakota, South Dakota); and
5. Acting as the Commission for national bicentennial observances occurring prior to 1990, such as the Constitutional Bicentennial.

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 August, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-14

CONTINUATION OF THE ARCHITECTURALLY BARRIER-FREE PUBLIC FACILITIES COORDINATION COMMITTEE

WHEREAS, the Legislature of the State of Idaho has recognized the need to insure that all public buildings, structures, accommodations, sidewalks, curbs, parking areas, and related facilities shall be accessible to and usable by the handicapped; and

WHEREAS, the federal government has mandated that programs receiving federal funds must be accessible to handicapped persons; and

WHEREAS, at present, no central committee or group exists which can adequately address the broad policy issues concerning architecturally barrier-free state facilities; and

WHEREAS, it is the policy and intent of the Executive Branch of the government of the State of Idaho to make its programs available to all of the citizens of this state;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby continue the Architecturally Barrier-Free Public Facilities Coordination Committee.

This Committee shall have the following responsibilities within the Executive Department of the State of Idaho:

1. To develop a set of proposed rules and regulations which will carry out the requirements of Title 39, Chapter 32, Idaho Code, Building Facilities for the Physically Handicapped;
2. To adopt standards which will clarify architectural barrier issues and requirements;
3. To develop a comprehensive plan to bring all state facilities into compliance with Section 504 of the Rehabilitation Act of 1973 and Title 39, Chapter 32, Idaho Code. This comprehensive plan should prioritize the areas of need in relation to the funds available to correct such violations;
4. To develop a systematic plan in which future public facilities will comply with the applicable handicapped standards;
5. To forward the recommendations and proposals outlined above to this office and, if this office is of the opinion that the recommendations and proposals are in the best interest of the State of Idaho, this office will forward them to the Permanent Building Fund Advisory Council for final review and action;
6. To provide liaison between the Administrator of the Division of Public Works and the various federal agencies involved in Handicap Accessibility Standards; and
7. The Architecturally Barrier-Free Public Facilities Coordination Committee shall be composed of the directors or their designees of the following agencies: Administration, Employment, Transportation, Parks and Recreation, Labor and Industrial Services, Education, and Health and Welfare. Additionally, the Governor may appoint five (5) citizens to this Committee and preference shall be given to citizens who are members of organizations committed to helping the handicapped; and

8. To perform other duties as directed by the Governor.

This Executive Order repeals and replaces Executive Order No. 82-19.

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 August, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-15

ESTABLISHING THE STATE CEILING AND ALLOCATION OF INDUSTRIAL REVENUE BOND AUTHORITY

WHEREAS, the Idaho State Legislature has authorized certain state agencies, cities and counties and certain special purpose districts and also including the Student Loan Fund of Idaho Management Association, Inc. ("Issuing Authorities") to issue industrial revenue bonds to promote higher employment and business investment in the State of Idaho; and

WHEREAS, on July 18, 1984, the President of the United States signed into law the Deficit Reduction Act of 1984 (PL 98-369) (the "Act"), which Act inter alia imposes a state-by-state ceiling (the "State Ceiling") on the issuance of industrial revenue bonds and student loan bonds ("Private Activity Bonds"); and

WHEREAS, the Act limits the State Ceiling to $150 per capita annually or two hundred million dollars ($200,000,000) annually, whichever is greater; and

WHEREAS, the Act sets forth a method of allocating the State Ceiling within each state among the Issuing Authorities for Private Activity Bonds unless the state provides a different formula of allocation; and

WHEREAS, the Act authorizes the governor of a state to proclaim a different formula for allocating the State Ceiling among all such Issuing Authorities as an interim allocation system pending the enactment of state law with respect to the ceiling; and

WHEREAS, it is in the best interest of the welfare of the residents of this state to promote industrial and economic development and

encourage private investment in our state's economy by preserving the ability of state agencies and local governmental units to issue Private Activity Bonds;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the power vested in me by the Constitution and laws of the State of Idaho and by the Act do hereby order and proclaim:

Section 1. The State Ceiling for the State of Idaho shall be two hundred million dollars ($200,000,000).

Section 2. The State Ceiling shall be allocated by the following formula to each Issuing Authority. The entire State Ceiling shall be reserved to the state to be allocated as needed to each Issuing Authority in the chronological order of receipt by the Executive Office of the Governor, Division of Economic and Community Affairs (the "Division") of a Purchase Agreement or similar binding commitment for the purchase of such Private Activity Bonds (a "Purchase Agreement"). Each Issuing Authority issuing such bonds shall submit a Purchase Agreement to the Division together with the completed form attached to this order (Exhibit "A") and incorporated herein by reference. The Division shall respond by letter within fifteen (15) days to the Issuing Authority, allocating the requested amount according to the particular Purchase Agreement. Such allocation shall expire on December 31st of the allocation year unless specific authority is requested and granted by the Division to carry forward the allocation into the succeeding calendar year. Within ten (10) days of the closing of the sale of such bonds, the Issuing Authority shall submit to the Division the completed form (Exhibit "B") attached to this Executive Order and incorporated herein by reference. In the event that the amount of bonds issued at time of closing is less than the amount contemplated by the Purchase Agreement, the allocation received by the Issuing Authority shall be adjusted to the amount actually sold at closing.

Section 3. Any issuing authority electing to carry forward its allocation shall notify the Division by letter of its request before ~~December 1st of~~ the calendar year in which the allocation was granted. The Division shall respond in writing within fifteen (15) days granting the carry forward of the allocation.

Any Issuing Authority which has passed an Inducement Resolution but does not have a purchase agreement signed may apply between November 15th and December 15th of each year for a carry forward allocation for a project. The application shall be on the form attached to this order (Exhibit C) with a copy of the Inducement Resolution, a note of explanation and a letter from a representative of the person(s) or entity using the proceeds of the bond sale, stating they will proceed with due diligence with the project and issuance of the bonds within a specified time. The Division shall respond by letter within ten (10) days granting the carry forward allocation.

Section 4. No action taken pursuant hereto shall be deemed to create an obligation, debt or liability of the State of Idaho or deemed to constitute an approval of any obligation issued or to be issued hereunder.

Section 5. The allocation system provided for in Section 1 of this Order shall be effective immediately and continue until January

1, 1986, unless repealed or superseded by operation of state or federal law.

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 14th day of September, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXHIBIT "A"

REQUEST FOR ALLOCATION PRIVATE ACTIVITY BONDS
NOTIFICATION FORM

DATE: _____

TO: Division of Economic and Community Affairs
Executive Office of the Governor
Statehouse, Room 108
Boise, Idaho 83720

In accordance with Executive Order No. 84-15 of the Governor of the State of Idaho, dated September 14, 1984, the Issuing Authority indicated below hereby requests an allocation from the state ceiling on Private Activity Bonds; and as evidence of compliance with Executive Order No. 84-15 dated September 14, 1984, hereby files with the Division of Economic and Community Affairs the attached Purchase Agreement (or similar binding commitment) and the following information:

Issuing Authority Name: _____
Executive Officer: _____
Address: _____
City, State, Zip: _____
Phone Number: _____
Title of Obligations to be Issued: _____
Par Amount of Obligations (allocation requested): $_____
Date of Purchase Agreement: _____
Purchaser(s): _____
Principal User(s) of Proceeds: _____
Anticipated Date of Closing: _____
Bond Counsel: _____

Name: _____
Company Name: _____
Address: _____
City, State, Zip: _____
Phone Number: _____
Applicable Provision of Internal Revenue Code: _____
Request Allocation be carried forward to: _____
(expiration date)

_____
(signed)

Name: _____
Title: _____

EXHIBIT "B"

PRIVATE ACTIVITY BONDS CLOSING INFORMATION FORM

DATE: _____

TO: Division of Economic and Community Affairs
Executive Office of the Governor
Statehouse, Room 108
Boise, Idaho 83720

In accordance with Executive Order No. 84-15 of the Governor of the State of Idaho, dated September 14, 1984, the Issuing Authority indicated below hereby confirms that the Private Activity Bonds described below have been sold to the Purchaser(s) thereof.

Issuing Authority Name: _____
Executive Officer: _____
Address: _____
City, State, Zip: _____
Phone Number: _____
Title of Obligations Issued: _____
Par Amount of Obligations Issued: $_____
Date of Closing: _____

_____
(signed)

Name: _____
Title: _____

EXHIBIT "C"

REQUEST FOR A CARRY-OVER ALLOCATION PRIVATE ACTIVITY BONDS NOTIFICATION FORM

DATE: _____

TO: Division of Economic and Community Affairs
Executive Office of the Governor
Statehouse, Room 108
Boise, Idaho 83720

The Issuing Authority indicated below hereby requests an allocation from the state ceiling on Private Activity Bonds and elects to carry forward the allocation until the date indicated below; and as evidence of compliance with Executive Order No. 84-15 dated September 14, 1984, the Issuer hereby files with the Division of Economic and Community Affairs the attached Inducement Resolution (or similar instrument) and the following information:

Issuing Authority Name: _____
Executive Officer: _____
Address: _____
City, State, Zip: _____
Phone Number: _____
Title of Obligations to be issued: _____
Par Amount of Obligations (allocation requested): $_____
Date of Inducement Resolution: _____
Purchaser(s): _____
Principal User(s) of Proceeds: _____
Anticipated Date of Closing: _____
Bond Counsel:
Name: _____
Company Name: _____
Address: _____
City, State, Zip: _____
Phone Number: _____
Applicable Provision of Internal Revenue Code: _____
Request Allocation be carried forward to: _____
(expiration date)

_____
(signed)

Name: _____
Title: _____

EXECUTIVE ORDER NO. 84-16

CONTINUING PROCEDURES FOR MAINTAINING A PROPERTY INVENTORY SYSTEM, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-23

WHEREAS, proper control of chattel property is necessary for effective management of state resources; and

WHEREAS, agency directors are responsible for the best possible management of property under their control; and

WHEREAS, proper budgeting, accounting, and planning decisions

depend upon accurate information concerning chattel property at the agency level; and

WHEREAS, timely and accurate information concerning the availability of state property is necessary for civil defense and other statewide emergencies; and

WHEREAS, accurate records of chattel property are necessary for purposes of providing adequate property insurance and assisting in determining the extent of physical destruction of property;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by virtue of the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order as follows:

1. All agency directors shall develop and maintain an inventory system, meeting minimum requirements as set forth by the Department of Administration, for all chattel property which the agency owns or is responsible for whether under terms of any contract, grant, or otherwise.
2. Each state agency director shall be accountable for the maintenance, security, and efficient economic use--as well as the verification of physical location and condition of all chattel property belonging to that agency.
3. The agency director shall be responsible for conducting an annual inventory of all chattel property by no later than the first day of March of each fiscal year. Further, each agency director shall make a written report to the Director of the Department of Administration that the inventory has been completed by the end of the first week of March of each year on a form developed by and under such guidelines as are issued by the Department of Administration.
4. The Department of Administration shall provide all agencies with an inflation factor for chattel property in early January of each year to assist agency directors in discharging the responsibility set forth herein.
5. Each agency director may appoint a property control officer who shall be responsible for conducting the annual inventory of agency property. The property control officer shall also be responsible for ensuring the prompt recording of newly acquired property and the economical disposition of surplus property in a timely manner. The property control officer shall periodically review the values of property for reasonableness.
6. The agency director or his appointed property control officer shall have the authority to dispose of surplus property through the State Surplus Sales Office.
7. To maintain uniformity among the various agency property inventory systems, the Department of Administration shall develop and distribute to each agency minimum requirements for each inventory system. Each agency should feel free to add additional functions beyond those minimums to meet their requirements.

This order shall repeal and replace Executive Order No. 82-23.

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 first day of October, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-17

CONTINUATION OF THE GOVERNOR'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-24

WHEREAS, it is in the public interest to promote employment opportunities for all citizens; and

WHEREAS, the skills and abilities of handicapped individuals are a valuable human resource; and

WHEREAS, handicapped individuals have a strong desire to secure employment; and

WHEREAS, it has been shown that handicapped individuals--given an opportunity--are valuable, productive, dedicated and skilled employees; and

WHEREAS, handicapped individuals experience significant difficulties in securing employment;

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 continuation of the Governor's Committee on Employment of the Handicapped.

The Committee's responsibilities will be:

1. To promote increased employment opportunities for handicapped individuals,
2. To publicize the economic and social benefits of hiring and retaining the handicapped,
3. To organize and support local community "Employment of the Handicapped" committees in their efforts to encourage employment of the handicapped,
4. To provide recognition to employers who follow a policy of hiring the handicapped, and
5. To provide recognition to employees who exemplify handicapped employee successes.

The Governor shall appoint the Committee Chairperson and members

of the Committee to serve for rotating terms of two years. Committee members shall be selected from representatives of labor, business, handicapped individuals or groups that represent the handicapped, veterans organizations, and state and local agencies providing services for the handicapped.

The Handicapped and Older Worker Specialist from the Idaho Department of Employment shall serve as Executive Director of the Committee.

This Executive Order repeals and replaces Executive Order No. 82-24.

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 first day of October, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-18

CONTINUATION OF A NEW BUSINESS CLEARINGHOUSE AT THE DEPARTMENT OF EMPLOYMENT JOB SERVICE OFFICES, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-26

WHEREAS, the Idaho Investment Panel recommended that close cooperation among all departments that affect Idaho's economic development be fostered; and

WHEREAS, the Idaho Investment Panel recommended the establishment of an office which would be the initial contact for a business seeking to locate in the State and this program was implemented on November 1, 1982; and

WHEREAS, the Idaho Department of Employment Job Service offices are located throughout the State to serve the needs of the local business community;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby continue the assignment to the Idaho Department of Employment of the role of A New Business Clearinghouse.

The Department of Employment's responsibilities will be:

1. To cooperate with the Division of Economic and Community Affairs in the collection and assembly of information packets of appropriate state rules, procedures and forms necessary to start a business in Idaho;
2. To provide new business information packets to each of the

Job Service offices for distribution to new business moving into their respective labor market areas; and

3. To provide to new business and existing business, in addition to the state information packets, local and county information pertaining to establishing a business including specific labor force estimates, unemployment patterns and average wage information.

This Executive Order repeals and replaces Executive Order No. 82-26.

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 October, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-19

ESTABLISHMENT OF SNAKE RIVER STUDIES ADVISORY COMMITTEE

WHEREAS, The Govetnor has entered into an Agreement with the Attorney General and the Idaho Power Company on October 25, 1984, to resolve the Snake River water rights controversy; and

WHEREAS, Implementation of the Agreement will require extensive hydrologic and economic studies to be conducted; and

WHEREAS, The entire state of Idaho will benefit both by the resolution of this controversy and by more efficient management and use of this vital natural resource;

NOW, THEREFORE, I, JOHN V. EVANS, by the authority vested in me, as Governor under the Constitution and laws of the State of Idaho, do hereby order as follows:

1. There is hereby created within the Office of the Governor a Snake River Studies Advisory Committee composed of five members appointed by the Governor to serve at his pleasure. One member shall be designated by the Governor as Committee Chairman.
2. At least one member of the committee shall be an attorney, at least one member an economist, and at least one member an engineer or hydrologist.
3. The Committee is empowered to receive government or private funds to conduct economic and hydrologic studies necessary to

implement the October 25, 1984 Agreement.

4. The Committee shall identify the studies to be done, and identify qualified grantees or contractors to perform such studies. The Governor shall approve or reject any study grant or contract proposed by the Committee.
5. The Committee shall monitor the work done on study grants or contracts.
6. In carrying out its duties under this Order the Committee shall consult with the three parties to the October 25, 1984 Agreement or their designees, and the Department of Water Resources and other affected state and federal agencies.
7. All state agencies are directed to cooperate with and provide necessary assistance to the Committee. The Department of Water Resources shall provide staff assistance to the Committee. The Attorney General shall provide legal services for the Committee.
8. Committee members shall serve without compensation, but shall be reimbursed for travel and other reasonable expenses.

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 21st day of December, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-20

CONTINUATION OF THE IDAHO DEPARTMENT OF EMPLOYMENT AS THE ORGANIZATIONAL UNIT TO BE RESPONSIBLE FOR THE STATE OF IDAHO'S LABOR MARKET INFORMATION PROGRAMS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-31

WHEREAS, the "Job Training Partnership Act of 1982" requires the Governor, in order to be eligible for federal financial assistance for state labor market information programs under this Act, to designate an organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system; and

WHEREAS, the state must design a comprehensive cost-efficient labor market and occupational supply and demand information system

which

1. Is responsive to the economic demand and education and training supply support needs of the state and areas within the state, and
2. Meets the federal standards under Chapter 35 of Title 44, United States Code, and other appropriate federal standards established by the Bureau of Labor Statistics; and

WHEREAS, the state's system must standardize available federal and state multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with a published set of projections for the state and designated areas within the state which shall be used to contribute in carrying out the provisions of the "Job Training Partnership Act of 1982," the "Vocational Education Act of 1963," and the "Act of June 6, 1933," known as the "Wagner-Peyser Act"; and

WHEREAS, the Governor must assure to the extent feasible that

1. Automated technology will be used by the state,
2. Administrative records have been designed to reduce paperwork, and
3. Multiple survey burdens on the employers of the state have been reduced; and

WHEREAS, the Idaho Department of Employment operates a highly automated labor market information system supported by seven area labor market analysts located in each of the largest cities in Idaho; and

WHEREAS, since the Idaho Department of Employment in operating the state's Unemployment Insurance Program must collect from the employers of the state core information basic to any comprehensive statewide labor market and occupational supply and demand information system;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby assign the Idaho Department of Employment the role of organizational unit to be responsible for oversight and management of Idaho's statewide comprehensive labor market and occupational supply and demand information system; and

I FURTHER DIRECT that the Idaho Department of Employment continue to rely upon the Idaho State Occupational Information Coordinating Committee as the disseminating and coordinating mechanism for occupational supply/demand and career information system. Such a system will use existing sources of information where possible, including data from and generated by the Idaho Department of Employment through its Labor Market Information and Occupational Employment Statistics programs.

AND I FURTHER DIRECT the following in an effort to reduce paperwork and multiple survey burdens of the employers of Idaho:

1. The Idaho Personnel Commission will discontinue the Idaho portion of its annual wage survey and utilize the Department of Employment's annual wage and salary survey to meet its obligation to recommend payline adjustment to the Governor and Legislature. All attributable costs to the Idaho Department of Employment for the Personnel Commission's portion of the annual wage and salary survey will be deducted from the Department's interaccount billing for services performed for

the Idaho Personnel Commission.

2. The Regulatory Reform Task Force will act as a screening mechanism for all proposed surveys of the state's private employers by the Executive Branch that request information beyond that required by law for each agency to perform its statutory duties.
3. Executive Order No. 82-31 is hereby repealed and replaced.

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 twelfth day of December, in the year of our Lord nineteen hundred eighty-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-21

CONTINUATION OF UNIFORM STATE PLANNING REGIONS

WHEREAS, Executive Order No. 72-3 created six official and uniform state planning regions to be utilized by all state departments and agencies and this has continued through such orders, the last issued being Executive Order No. 82-30; and

WHEREAS, state departments and agencies continue to rely on divergent regional patterns for planning, administrative, technical assistance and data-gathering activities; and

WHEREAS, the need to coordinate the activities of state departments and agencies on a regional basis continues to exist; and

WHEREAS, the establishment of the aforementioned official and uniform state planning regions continues to result in a reduction of confusion among local public officials and in the more efficient delivery of services to the citizens of the State of Idaho by local governmental units; and

WHEREAS, the increase in the activities and involvement of the departments and agencies of the United States has intensified the need for the unimpeded cooperation among federal, state and local programs; and

WHEREAS, Public Law 90-577, the Intergovernmental Cooperation Act of 1968 and Part IV of the U.S. Office of Management and Budget Circular No. A-95, Revised, encourages the states "to exercise leadership in delineating and establishing a system of planning and development districts or regions in each state, which can provide a consistent

geographic base for the coordination of federal, state and local development programs";

NOW, THEREFORE, I, JOHN V. EVANS, by virtue of the powers vested in me as Governor nf the State of Idaho, do issue this Executive Order continuing the official and uniform state planning regions to be utilized by all state departments and agencies. Six major regions shall continue to be as follows:

Region I: Boundary, Bonner, Kootenai, Benewah and Shoshone Counties (Panhandle Region)

Region II: Latah, Clearwater, NezPerce, 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)

It is hereby ordered and directed that all state agencies continue to conduct planning activities, collect data, compile reports, and report program progress on the basis of the State Planning Regions.

It is further ordered and directed that all agencies within the Executive Branch of Government continue to take this above Regional Districts into consideration in the future establishment and revision of all applicable state plans and programs.

It is further ordered and directed that state agencies may continue, with the written authorization of the Governor, to group or combine whole State Planning Regions into agency-designated larger geographic areas, but shall continue to utilize the six regions with the nomenclature and numerical designations established by this order for purposes of data gathering and reporting.

However, where warrented, special exceptions may be granted to those state agencies whose immediate compliance to these exact regional boundaries would bring undue expense, hardship, or significantly decreased efficiency to the operation of that agency, or because of other special circumstances. Exemptions will be considered and may be granted by the Governor to those state agencies showing just cause for exemption. Agencies seeking exemption must submit:

(a) A map depicting those regions which can be utilized and those where a modification from existing boundaries is deemed necessary.

(b) A written statement or justification citing statutes, federal regulations or guidelines, personnel difficulties, unreasonable workload assignments, existing investments in field facilities, or other major factors indicating sufficient cause for delay in adoption of the State Multi-County Regions specified herein.

(c) A timetable for eventual agency compliance with this order.

All state agencies utilizing administrative districts are encouraged to continue to bring their administrative district boundaries into conformity with the boundaries of the six state planning regions.

FURTHERMORE, local governmental units are encouraged to continue joint participation in regional councils of governments within this system of districts to enhance intergovernmental cooperation for the purposes of comprehensive planning and development and the administration of state and federally supported programs within the State of Idaho as authorized by the provisions of law.

This order contemplates that, if subsequent circumstances and developments warrant changes in the six regional boundaries due to the continuing process of local regional organization, appropriate revision of this order will be undertaken.

This Executive Order repeals and replaces Executive Order No. 82-30.

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-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 84-22

CONTINUATION OF THE POLICY OF THE STATE ON LIFE-CYCLE COSTING PRACTICES AND DIRECTING THE ADMINISTRATOR OF THE DIVISION OF PURCHASING TO ASSIST STATE AGENCIES IN DEVELOPING PLANS TO UTILIZE LIFE-CYCLE COSTING PRACTICES REPEALING AND REPLACING EXECUTIVE ORDER NO. 82-32

WHEREAS, energy, its production, distribution, and utilization is a primary concern of all Idaho citizens; and

WHEREAS, the use of energy is an integral part of people's lives--in agriculture, in business and industry, at home and in state and local government; and

WHEREAS, to be effective, energy planning should be incorporated into decision-making; and, with regard to procurement practices and construction of new buildings by the state, life-cycle costing is one technique already in use in several states of the Union; and

WHEREAS, life-cycle costing is a technique whereby the long-term

maintenance and operating costs of a building or product are considered in addition to its original purchase price or construction cost. These additional costs are often as important as the original cost and affect the true economy of buildings and products. Life-cycle costing techniques supplement the present minimum bid standards for controlling state contracting, purchasing and building practices. When applied logically, this method of cost evaluation has been proven effective in establishing the greatest gain between quality and thrift; and

WHEREAS, Idahoans are rightly concerned about the cost of government today. By encouraging wise management of energy and fiscal resources in government, through life-cycle costing, every Idaho citizen's tax dollar will be expended in a manner to guarantee maximum efficiency;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby declare that it will continue to be the policy of the state to continue to promote the conservation of energy and the life-cycle cost or greatest value of commodities, and to effect coordination in the purchase of commodities by the State of Idaho.

To that end, all state agencies, prior to construction or renovation of any major facility, are directed to include in the design phase a provision for life-cycle costing. To accomplish the desired energy savings, agencies must calculate and define the additional costs of the life-cycle cost factors in their budget requests of buildings. The Permanent Building Fund Advisory Council shall determine that all designs for buildings have been given a thorough analysis of life-cycle costing and energy-conscious design.

All state agencies are further directed to develop plans and specifications for energy efficiency in the acquisition of commodities purchased and/or acquired by the state, including life-cycle costing for the purchase of all major energy-consuming products.

I further direct the Department of Administration to assist all state agencies in developing plans and specifications to utilize energy efficiency and life-cycle costing in their acquisition and building practices.

This Executive Order repeals and replaces Executive Order No. 82-32.

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-four, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 85-1

CONTINUATION OF THE ASSIGNMENT TO THE DEPARTMENT OF EMPLOYMENT THE GENERAL RESPONSIBILITY FOR IMPLEMENTATION AND ADMINISTRATION OF THE JOB TRAINING PARTNERSHIP ACT OF 1982, REPEALING AND REPLACING EXECUTIVE ORDER NO. 83-1

WHEREAS, the Congress passed the Job Training Partnership Act of 1982 for the purpose of establishing programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment who are in special need of such training in order to obtain productive employment; and

WHEREAS, that Act charges the Governor with substantial responsibilities for implementing its provisions;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby order the following:

1. Except for specific responsibilities that may later be assigned to other state agencies, the Department of Employment shall have general responsibility for statewide administration of the employment and training system under the Job Training Partnership Act of 1982.
2. There is hereby continued the Idaho State Job Training Coordinating Council (The "Council") for the purpose of complying with Section 122 of the Act.
3. And, further, as prescribed by the Act, the members of the Council shall be appointed by the Governor.
   a. One-third of the membership of the Council shall be representatives of business and industry, including representatives of business and industry from private industry councils in the state and from agriculture.
   b. Not less than 20 percent of the membership of the Council shall be representatives of the State Legislature and of public agencies and organizations that the Governor determines to have a direct interest in employment and training and human resource utilization within the state.
   c. Not less than 20 percent of the membership of the Council shall be representatives of units or consortia of units of general local government which are administrative entities or grantees under the Act.
   d. Not less than 20 percent of the membership of the Council shall be representatives of the eligible population and of the general public and representatives of organized labor, community-based organizations and local educational agencies.
   e. The Council membership shall reasonably represent the population of the state.
4. The Director of the Department of Employment shall have the responsibility to provide professional, technical, administrative, and other staff to support the activities of the Council.

This Executive Order repeals and replaces Executive Order No. 83-1.

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-five, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 85-2

RESTORATION OF ALLOTMENT REDUCTIONS, REPEALING AND REPLACING EXECUTIVE ORDER NO. 84-12

WHEREAS, Article 2, Section 11 of the Idaho Constitution provides that state government expenditures shall not exceed state government revenue; and

WHEREAS, a reduction in agency allotments was ordered under Executive Order No. 84-12 in order to insure a balanced budget during fiscal year 1985; and

WHEREAS, updated revenue projections indicate the availability of sufficient revenues to maintain a balanced budget during the remainder of fiscal year 1985;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-3512A, Idaho Code, do hereby order the repeal of Executive Order No. 84-12 and the full restoration of allotment reductions required by Executive Order No. 84-12.

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 sixteenth day of January, in the year of our Lord nineteen hundred eighty-five, and of the Independence of the United States the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 85-3

ESTABLISHMENT OF THE IDAHO COMMISSION ON CHILD SUPPORT

WHEREAS, the Congress of the United States of America did amend part D of Title IV of the Social Security Act by the enactment of the Child Support Enforcement Amendments of 1984, P.L. 98-378; and

WHEREAS, it is the stated purpose of the Child Support Enforcement Amendments of 1984 to "amend part D of Title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to states, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances"; and

WHEREAS, Section 15 of the Child Support Enforcement Amendments of 1984 directs the governors of the several states to appoint a State Commission on Child Support;

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 Commission on Child Support.

The Commission's responsibilities will be:

1. To examine, investigate, and study the operation of Idaho's child support system to determine the extent to which the existing child support system has been successful in securing support and parental involvement both for children who are eligible for ADC and for children who are not eligible for such aid, with specific attention to the following areas:
   a. Visitation problems;
   b. The establishment of appropriate objective standards for support;
   c. The enforcement of interstate obligations; and
   d. The availability, cost, and effectiveness of services both to children who are eligible for ADC and to children who are not.

2. To identify the need for additional state or federal legislation to obtain support for all children.
3. To recommend changes in the child support system which will accomplish the stated goals.
4. To submit a full and complete report of its findings and recommendations to the Governor of this State, and to make such findings and recommendations available to the public no later than October 1, 1985.

The Governor shall appoint the Commission Chairperson and the members of the Commission who shall serve at the pleasure of the Governor. Commission members shall be selected from the Department of Health and Welfare, the State Judiciary, the Executive and Legislative branches of state government, custodial and non-custodial parents from the private sector, and social services agencies.

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 January, in the year of our Lord nineteen hundred eighty-five, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

BY THE GOVERNOR:

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 85-4

ESTABLISHMENT OF THE GOVERNOR'S IDAHO STATE WRITER-IN-RESIDENCE PANEL

WHEREAS, it is an honored tradition of people's governments to recognize, encourage and foster their own artists, poets, and writers; and

WHEREAS, it is both culturally and educationally advantageous, for the state to encourage programs which bring native literature and discussions of that literature to the Idaho public; and

WHEREAS, the growth and retention of the native literature is to be desired in the State of Idaho; and

WHEREAS, an Idaho State Writer-in-Residence can enhance the image and being of the state by representing the state as a native artist; and

WHEREAS, the Sun Valley Center for the Atts and the Humanities has a record for advancing the arts and humanicies in an objective and professional way complimentary to the State of Idaho;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, do hereby establish the Governor's Idaho State Writer-in-Residence

Panel, composed of three writers from outside the State of Idaho but within the Western States and six representatives from Idaho's public who are conversant with Idaho arts. The previous writer-in-residence shall serve as an ex-officio member of the panel.

The panel is established to recommend an Idaho writer to serve a two-year term beginning January 1, 1986 through January 1, 1988.

The Sun Valley Center for the Arts and Humanities is appointed to oversee and facilitate both the administration of the program and the panel selection process.

The responsibilities of the Sun Valley Center will be:

1. To explore and secure both private and public funding for the Panel and the Writer-in-Residence Program;
2. To convene the meetings of the Panel;
3. To oversee the Panel during its operation and to provide, where necessary and possible, support--both technical and administrative--to the Program and Panel; and
4. To arrange readings for the Writer-in-Residence for the two-year period in Idaho's communities.

The responsibilities of the Idaho State Writer-in-Residence Panel will be:

1. To solicit nominations and applications for Idaho's next Writer-in-Residence,
2. To examine the nominations and applications using the following criteria:
   a. The writer selected must be a full-time resident of Idaho who has produced a significant amount of quality writing and must be prepared to competently meet the public and engage that public, through readings and public discussion, in the excitement of the realization of literature.
   b. The person selected should also be someone whose work indicates an understanding and awareness of the people and the environment of Idaho.
3. To recommend a 1986 Idaho State Writer-in-Residence by October 1, 1985, and
4. To review the current Writer-in-Residence Program and make recommendations toward improvement of the Program.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Sun Valley, the twenty-fifth day of January, in the year of our Lord nineteen hundred eighty-five, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

EXECUTIVE ORDER NO. 85-5

ESTABLISHING THE MANDATORY USE OF SEAT BELTS BY ALL STATE EMPLOYEES WHEN TRAVELING ON OFFICIAL BUSINESS

WHEREAS, greater use of safety belts by American motorists would dramatically cut highway deaths and injuries; and

WHEREAS, many large employers--including the Highway Users Federation--have, and enforce, safety-belt use requirements for business travel; and

WHEREAS, private industry has found that an employer typically incurs direct and indirect costs of over $120,000 when an employee is killed in an automobile accident; and

WHEREAS, the opportunity to cut needless suffering and loss of valued employees of the state of Idaho and to reduce economic losses will benefit both employees and taxpayers; and

WHEREAS, the typical driver is five times safer when involved in an accident if the driver is wearing a seat belt;

NOW, THEREFORE, I, JOHN V. EVANS, Governor of the State of Idaho, by the power vested in me by the Constitution and laws of the State of Idaho, do hereby order and proclaim:

THAT all employees of the State of Idaho while traveling on official business shall wear seat belts at all times while in any vehicle equipped with seat belts; and I hereby direct all Department Directors and Agency Heads of the State of Idaho to notify their employees of this order and to provide for its enforcement.

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 thirteen day of February, in the year of our Lord nineteen hundred eighty-five, and of the Independence of the United States of America the two hundred ninth, and of the Statehood of Idaho the ninety-fifth.

/s/ John V. Evans
GOVERNOR OF THE STATE OF IDAHO

BY THE GOVERNOR:

/s/ Pete T. Cenarrusa
SECRETARY OF STATE

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APPENDIX

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
Richard Stallings (D), 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 — BONNER & BOUNDARY COUNTIES

Kermit V. Kiebert (D), Senate — 6th Term
Box 187, Hope 83836 — 264-5430
Contractor — Wife — Diane
MINORITY LEADER
Resources/Environment, State Affairs

Tim Tucker (D) House — 2nd Term
K.V. Ranch, Porthill 83853
Home 267-2977 — Bus. 267-5198
Farmer — Wife — Ellen
ASSISTANT MINORITY LEADER
Agricultural Affairs, Appropriations (JFAC), Ways/Means

James F. Stoicheff (D), House Seat B — 7th Term
615 Lakeview, Sandpoint 83864
Home 263-2375 — Bus 263-3020
Teacher — Wife — Jerry
MINORITY LEADER
Local Government, Resources/Conservation, State Affairs, Ways/Means

2 — KOOTENAI COUNTY

Mary Lou Reed (D), Senate — 1st Term
10 Grass Road, Coeur d'Alene 83814
Home 664-3564 — Bus. 664-2151
Husband — Scott
Commerce/Labor, Education, Judiciary/Rules

Terry Svendsen (R), Senate Seat B — 3rd Term
Route 1, Box 51, Cataldo 83810
Home 682-2308 — Bus. 682-3722
Logging Contractor — Wife — Dee
CHAIRMAN-Education, Resources/Environment

Robert M. (Bob) Scribner (R), House Seat A . . 3rd Term
P.O. Box 657, Post Falls 83854 — 773-2229
Retired Dentist—Tree Farmer
VICE CHAIRMAN-Health/Welfare, Education

D. Dean Haagenson (R) House Seat B — 2nd Term
P.O. Box 340, Coeur d'Alene 83814
Home 664-6873 — Bus. 667-2456
General Contractor
Resources/Conservation, State Affairs, Transportation/Defense

Hilda Kellogg (R), House Seat C . 2nd Term
P.O. Box 1479, Post Falls 83854 — 773-5412
Merchant — Realtor
Business, Education, Local Government

Robert W. Speck (R), House Seat D . 1st Term
3848 Highland Drive, Coeur d'Alene 83814 — 765-1225
Attorney (Retired) — Wife — Betty M.
Judiciary, Rules/Administration, Local Government

3 — BENEWAH & SHOSHONE COUNTIES

Martha "Marti" Calabretta (D), Senate — 1st Term
Box 841, Osburn 83849
Home 752-6371 — Bus. 556-1531
Social Worker — Husband — Bonnie
Agricultural Affairs, Commerce/Labor, Health/Welfare

Louis J. Marveth, Jr. (D) House Seat A — 5th Term
Box 868, Pinehurst 83850
Home 682-2587 — Bus. 784-1371
Guidance Counselor, Kellogg HS — Wife — Joyce
Business, Health/Welfare, Revenue/Taxation

Dorothy McCann (D), House Seat B — 5th Term
(Served 3 terms House/Senate, 1973-78)
HC 1, Box 260, Wallace 83873
Retired — 682-3080
Commerce, Industry/Tourism, State Affairs, Transportation/Defense

4 — BENEWAH, BONNER, BOUNDARY, KOOTENAI & SHOSHONE COUNTIES

Vernon T. Lannen (D), Senate — 4th Term
Box 1036, Pinehurst 83850 — 682-2611
Logger — Wife — Judie
Judiciary/Rules, Local Government/Taxation

Jeanne Givens (D), House Seat A — 1st Term
P.O. Box 969, Coeur d'Alene 83814 — 664-0707
Child Welfare Consultant — Husband — Raymond C
Business, Education, Health/Welfare

Steve Herndon (D), House Seat B — 1st Term
P.O. Box 215, Sandpoint 83864
Home 263-6077 — Bus. 263-2108
Attorney — Wife — Janice
Judiciary, Rules/Administration, Local Government

5 — LATAH COUNTY

Norma Doblar (D), Senate — 7th Term
1401 Alpowa St., Moscow 83843 — 882-3318
Homemaker — Husband — Clifford
Finance (JFAC), Judiciary/Rules

James R. Lucas DVM (R), House Seat A — 3rd Term
4209 Clyde Road, Moscow 83843 — 882-7374
Veterinarian — Wife — Vi
CHAIRMAN-Local Government, Revenue/Taxation

Tom Boyd (R), House Seat B — 5th Term
Route 1, Box 69, Genesee 83832 — 285-1578
Farmer — Wife — Beverly
Agricultural Affairs, Appropriations (JFAC)

6 — NEZ PERCE COUNTY

Bruce L. Sweeney (D), Senate 2nd Term
(Served 2 terms House, 1970-74)
Box 604, Lewiston 83501
Home 743-9146 Bus. 743-2534
Land Development/Construction Wife — Marilyn
ASSISTANT MINORITY LEADER
Education, State Affairs, Transportation

George F. Johnson (D), House Seat A 3rd Term
3419 8th St., Lewiston 83501 743-8536
Retired — Government Wife — Leone
Commerce, Industry/Tourism, Education, Health/Welfare

Paul C. Keeton (D), House Seat B 3rd Term
602 Cedar, Lewiston 83501
Home 743-7120 Bus. 743-2569
Lawyer
Judiciary, Rules/Administration, Local Government

7 — CLEARWATER, IDAHO & LEWIS COUNTIES

Marguerite McLaughlin (D), Senate 2nd Term
(Served 2 terms House, 1978-82)
704 Floyd Ave., Orofino 83544 476-4138
Husband — G. Bruce
Commerce/Labor, Finance

Carl P. Braun (D), House Seat A 5th Term
400 Braun Road, Orofino 83544 476-3655
Retired Rural Carrier — Farmer Wife — Gladys
State Affairs, Transportation/Defense

Harold W. Reid (D), House Seat B 13th Term
Route 2, Box 34, Craigmont 83523 937-2514
Agriculture Wife — Louise
Agricultural Affairs, Revenue/Taxation

8 — CLEARWATER, IDAHO, LATAH, LEWIS & NEZ PERCE COUNTIES

Ron Beitelspacher (D), Senate 4th Term
Box 405, Grangeville 83530 983-2535
Lineman — Outfitter
Local Government/Taxation, Resources/Environment, Transportation

Richard L. Adams (D), House Seat A 3rd Term
Star Route, Box 28, Grangeville 83530
Home 983-0165 Bus. 926-4511
Teacher Wife — Karen
MINORITY CAUCUS CHAIRMAN
Appropriations (JFAC), Transportation/Defense, Ways/Means

Claud Judd (D), House Seat B 3rd Term
(Served 2 terms Senate, 1975-78)
4285 Hwy 11, Orofino 83544 435-4380
Retired Wife — Elvita
Agricultural Affairs, Commerce, Industry/Tourism, Revenue/Taxation

9 — ADAMS, BOISE, GEM & VALLEY COUNTIES

David Little (R), Senate 7th Term
P.O. Box 58, Emmett 83617 365-4621
Rancher Wife — Geraldine
CHAIRMAN-Finance, CO-CHAIRMAN-JFAC, Resources/Environment

Lydia Justice-Edwards (R), House Seat A 2nd Term
P.O. Box 35, Donnelly 83615 325-8757
Accountant
Resources/Conservation, State Affairs, Transportation/Defense

Robert Fry (R), House Seat B 2nd Term
P.O. Box 58, Horseshoe Bend 83629 793-2585
Rancher Wife — Gayle
Education, Judiciary, Rules/Administration, Local Government

10 — PAYETTE & WASHINGTON COUNTIES

Roger Fairchild (R), Senate 3rd Term
Box 528, Fruitland 83619
Home 452-4749 Bus. 452-4701
President, Golden Valley Foods, Inc. Wife — Marlyss
CHAIRMAN-Judiciary/Rules, VICE CHAIRMAN-Commerce/Labor

Wayne Sutton (R), House Seat A 2nd Term
Route 1, Box 42, Midvale 83645 355-2442
Rancher Wife — Gertrude
Agricultural Affairs, Resources/Conservation, State Affairs

Walter E. Little (R), House Seat B 11th Term
Route 1, New Plymouth 83655 278-5804
Rancher Wife — Evelyn
CHAIRMAN-State Affairs
Resources/Conservation

11 — CANYON COUNTY

Skip Sweyer (R), Senate 2nd Term
(Served 1 Term in House, 1981-82)
Route 1, Box 1357, Parma 83660
Home 722-6658 Bus. 722-5721, 342-0777
Lawyer Wife — Melinda
CHAIRMAN-Agricultural Affairs, VICE CHAIRMAN-Transportation, Judiciary/Rules

J. L. "Jerry" Thorne (R), Senate Seat B 1st Term
102 Sherwood Drive, Nampa 83651
Home 467-2992 Bus. 466-3602
Printing Wife — Lois
Education, Local Government/Taxation
Transportation

Atwell J. "Al" Parry (R), Senate Seat C 3rd Term
Route 1, Box 2, Melba 83641 495-2226
Retired Grocer/Meat Cutter Wife-Elaine
CHAIRMAN-Commerce/Labor, Finance (JFAC), VICE CHAIRMAN-Local Government/Taxation

11 — CANYON COUNTY

Robert E. Schaefer (R), House Seat A 1st Term
P.O. Box 55, 1200 E Karcher, Nampa 83653
Home 466-3636 Bus 466-3636
Architect Wife — Betty
Commerce, Industry/Tourism,
Environmental Affairs

Dorothy L. Reynolds (R), House Seat B 5th Term
(Served 3 Terms House, 1974-80)
1920 Howard, Caldwell 83605 459-2553
Manager — Family Trust
CHAIRMAN-Commerce, Industry/Tourism
Education, Health/Welfare

Janet S. Hay (R), House Seat C 1st Term
328 Winther Blvd Nampa 83651
Home 466-7621 Bus. 467-2745
Homemaker/Civic Worker Husband — Robert E
Health/Welfare, Judiciary, Rules/Administration,
State Affairs

Liz Allen (R) House Seat D 1st Term
Route 5, Box 270, Caldwell 83605
Home 454-8212 Bus 362 1702
Dir, Cloverdale Christian Day Sch Husband — Russell
Commerce, Industry/Tourism,
Health/Welfare, State Affairs

Dolores J. Crow (R), House Seat E 2nd Term
203 11th Ave S Extension, Nampa 83651
Home 467 1302
Homemaker Husband Wayne
Agricultural Affairs,
Commerce, Industry/Tourism, Education

Ron Crane (R), House Seat F 2nd Term
2109 E Massachusetts, Nampa 83651 467-3858
Businessman Wife — Cheryl
Agricultural Affairs, Business, State Affairs

12 — ELMORE & OWYHEE COUNTIES

Walter H. Yarbrough (R), Senate 11th Term
Box 216, Route 8, Grand View 83624 834-2727
Rancher — Contractor Wife — Lucy
CHAIRMAN-State Affairs
VICE CHAIRMAN-Finance (JFAC)

Frances Field (R), House Seat A 1st Term
Route 8, Box 221 Grand View 83624
Home 834-2488 Bus 834-2253
Homemaker/School Dist Bus Mgr Husband — Oscar
Agricultural Affairs, Education
Judiciary, Rules/Administration

Glenna L. Hoagland (R), House Seat B 1st Term
935 N 6th East, Mountain Home 83647
Home 587-5714 Bus. 587-5133
Owner, Heating Cooling Bus Husband — Charles L
Education Environmental Affairs

13 — ADAMS, BOISE, CANYON, ELMORE, GEM, OWYHEE, PAYETTE, VALLEY & WASHINGTON

Phillip E. Batt (R), Senate 6th Term
(Served 1 Term House, 1965-66)
(Lieutenant Governor, 1979-82)
P.O. Box 426, Wilder 83676
Home 337-3102 Bus 482 7380
Farmer Wife — Jacque
MAJORITY CAUCUS CHAIRMAN
State Affairs Transportation

Mike Strasser (R), House Seat A 3rd Term
6727 Hemlock, Nampa 83651 466-9099
Self-employed Wife — Sharlene
CHAIRMAN-Business, State Affairs

Robert M. "Bob" Forney (R) House Seat B 2nd Term
802 Astor Ave Nampa 83651 466-5500
Retired (Idaho Power Co) Wife — Barbara
Judiciary, Rules/Administration,
Revenue/Taxation, Transportation/Defense

14 — ADA COUNTY

Herb Carlson (R), Senate 2nd Term
1812 Hill Road, Eagle 83616 939-6979
Farmer — Rancher Wife — Lorrain
Agricultural Affairs, Finance (JFAC),
Resources/Environment

Gary L. Montgomery (R), House Seat A 3rd Term
737 N 7th St, Boise 83702 Bus 342 3563
Attorney Wife — Marilyn
VICE CHAIRMAN-Judiciary, Rules/Administration
Revenue/Taxation

Lyman Gene Winchester (R), House Seat B 7th Term
Route 1 Kuna 83634 922-5750
Rancher — Pilot Wife — Lena
CHAIRMAN-Environmental Affairs, State Affairs,
VICE CHAIRMAN-Resources/Conservation

15 — ADA COUNTY

Rod Beck (R), Senate 1st Term
4257 Tottenham Way, Boise 83704
Home 375-6757 Bus 375-4000
Real Estate Wife — Rhonda
Commerce/Labor, Education,
Local Government/Taxation

Don C. Loveland (R), House Seat A 2nd Term
(Served 3 terms Senate, 1963-67)
4624 Berkshire Drive, Boise 83704 375-8893
Retired Wife — Dorothy
Judiciary, Rules/Administration,
Local Government, Revenue/Taxation

Phil Childers (R), House Seat B 1st Term
3440 Quail Place, Boise 83704 375-8904
Sales/Marketing Wife — Margaret
Commerce, Industry/Tourism,
Environmental Affairs, Revenue/Taxation

16 — ADA COUNTY

Wm. F. (Bill) Ringert (R), Senate 2nd Term
4170 Lanoix Drive, Boise 83704
Home 375-8009 Bus. 342-4591
Lawyer Wife — Bing
Finance (JFAC), Resources/Environment

Emerson Smock (R), House Seat A 1st Term
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Retired Wife — Patricia 375-0556
Business, Environmental Affairs, State Affairs

Christopher R. Hooper (R), House Seat B 4th Term
3616 Cabarton Lane, Boise 83704 375-6690
CHAIRMAN-Health/Welfare,
Business, Revenue/Taxation

17 — ADA COUNTY

Rachel G. Gilbert (R), Senate 1st Term
(Served 2 Terms House, 1981-85)
1111 Marshall, Boise 83706
Home 343-3123 Bus. 378-8441
Real Estate Broker
Commerce/Labor, Local Government/Taxation

Ron Slater (R), House Seat A 1st Term
3708 Camas, Boise 83705 342-3080
Airline Agent Wife — Diane
Business, Transportation/Defense

Harry A. Stone (R), House Seat B 1st Term
6604 Holiday Drive, Boise 83709 375-7675
Construction Consultant Wife — Ruby
Commerce, Industry/Tourism, Local Government

18 — ADA COUNTY

Gary Chapman (R), Senate 2nd Term
3258 Catalina Lane, Boise 83705
Home 344-9628 Bus. 375-5171
Aerial Surveyor Wife — Bobette
Commerce/Labor, Resources/Environment

Dieter W. Beyer (R), House Seat A 1st Term
6873 Orowo Court, Boise 83709 322-5873
Homebuilder/Law Enforcement Wife — Regina
Environmental Affairs,
Judiciary, Rules/Administration

Brent Brockacre (R), House Seat B 1st Term
11277 Verde Lane, Boise 83709
Home 362-9093 Bus 343-7013
Nursing Home Administrator/Owner Wife — Patricia
Business, Health/Welfare, State Affairs

19 — ADA COUNTY

Gail Etheridge Bray (D), Senate . . . . 2nd Term
P.O. Box 1825, Boise 83701
Home 344-1360 Bus. 343-0273
Husband — Chris
Education, Judiciary/Rules,
Local Government/Taxation

Kathleen (Kitty) Gurnsey (R), House Seat A . 8th Term
1111 W. Highland View Dr., Boise 83702 343-1760
Husband — Vern L.
CHAIRMAN-Appropriations, CO-CHAIRMAN-JFAC,
Environmental Affairs

Larry W. Harris (R), House Seat B 5th Term
1925 Morningside Drive, Boise 83702 344-6242
Retired Wife — Jane B.
CHAIRMAN-Judiciary, Rules/Administration
State Affairs

20 — ADA COUNTY

Bernie R. Rainey (R), Senate 1st Term
3218 Cambrose Lane, Boise 83706
Home 342-4918 Bus. 343-4474
Consultant/Trustee
Judiciary/Rules, Local Government/Taxation

Pamela I. Bengson (R), House Seat A . 3rd Term
2704 Raindrop Drive, Boise 83709
Home 345-6166 Bus. 344-6361
Self-employed, Equipment Rental Husband — Bradley
Health/Welfare, Judiciary, Rules/Administration,
State Affairs

Jack E. Kennedrick (R), House Seat B. . . . . 8th Term
1 Mesa Drive, Boise 83705 343-2136
Insurance Wife — Mary Anne
MAJORITY LEADER
Ways/Means, Business, State Affairs

21 — ADA COUNTY

James E. Risch (R), Senate 8th Term
5400 S. Cole Road, Boise 83709
Home 362-2628 Bus. 345-2674
Attorney — Farmer/Rancher Wife — Vicki
PRESIDENT PRO TEMPORE
VICE CHAIRMAN-Judiciary/Rules, State Affairs

Boyd Hill (R), House Seat A 1st Term
1035 E. McMillan Road, Meridian 83642
Home 888-5515 Bus. 344-5561
Owner, Western Wholesale Wife — Mardi
Business, Environmental Affairs,
Revenue/Taxation

Dean E. Sorensen (R), House Seat B . 1st Term
845 E. Brasmare Road, Boise 83702
Home 345-6668 Bus. 342-4671
Surgeon Wife — Sheila
Judiciary, Rules/Administration, Local Government

22 — BLAINE, CAMAS, GOODING & LINCOLN COUNTIES

John T. Peavey (D), Senate 8th Term
P.O. Box 88, Carey 83320
Home 788-2650/Summer 726-7568/Winter
Rancher Wife — Diane Josephy
MINORITY CAUCUS CHAIRMAN
Health/Welfare, Resources/Environment, State Affairs

Gary Robbins (R), House Seat A 1st Term
Route 2, Box 2265, Dietrich 83324 544-2771
CPA/Dairyman Wife — Jeri Ann
Agricultural Affairs, Commerce, Industry/Tourism, Revenue/Taxation

Meck Wm. Neibaur (R), House Seat B 5th Term
Route 1, Box 1478, Paul 83347
Home 532-4175 Bus. 532-4240 Wife — Edna
VICE CHAIRMAN-Appropriations (JFAC), Transportation/Defense

23 — TWIN FALLS COUNTY

Laird Noh (R), Senate 3rd Term
Route 1, Box 65, Kimberly 83341 733-3617
Sheep Producer Wife — Kathleen
CHAIRMAN-Resources/Environment
VICE CHAIRMAN-Education, Agricultural Affairs

Darrel S. McRoberts (R), Senate Seat B 1st Term
342 Monroe Place, Twin Falls 83301
Home 734-3329 Bus. 543-4322
Plant Manager, Food Processing Wife — Joyce
Commerce/Labor, Health/Welfare, Judiciary/Rules

Donna Scott (R), House Seat A 2nd Term
485 Madrona St., Twin Falls 83301 733-2535
Housewife Husband — Jack
VICE CHAIRMAN-Education, Business, Health/Welfare

T. W. Stivers (R), House Seat B 5th Term
144 N. Juniper Twin Falls 83301
Home 733-7127 Bus. 733-3821
Title Insurance Wife — Winifred
SPEAKER OF THE HOUSE

Roy E. Brackett (R), House Seat C 5th Term
Box 403, Twin Falls 83301 733-4823
Rancher
CHAIRMAN-Ways/Means,
VICE CHAIRMAN-Revenue/Taxation, Resources/Conservation, Transportation/Defense

Lawrence Knigge (R), House Seat D 5th Term
c/o College of Southern Idaho
Twin Falls 83301 733-9554
Farmer
Agricultural Affairs, Appropriations (JFAC)

24 — CASSIA, JEROME & MINIDOKA COUNTIES

Denton Darrington (R), Senate 2nd Term
Route 1, Declo 83323
Home 654-2712 Bus. 678-9408
Farmer — Teacher Wife — Virginia
CHAIRMAN-Health/Welfare, Judiciary/Rules

Lynn S. Tominaga (R), Senate Seat B 1st Term
Route 1, Box 1037, Paul 83347 438-8205
Farmer Wife — Brenda
Agricultural Affairs, Education, Local Government/Taxation

Ernest A. Hale (R), House Seat A 8th Term
725 E. 16th Burley 83318 678-7394
Quarry Operator Wife — Elizabeth
CHAIRMAN-Education,
VICE CHAIRMAN-Transportation/Defense

J. Vard Chalburn (R), House Seat B 15th Term
Box 97, Albion 83311 673-5561
Rancher Wife — Eva
CHAIRMAN-Resources/Conservation,
VICE CHAIRMAN-Environmental Affairs,
VICE CHAIRMAN-State Affairs

Steve Antone (R), House Seat C 9th Term
1141 Link St., Rupert 83350 436-3927
Farmer Wife — Diane
CHAIRMAN-Revenue/Taxation,
VICE CHAIRMAN-Business

Waldo Martens (R), House Seat D 1st Term
Route 3, Box 3498, Jerome 83338 324-4127
Farmer Wife — Ruth
Commerce, Industry/Tourism, Transportation/Defense

25 — BLAINE, CAMAS, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA & TWIN FALLS COUNTIES

Larry Andersen (R), Senate 1st Term
2639 Eastgate Drive, Twin Falls 83301
Home 734-2248 Bus. 733-6756
Campground Operator/Writer Wife — Ellen M.
Health/Welfare, Local Government/Taxation, Transportation

Jerry Callan (R), House Seat A 1st Term
Route 2, Box 2722, Jerome 83338 324-1215
Farmer/Cattle Feeder Wife — Patricia
Agricultural Affairs, Commerce, Industry/Tourism, Education

Jeff Stoker (R), House Seat B 1st Term
P.O. Box 1587 Twin Falls 83303
Home 734-8522 Bus. 734-8452
Attorney Wife — Rosemary
Health/Welfare, Judiciary, Rules/Administration

LEGISLATORS — by District (continued)

26 — BINGHAM COUNTY

Jerry T. Twiggs (R), Senate — 1st Term
855 West 100 South, Blackfoot 83221 — 684-4090
Farmer — Wife — Sandra
Agricultural Affairs, Education, Transportation

Raymond G. Parks (R), House Seat A — 4th Term
1054 West Tabor Road, Blackfoot 83221 — 684-4818
Farmer — Wife — Paula
Appropriations (JFAC), Transportation/Defense

Michael K. Simpson (R), House Seat B — 1st Term
788 Hoff Drive, Blackfoot 83221
Home 785-5043 — Bus. 785-0310
Dentist — Wife — Kathy
Commerce, Industry/Tourism, Education, Local Government

27 — BANNOCK & POWER COUNTIES

Bert W. Marley (D), Senate — 4th Term
P.O. Box 35, McCammon 83250
Home 254-3291 — Bus. 236-2575
Teacher — Farmer — Wife — Betty Jane
Agricultural Affairs, Finance (JFAC)

Ralph E. Lacy (D), Senate Seat B — 3rd Term
(Served 3 years House, 1981-83)
128 S. 15th, Pocatello 83201 — 232-4951
Retired — Wife — Mary
Commerce/Labor, Health/Welfare, Local Government/Taxation

C. E. "Chick" Bilyeu (D), Senate Seat C — 8th Term
Route 1 N., Box 48, Pocatello 83202 — 237-3158
Retired Educator — Wife — Diane
Finance (JFAC), Transportation

Patricia L. McDermott (D), House Seat A — 9th Term
P.O. Box 3, Pocatello 83204
Home 232-6878 — Bus. 232-3152
Attorney
Judiciary, Rules/Administration, State Affairs

Larry Echohawk (D), House Seat B — 2nd Term
1777 Lancaster, Pocatello 83201
Home 237-4867 — Bus. 238-3818
Attorney — Wife — Terry
Appropriations (JFAC), Resources/Conservation

Albert M. (Al) Johnson (D), House Seat C — 2nd Term
RFD 4, Box 212, Pocatello 83202 — 237-2828
Farmer — Rancher — Wife — Betty
Environmental Affairs, Resources/Conservation, Revenue/Taxation

Pete Black (D), House Seat D — 2nd Term
530 Cochise, Pocatello 83204
Home 232-5553 — Bus. 237-2271
Educator — Wife — Ronda
Business, Education, Environmental Affairs

Linda Dewey (D), House Seat E — 2nd Term
665 Franklin #B, Pocatello 83201 — 232-8744
Teacher
Education, Environmental Affairs, Resources/Conservation

L. Ed Brown (R), House Seat F — 1st Term
288 Thurston, Pocatello 83201
Home 232-6883 — Bus. 232-8024
Teacher — Wife — Carol
Commerce, Industry/Tourism, Local Government

28 — BEAR LAKE, CARIBOU, FRANKLIN & ONEIDA COUNTIES

Reed W. Budge (R), Senate — 10th Term
231 S. 1st E., Soda Springs 83276 — 547-3096
Rancher — Wife — Gwen
CHAIRMAN-Transportation,
VICE CHAIRMAN-Resources/Environment,
VICE CHAIRMAN-State Affairs

Robert C. Geddes (R), House Seat A — 5th Term
Route 3, Box 107, Preston 83263 — 852-1378
Farmer — Wife — Carma
ASSISTANT MAJORITY LEADER
Agricultural Affairs, Appropriations (JFAC), Ways/Means

Eugene B. Bluck (R), House Seat B — 4th Term
31 West 2nd South, Paris 83261 — 945-2245
Retired Dairy Farmer — Wife — Leonora
CHAIRMAN-Agricultural Affairs
Resources/Conservation, Revenue/Taxation

29 — BANNOCK, BINGHAM, BEAR LAKE, CARIBOU, FRANKLIN, ONEIDA & POWER COUNTIES

Dwight W. Hansen (D), Senate — 1st Term
(Served 3 terms House, 1978-1984)
Route 1, Aberdeen 83210
Home 397-4925 — Bus. 397-4913
Farmer — Wife — Kathy M.
Agricultural Affairs, Resources/Environment

Myron Jones (R), House Seat A — 4th Term
311 N. 300 W., Malad 83252 — 766-4935
Farmer/Rancher — Wife — Nola
Agricultural Affairs, Resources/Conservation, Revenue/Taxation

Mark Duffin (R), House Seat B — 1st Term
P.O. Box 128, American Falls 83211
Home 226-5427 — Bus. 548-2468
Farmer
Resources/Conservation, Transportation/Defense

30 — BUTTE, CLARK, CUSTER, JEFFERSON & LEMHI COUNTIES

Yearl C. Crystal (R), Senate — 5th Term
P.O. Box 78, Lewisville 83431 — 754-4705 (Rigby)
Rancher — Rodeo Producer — Wife — Brenda
ASSISTANT MAJORITY LEADER
VICE CHAIRMAN-Agricultural Affairs,
Finance (JFAC), State Affairs

Ray E. Infanger (R), House Seat A — 7th Term
Route 1, Box 174, Salmon 83467 — 756-3649
Heating/Sheet Metal Shop — Wife — Vera
VICE CHAIRMAN-Agricultural Affairs,
Appropriations (JFAC)

JoAn E. Wood (R), House Seat B — 2nd Term
Route 1, Box 21, Rigby 83442 — 745-7846
Partner - Ranch/farm corporation — Husband — Thomas D.
Education, Health/Welfare, Resources/Conservation

31 — FREMONT & MADISON COUNTIES

Mark G. Ricks (R), Senate — 4th Term
Route 4, Box 173, Rexburg 83440 — 356-6575
Farmer — Wife — Evelyn T
MAJORITY LEADER
Finance (JFAC), State Affairs

R. L. "Dick" Davis (R), House Seat A — 1st Term
PO Box 391, Rexburg 83440
Home 356-9146 — Bus. 356-3233
Contractor — Wife — Phyllis
Education, Transportation/Defense

Cyril O. Burt (R), House Seat B — 1st Term
Route 2, Box 164-A, St. Anthony 83445 — 624-7846
Retired Farm Equipment Dealer — Wife — Maxine
Business, Environmental Affairs, State Affairs

32 — BONNEVILLE & TETON COUNTIES

Michael D. Crapo (R), Senate — 1st Term
P.O. Box 129, Idaho Falls 83402
Home 524-4601 — Bus. 523-0520
Attorney — Wife — Susan
Health/Welfare, Resources/Environment

E. Lee Staker (R), Senate Seat B — 1st Term
2553 Everon, Idaho Falls 83401
Home 529-5256 — Bus. 523-7950
Florist, self-employed — Wife — Joan
Commerce/Labor, Health/Welfare, Judiciary/Rules

Ann Rydalch (R), Senate Seat C — 2nd Term
3924 E. 17th St., Idaho Falls 83401
Home 522-6741 — Bus. 526-1589
Subcontract Administrator — Husband — Vernal
VICE CHAIRMAN-Health/Welfare,
Commerce/Labor, Judiciary/Rules

John O. Sessions (R), House Seat A — 10th Term
Box 10, 414 N. Main, Driggs 83422
Home 354-2508 — Bus. 354-2373
Retailer — Wife — Alice
CHAIRMAN-Transportation/Defense, Education
VICE CHAIRMAN-Commerce, Industry/Tourism

Marilyn Stanger (R), House Seat B — 1st Term
Route 1, Box 474, 2927 East Iona Road
Idaho Falls 83401 — 522-5357 — Retired
Local Government, Resources/Conservation

Linden B. Bateman (R), House Seat C — 5th Term
Route 1, Box 442, Idaho Falls 83401
Home 524-0327 — Bus. 523-1823
High School Teacher — Wife — Deann
MAJORITY CAUCUS CHAIRMAN
VICE CHAIRMAN-Local Government,
Resources/Conservation, State Affairs,
Ways/Means

J. F. "Chad" Chadband (R), House Seat D — 2nd Term
460 E. Anderson, Idaho Falls 83401
Home 523-9342 — Bus. 524-0550
Home Furnishings — Rental — Wife — Karen
Appropriations (JFAC), Environmental Affairs

Preston B. Brimhall (R), House Seat E — 2nd Term
465 8th St., Idaho Falls 83401 — 522-4047
Retired — Wife — Betty
Appropriations (JFAC), Local Government

M. Reed Hansen (R), House Seat F — 1st Term
Route 5, Box 213, Idaho Falls 83401 — 522-5358
Farmer — Wife — Marilyn
Health/Welfare, Resources/Conservation

33 — BONNEVILLE, BUTTE, CLARK, CUSTER, FREMONT, JEFFERSON, LEMHI, MADISON & TETON COUNTIES

Dane Watkins (R), Senate — 6th Term
2242 So. Boulevard, Idaho Falls 83402
Home 522-4855 — Bus. 523-0600
Farming — Investments — Wife — Sherry
CHAIRMAN-Local Government/Taxation, Finance (JFAC)

Stan Hawkins (R), House Seat A — 1st Term
Box 357, Ucon 83454 — Home 524-1586
Agri-Business — Wife — Linn — Bus. 523-2880
Environmental Affairs, Resources/Conservation
Revenue/Taxation

Golden C. Linford (R), House Seat B — 1st Term
Route 3, Box 433-B, Rexburg 83440
Home 356-7220 — Bus. 356-7346
Potato Grower — Shipper — Wife — Deanna
Health/Welfare, Resources/Conservation,
Revenue/Taxation